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Executive Compensation Issues: How Changes in Proxy Disclosure Will Impact Tax Departments

What You Need To Know For 2007

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What Has Changed

- New rules regarding shareholder disclosure of executive compensation
- Effective for years ending December 15, 2006
- Will be effective for 2006 proxy to be sent in early 2007

Hot Items

1. Impact on 162(m) compliance
2. Options – equity program disclosure
3. Plan agreement descriptions
4. Executive fringe benefits
5. Golden parachute issues

Overview

Proxy sections/tables concerning executive compensation:

- The Summary Compensation Table
- Grant of plan-based awards table
- Outstanding Equity awards
- Option exercises & stock vested table
- Pension benefits table
- Nonqualified defined contribution table
- Post-employment payments narrative
- Directors compensation table

Overview

General concepts throughout tables

- Disclosure of all forms of compensation – avoidance of manipulation or hiding compensation

- Quantify compensation – need to have benefits valued by accountants and actuaries

- Reliance on FAS 123R – disclosure will be accounting driven.

162(m) Implications

<u>Deductions limited unless requirements met</u>

- 162(m) limits deductions for “covered employees” for compensation over $1 million.
- Deduction limit does not apply to “performance-based compensation.”
- Criteria for earning “performance–based compensation” for each covered employee must be established by a committee of outside directors.
- “Performance–based compensation” in excess of $1,000,000 is deductible.

162(m) Implications

<u>Covered employees under 162(m)</u>

- "Covered employees" include only:
  - the CEO at end of year; or
  - officers whose compensation is required to be reported to shareholders under SEC proxy rules because they are one of the 4 highest compensated officers (other than the CEO).
- Regulations clarify that only the CEO and the four highest compensated who are employed at end of year are "covered employees."

162(m) Implications

In the old days………

- Definition of “covered employee” lined up with SEC’s definition of “named executive officer which also included 4 highest compensated officers other than CEO.
- List of covered employees generally matched NEOs listed in the Summary Compensation Table.
- Compensation included only salary and bonus.

162(m) Implications

New SEC Definition of Named Executive Officer

- CEO (at any point during year).
- CFO (at any point during year).
- 3 highest compensated officers at year end.
- 2 others who would have been among highest 3 but for fact they were not employed as of last day of the year.
- Maybe 3 others under proposed rule? (“Katie Couric Rule”)

162(m) Implications

<u>All compensation included in determining 3 highest officers for SEC purposes</u>

- Look to total compensation figure that would be at end of the Summary Compensation Table.
- Includes stock options, restricted stock, and perks.
- Will now include compensation that is not reoccurring.
- Result: fluctuating group of named executive officers/covered employees.

162(m) Implications

Unanswered questions arising from changes

- For 162(m) purposes, who will make up the 4 highest compensated?
  - Proxy will only list 3 whose compensation is reported because they are among highest compensated.
  - All others, including CFO, have their compensation reported for other reasons.
- Will CFO now be included as a “covered employee”?
- Will only the CEO plus the three highest compensated be included as covered employees?
- What to do with the proposed Katie Couric Rule?

162(m) Implications

<u>Get your plan ready now!</u>

- More fluid list of "covered employees."
  - Need bigger pool of executives covered by 162(m) compliant plans.
  - The performance goals for the bigger pool should be approved by the compensation committee.
- Tax department must stay on top of "total compensation" used to determine "covered employees."
  - Need to make early determinations before first compensation committee meeting.
  - Rely on securities counsel at your peril.

Equity Grants (Stock Options and SARs)

- The potential tax issues will be found in the newly–required Grants of Plan–Based Awards Table, which is a supplement to the Summary Compensation Table.
- The SCT deals only with "value" of certain awards whereas the new Grants Table deals with key features of the awards (such as, number of shares, grant date and exercise price).
- Special note should be taken of Columns (b) and (k).

