MorrisonCohen LLP

CLIENT UPDATE

SEC Proposes Enhancements to Executive Compensation Disclosure Rules,
<u>Changes Equity Award Reporting and Adds New Risk-Taking Disclosure</u>

New rules proposed by the Securities and Exchange Commission issued would enhance the disclosures about executive compensation that shareholders receive in their proxy statements. The rules could take effect for the 2010 annual meeting season.

A key proposal would require a company to disclose the aggregate fair value of equity awards as of the grant date rather than as they vest. In addition, a company would be required to analyze how its overall compensation policies and practices create incentives that can affect the company's risk profile and management, as well as describe the board's role in the risk management process and the effect that this involvement has on a company's leadership structure.

The proposed amendments also would expand the executive compensation disclosure requirements in other ways:

Director Qualifications. With respect to current and future directors, a company would be required to discuss the specific experience, qualifications and skills that qualify such individuals to serve as directors, and as members of any committee, in light of the company's business and structure. Further, a company would be required to disclose information about all other directorships held at public companies and any legal proceedings involving directors, nominees and executive officers during the past ten years (as opposed to the past five years, as is currently required). These enhancements are expected to help investors to determine whether a particular director and/or the entire board composition are appropriate for a given company.

Leadership Structure. The proposals also would require a company to state whether the CEO and Chairman positions are held by the same person, why the company has chosen to combine or separate such positions and why it believes its leadership structure is best for the company. In certain cases, a company also may be required to disclose whether it has a lead independent director and what specific role the lead independent director plays. These new disclosures are designed to provide investors with greater transparency into how boards function.

Compensation Consultant Independence. A company would be required to describe any services provided by a compensation consultant beyond the traditional role of setting or recommending executive and director compensation, including the fees paid for such services. Whether, and the extent to which, management and the board were involved in the decision to engage the compensation consultant or its affiliates for non-executive compensation services also would need to be disclosed. These disclosures are expected to enable investors to assess any potential conflicts of interest and to better assess the compensation decisions made by the company's board.

Accelerated Reporting of Shareholder Votes. Finally, the proposed amendments would require that the results of a shareholder vote be made publicly available (on a Form 8-K) within four business days after the end of the meeting at which the vote was held, thereby giving investors access to this information on a timelier basis. Currently, these results are reported on the next applicable Form 10-Q (or Form 10-K), which could be months later.

If you have any questions relating to the proposed amendments to the proxy disclosure rules, or the proxy disclosure rules in general, please contact your primary attorney at Morrison Cohen LLP or any of the following:

Brian Snarr	**Alan Levine**	**Lisa Yoon**
(212) 735-8831	**(212) 735-8694**	**(212) 735-8754**
bsnarr@ morrisoncohen.com	**alevine@ morrisoncohen.com**	**lyoon@ morrisoncohen.com**

This memorandum is a summary for general information and discussion purposes only. It is not a full analysis of the matters presented, may not be relied upon as legal advice, and does not purport to represent the views of our clients or Morrison Cohen LLP.