Equity Grants (Stock Options and SARs)

- Column (b) requires the registrant to set forth the *grant date* of any equity-based award made during the year. If the reported *grant date* is different from the date on which the Compensation Committee took action to grant such awards, then that action date needs to be shown in an adjoining column.
- Note: Tax Department needs to know whether the Grants Table will show a *grant date* that is different than the Committee's *action date*.

Equity Grants (Stock Options and SARs)

- If, with respect to a particular grant, there is a difference in the two dates, then the grant could raise the following tax issues:
  1. Violation of the ISO pricing rules – if the grant purports to be an ISO.
  2. Failure to satisfy the 162(m) exception for "performance-based compensation" (thus creating a potential loss of corporate deduction issue).
  3. Failure to satisfy the *stock rights* exception for 409A (thus creating adverse tax consequences for the grantee).

Equity Grants
(Stock Options and SARs)

- The same issues could arise under Column (k) which requires that the *exercise price* for each option-type award be shown.
- The Instructions provide that if the stated exercise price is different from the closing market price of the company's stock on the date the award was granted, then the closing price must be shown in an adjoining column.
- Note: the relevant option plan may not define FMV as the closing price of the stock on the date of grant. Hence, there will be a difference in the two prices which may require some explanation.

Equity Grants
(Stock Options and SARs)

- The concept of *date of grant* may have different meanings for ISO and NQO purposes and, also, does not seem to have the same meaning as *measurement date* for financial accounting purposes.
- If the registrant intends to show different dates (Column b) or different prices (Column (k)), Tax would need to know what definition was being used for purposes of stating the *date of grant*.

Equity Grants (Stock Options and SARs)

- Finally, there are ISO, 162(m) and 409A issues associated with statements made in the narrative that will accompany the Grants Table.
- That narrative must identify the "plan" under which the award was made (if not the plan approved by the shareholders, there could be ISO and 162(m) problems).
- Also, the narrative must note whether dividends are paid as part of the award (if the dividends are paid only at exercise, then this could be viewed as an indirect reduction of the exercise price and could conceivably violate the ISO and 409A pricing rules and, also violate the performance-based compensation exception under 162(m)).

Plan Descriptions

- Background – New enhanced disclosure for post–termination compensation, including:
  - Pension benefits,
  - Nonqualified deferred compensation, and
  - Other arrangements providing for payment on termination of employment, change in control.
- Required description of material terms of each arrangement, e.g., payment features.

Plan Descriptions

- Payment features of post–2004 deferrals in nonqualified plans now regulated by section 409A.
  - E.g., 6–month delay on payments to “key employees” on separation from service.
- Given section 409A transition relief, most companies have not yet amended their arrangements to reflect section 409A requirements.

Plan Descriptions

- Potential action steps re section 409A:
  - Draft/review descriptions of various arrangements to ensure they appropriately reflect section 409A compliance.
  - Make sure appropriate distinction made between section 409A grandfathered plan and non-grandfathered plan.
  - Pay particular attention to summary of severance payments and fringe benefits.

“All Other Compensation” – Perks Requirements to Disclose

- Column (i) of the Summary Compensation Table requires the reporting of “all other compensation,” including perquisites and gross–ups.
- Basic Rule: disclose all perks provided to an executive if aggregate value of perks exceeds $10,000 for the fiscal year.
  - All perks must be identified by type in a footnote.
- Prior rule only required description of perks if total value exceeded lesser of $50,000 or 10% of the executive’s total income.

"All Other Compensation" – Perks Requirements to Disclose

- Each perk with a value greater than $25,000 or 10% of all perks must be quantified in a footnote.
- Not sufficient to characterize perks in a footnote generally as "travel and entertainment."
- Issue for tax departments – roadmap for IRS examiners.

"All Other Compensation" – Perks
First Principle for Identifying a Perk

- First test: An item is *not* a perk if integrally and directly related to performance of the executives' duties, such as an office, secretarial support or reserved parking space.

- If an item is not a perk under this test, the analysis goes no further and there is no requirement to disclose any incremental cost over a less expensive alternative.

“All Other Compensation” – Perks
Second Principle for Identifying a Perk

- If it is determined that the item is not integrally and directly related to the executive’s job duties, it will be a perk if it confers a direct or indirect benefit that has a personal aspect, without regard to whether it is provided for some business reason or for the convenience of the company, unless it is *generally available on a non-discriminatory basis to all employees*.
- Can’t meet the “generally available” standard by making it available to employees in the same job category or at the same pay scale.

"All Other Compensation" – Perks
Items Specifically Identified as Perks

- Club memberships not used exclusively for business,
- Personal financial or tax advice,
- Personal travel using company vehicles,
- Personal travel financed by the company,
- Personal use of company property,
- Relocation assistance, including housing expenses,
- Security benefits (personal travel or home),
- Commuting benefits, and
- Discounts on company products or services if not provided on nondiscriminatory basis.

“All Other Compensation” – Perks
Tension With Fringe Benefits Rules

- Certain excludable working condition fringe benefits might be perks for disclosure purposes.
  - Use of corporate aircraft to attend board meeting of another company.
- Certain excludable de minimis fringe benefits might be perks for disclosure purposes.
  - Occasional tickets, retirement gifts.

All Other Compensation—Perks Valuation

- Aggregate incremental cost–tax rules (i.e., FMV or special valuation rates, such as SIFL) do not apply.
- Aircraft:
  - Specific references to personal use of aircraft, and
  - Historical tension with special valuation rules.
- Executive commuting expenses.

“All Other Compensation”—Gross-Ups

- “All other compensation” column also requires inclusion of *all* payments of “gross-ups or other reimbursements during the fiscal year for the payment of taxes.”
- Includes any gross-up for fringe benefits, no matter the value.
- Equalization payments?

Parachute Payments

- Excess parachute payments result in a loss of corporate deduction under 280G and a 20% penalty tax on the taxpayer under 4999.
- The new disclosure rules require a narrative description of the any change-in-control payments that may be payable.

Parachute Payments

- The registrant must describe the circumstances under which the payments could be made, estimate the amount of such payments as well as any factors and/or assumptions that were used in developing the estimates, and any gross-ups that would be required if such payments were ever made.
- Tax needs to be involved here also since disclosures made in the proxy may limit or severely undermine any future tax position that might be taken if such payments are ever actually made.

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COMPENSATION & BENEFITS SERVICES

PLANNING

Fringe Benefits
- Structuring executive perks
- Minimizing payroll taxes and maximizing deductions
- Preparing for IRS audit (compliance reviews)

Executive Compensation
- Deferred compensation/golden parachute arrangements
- Expatriate/cross-border issues
- Stock plans and agreements

Vendor Agreements
- Negotiate and draft vendor agreements
- Establish uniform provisions

COMPLIANCE

Pension, 401(k), Health & Welfare Plans
- Legal compliance
- Plan expense reimbursement
- Employee communications

Payroll Tax and Information Reporting
- Reporting requirements (domestic and cross-border)
- Minimizing payroll taxes and maximizing deductions
- Worker classification
- Late deposit issues

Fiduciary Issues
- Retirement committee requirements
- Fiduciary obligations

POLICY

Washington Focus
- Private letter rulings
- Compliance resolution
- Regulation comments

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Disputes and Litigation
- Claims procedures
- Benefits disputes
- Tax controversy, alternative dispute resolution, and litigation management

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DISCLOSURE OF EXECUTIVE COMPENSATION

Summary of Executive Compensation Tables

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The New SEC Executive Compensation Disclosure Rules

Complying with the Latest Corporate Governance Standards

Miller & Chevalier Chartered

Summary of Executive Compensation Tables

On July 26, 2005, the SEC adopted significant changes to a public company's disclosure requirements with respect to executive compensation, and these rules were again revised on December 22, 2006. Among the changes include a reorganization of the tables detailing executive compensation and new requirements to provide narrative detail regarding the various compensatory arrangements. This outline is intended to provide an overview of the new tabular disclosure requirements and does not discuss any of the other requirements including the new requirement to provide a Compensation Discussion & Analysis section or the new disclosure requirements with respect to Form 8-K or related party transactions.

I. OVERVIEW

A. Consistent Themes of New Requirements:

1. Disclose of all items of compensation. Want to avoid manipulation.
2. Desire to have all compensation valued and quantified.
3. Reliance on FAS 123R.

B. Required Sections/Tables:

1. Summary Compensation Table.
2. Grants of Plan-Based Award Table (combination of the two supplemental tables described in the proposed changes).
3. Outstanding Equity Awards at Fiscal Year End Table.
4. Option Exercises and Stock Vested Table.
5. Pension Benefits Table.
6. Nonqualified Deferred Compensation Table.
7. Post-Employment Payments (Narrative).
8. Director Compensation Table.

C. Effective Dates:

1. Proxy statements and annual reports filed on or after December 15, 2006 for fiscal years ending on or after December 15, 2006. Separate rules apply for investment companies.

2. Registration statements filed on or after December 15, 2006 that are required to include Item 402 information for fiscal years ending on or after December 15, 2006.

II. IDENTIFYING THE NAMED EXECUTIVE OFFICERS

A. Named Executive Officers Now Includes:

1. Any individual serving as the company's "principal executive officer" or similar capacity (the "CEO"), regardless of compensation level, during the last completed fiscal year;

2. Any individual serving as the company's "principal financial officer" or similar capacity (the "CFO"), regardless of compensation level during the last completed fiscal year;

3. The company's three most highly compensated executive officers, other than the principal executive and financial officers, during the last completed fiscal year; and

4. Up to two additional individuals for whom disclosure would have been provided (because they would have been one of the most highly compensated officers for the year) but for the fact that they were not employed as of the end of the fiscal year.

5. "Katie Couric Rule" remains in proposed form with uncertain future. Rule as proposed would have required disclosure of additional 3 highest compensated employees who are not executive officers but who have a nexus to management.

Prior rules provided for CEO and 4 highest compensated (plus two that would have been named if they remained employed until the end of the fiscal year).

B. Highest Compensation:

1. Based on total compensation for the last completed fiscal year (the total compensation figure that would be provided in the Summary Compensation Table) excluding increases in pension benefits and earnings on nonqualified deferred compensation (those amounts listed in box (h)). Prior rules would have included only salary and bonus.

2. Exclude any officer (other than CEO or CFO) with compensation less than $100,000.

3. Final rule eliminates the exclusion for compensation "that is not recurring and unlikely to continue" due to SEC concerns that such rule would lead to manipulation or inadequate disclosure. Final rule does permit exclusion of certain compensation paid to overseas executive officers.

4. If CEO or CFO was employed in a different position during last fiscal year, include all compensation for that year.

C. Expected Impact:

1. Using "total compensation" will make it more difficult to determine named executive officers in advance.

2. Likely more changes in named executive officer composition from year to year.

3. Unintended consequence--Impact on 162(m) compliance.

III. SUMMARY COMPENSATION TABLE

A. Overview-Terms-Concepts

1. Table now includes a "total compensation" column reflecting total of all other compensation listed in the table for the executive.

2. Reflects compensation for the most recently completed fiscal year and the two prior years. ***In 2007, however, only the last year's compensation must be disclosed. In 2008, only the two prior completed fiscal years must be disclosed. In 2009, all three years must be disclosed.***

3. Summary Compensation Table no longer separates annual and long-term compensation.

4. All columns must reflect any amounts deferred for any reason. Under the prior rules, only the salary and bonus columns were required to reflect deferrals made by reason of the executive's election.

5. New Terms:

   a. "Incentive Plan:" means any compensation plan intended to serve as incentive for performance over a specified period, whether measured by reference to financial performance of company, stock price, or other performance measure. Entitlement to payment under an incentive plan must be substantially uncertain at the time the target is set.

   b. "Equity Incentive Plan:" An incentive plan that provides awards that fall within scope of FAS 123R because the awards generally provide for share-based payment.

   c. "Non-Equity Incentive Plan:" An incentive plan that does not provide for payment based on the value of the company's stock or that may be settled in company stock. These arrangements do not fall within the scope of FAS 123R.

6. Narrative text concerning compensation described in the Summary Compensation Table is required following the Grant of Plan-Based Awards Table as described in IV.G. below.

Summary Compensation Table

Name and principal position (a)	Year (b)	Salary ($) (c)	Bonus ($) (d)	Stock awards ($) (e)	Option awards ($) (f)	Non-equity incentive plan compensation ($) (g)	Change in pension value and non-qualified deferred compensation earnings ($) (h)	All other compensation ($) (i)	Total ($) (j)
PEO									
PFO									
A									
B									
C									

B. Salary and Bonus (Columns (c) and (d)).

1. Preambles describe difference between a "bonus" and "non-equity incentive compensation" on page 53178 of the federal register release. An award under a "non-equity incentive plan" is intended to serve as an incentive for performance to occur over a specified period "if the outcome with respect to the relevant performance target is established and the target is communicated to the executive." A "bonus" is a cash award based on the "satisfaction of a performance target that was not pre-established and communicated, or the outcome of which is not substantially uncertain."

2. If salary or bonus earned in a given year is not calculable through latest practical date, footnote issue. When amount is calculable, item must be reported on Form 8-K.

3. Include any salary or bonus forgone at the election of the executive under which the executive received, in place of such salary or bonus, stock, equity-based or other forms of non-cash compensation. Any non-cash compensation received in place of salary or bonus must be disclosed in a footnote referencing the compensation and, where applicable, the Grant of Plan-Based Awards Table where the compensation is reported.

4. As noted above, columns should reflect amounts deferred.

C. Stock & Option Awards (Columns (e) and (f))

1. Stock awards include stock-related awards that derive their value from company stock or permit settlement in company stock, and are therefore within the scope of FAS 123R. Examples include restricted stock, restricted stock units, phantom stock or phantom stock units, common stock equivalents, or other similar instruments that do not have option-like features.

2. Option awards include stock appreciation rights and other similar equity-based compensation instruments that have option-like features.

3. For an award of stock or options, only show the dollar amount recognized for financial statement reporting purposes under FAS 123R. This value should disregard the estimate of forfeitures related to service-based vesting conditions. Report awards regardless of whether or not they were issued under an equity incentive plan. Reporting in columns (e) and (f) is not dependent on whether the arrangement constituted an "incentive plan." Prior to the December 2006 amendment, the rules required that the SCT reflect the full grant date fair value.

4. Provide a footnote describing all forfeitures during the year and disclosing all assumptions made in the valuation. If appropriate, disclose assumptions made in the valuation by reference to a discussion of those assumptions in the registrants financial statements, footnotes to the financial statements, or MD&A.

D. Non-Equity Incentive Plan Compensation (Column (g))

1. Unlike reporting in columns (e) and (f) for equity-based awards, report amounts in year award is earned not the year of grant. Report amounts earned even if payment is not made in that year (whether deferred or otherwise). The "Grant of Plan-Based Awards Table" will reflect the grant of awards.

2. Reflect any earnings on any awards that were earned.

E. Change in Pension Value and Nonqualified Deferred Compensation Earnings Column (column (h))

1. Figure reported reflects the sum of increase in the pension value and the deferred compensation earnings.

2. Increase in pension value, stated in present value, includes any increases in both tax-qualified pension plans and non-qualified supplemental pension or retirement income replacement arrangements. The total increase in the pension value includes both the increase in the present value due to the passage of time and the increase due to additional service or compensation. Assumptions and methodology must be footnoted.

3. Earnings on deferred compensation should be reported only if in excess of 120% of the long-term federal rate. Note that total earnings will need to be reported in the Nonqualified Deferred Compensation Table (regardless of whether the rate is considered above-market or not). Employer provided credits under a deferred compensation plan, whether matching or discretionary, will be reflected in "Other Compensation" column, not as earnings in this column, although earnings on such matching or employer credits are covered by this column (h).

F. Other Compensation (column (i)). Intended to capture all other compensation and to avoid any manipulation in structuring compensation to avoid disclosure. Includes all other compensation regardless of amount, including:

1. Value of any tax "gross-up" payment.

2. Any discount on any company security (unless provided to all security holders or salaried employees).

3. Amount paid or accrued (having become due) to an executive in connection with the executive's termination of employment or change in control.

4. Company credits under a defined contribution plan.

5. Dollar value of insurance premiums paid by company.

6. Dollar value of dividends or earnings paid on stock or option awards if such amounts were not taken into account in determining the "fair value" of such awards in column (l) of the Grants of Plan-Based Awards Table.

7. Prerequisites if aggregate value of all perks for an executive exceeds $10,000. Prior rule only required perks to be disclosed if total value exceeded lesser of $50,000 or 10% of total executive compensation.

   a. Each perk must be identified. Prior rule only required identification of perks with a value in excess of 25% of all perks. Perks must be described with sufficient detail (generally, greater detail than what is required today).

   b. Each perk with a value that exceeds the greater of $25,000 or 10% of all perks for that executive must be quantified and disclosed in a footnote. This requirement only applies to perks in the last fiscal year.

   c. Perks are valued for reporting purposes on their aggregate incremental cost to the company. Valuation method is different than the method used for tax purposes.

d. The SEC's preamble to the new rules states that an item is not a perk or personal benefit if it is integrally and directly related to the performance of the executive's duties. Otherwise, an item is a perk or personal benefit if it confers a direct or indirect benefit that has a personal aspect, without regard to whether it may be provided for some business reason or for the convenience of the company, unless it is generally available on a non-discriminatory basis to all employees.

G. Total Compensation (Column (j)): Figure should reflect sum of lines (b) through (i).

IV. SUPPLEMENTAL GRANTS OF PLAN-BASED AWARDS TABLE

A. Overview-Terms-Concepts

1. Intended to supplement Summary Compensation Table and provide more detail with respect to awards provided in Summary Compensation Table.
2. Also intended to identify (spotlight) company policies regarding option dating and pricing.
3. Each award would generally be provided with its own row. If grants were provided under different plans, the various plans should be identified by footnote. A tandem grant of two instruments, only one of which is under an incentive plan, should only be reported in (i) or (j), as applicable, with a footnote describing the tandem grant.
4. The term "threshold" in columns (c) and (f) refers to the minimum amount payable for a certain level of performance under the plan.
5. The term "target" in columns (d) and (g) refers to the amount payable if the specified performance targets are reached. If award provides for only one level of payout, the amount should be reported as a target. If the target amount is not determinable, provide a representative amount based on the prior fiscal year's performance.
6. The term "maximum" in columns (e) and (h) refers to the maximum payout possible under the plan.
7. Narrative text concerning compensation described in the Summary Compensation Table is required following the Grant of Plan-Based Awards Table.

GRANTS OF PLAN BASED AWARDS TABLE

		Estimated future payouts under non-equity incentive plan awards			Estimated future payouts under equity incentive plan awards						
Name	Grant Date	Threshold ($)	Target ($)	Maximum ($)	Threshold (#)	Target (#)	Maximum (#)	All other stock awards; Number of shares of stock or units (#)	All other option awards; Number of securities underlying options (#)	Exercise or base price of option awards ($/Sh)	Grant date fair value of stock and option awards
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
PEO											
PFO											
A											
B											
C											

B. Table Instructions:

1. Grant Date (column (b)). Enter grant date for equity-based awards (as determined for FAS 123R purposes). If the grant date is other than the date on which the compensation committee (or other board committee) took action (or is deemed to have taken action), add a separate column and report the date of the committee or board action.

2. Threshold, Target, and Maximum for Non-Equity Incentive Awards (columns (c) through (e)). Report dollar value of estimated future payout of awards or range of possible payouts. If such a plan uses units or other rights, create a new column quantifying the rights awarded.

3. Threshold, Target, and Maximum for Equity Incentive Awards (columns (f) through (h). These columns only address equity awards under "incentive plans" as defined above. Report number of shares of stock or shares underlying options to be paid our or vested upon satisfaction of the conditions in question or the range of possible payouts.

4. Non-Incentive Stock and Option Awards. Identify any awards that are not part of an incentive plan columns (i) and (j)).

5. Identify the per-share exercise or base price of the options granted in the fiscal year (column k). If the exercise or base price is less than the closing market price on the date of grant, provide a separate adjoining column showing the closing market price on the date of grant and provide a narrative describing the methodology for determining the exercise or base price either by a footnote or accompanying textual reference.

6. Column (l) requires the grant date fair value of each equity award computed in accordance with FAS 123R. If options were repriced during last fiscal year, whether through amendment, replacement or any other means, or were otherwise materially modified, report the incremental fair value determined under FAS 123R, computed as of the modification date

C. Narrative: The rules require a narrative description of any material factors necessary to understanding the information disclosed in either the Summary Compensation Table or the Grants of Plan-Based Awards Table. Examples of such factors include:

1. Material terms of each executive's employment agreement,

2. Whether any outstanding option or other equity-based award was repriced or materially modified (including an extension of the option period).

3. Material terms of any award listed in the Grants of Plan-Based Awards, including a description of the formula or criteria to be applied in determining the amounts payable and the vesting schedule including whether dividends are payable on stock and the applicable performance conditions.

4. An explanation of the amount of salary and bonus in proportion to total compensation.

V. OUTSTANDING EQUITY AWARDS AT FISCAL YEAR END

A. Overview-Terms-Concepts:

1. Table requires grant by grant description of each award, requiring separate line entries for multiple awards. Multiple awards may be aggregated if the expiation date and the exercise price are identical.

2. This table, plus the Option Exercises and Stock Vested Table replace the "Aggregated Option/SAR Exercises" and the "Fiscal Year End Options/SAR Values" tables required under the prior rules.

3. Identify by footnote whether an award has been transferred other than for value.

4. Vesting dates for each award of options, shares of stock, and equity incentive plan awards held at fiscal-year end must be disclosed by footnote.

Outstanding Equity Awards at Fiscal Year-End

Option awards						Stock awards			
Name (a)	Number of securities underlying unexercised options (#) Exercisable (b)	Number of securities underlying unexercised options (#) Unexercisable (c)	Equity incentive plan awards: Number of securities underlying unexercised unearned options (#) (d)	Option exercise price ($) (e)	Option expiration date (f)	Number of shares of units of stock that have not vested (#) (g)	Market value of shares of units of stock that have not vested ($) (h)	Equity incentive plan awards: Number of unearned shares, units or other rights that have not vested (#) (i)	Equity incentive plan awards: Market or payout value of unearned shares, units or other rights that have not vested ($) (j)
PEO									
PFO									
A									
B									
C									

B. Table Instructions:

1. Provide in columns (b) and (c), as applicable, the number of shares underlying unexercised options that are exercisable and unexercisable but excluding any option awards pursuant to an equity incentive plan (which are described in column (d)). Once an award described in column (c) becomes exercisable, its shares should be reported in column (b).

2. Provide in column (d) the number of shares underlying the award of options granted under an equity incentive plan award but that have not been earned. This column should reflect the awards under an equity incentive plan where the performance condition has not yet been satisfied. The number of shares reported in column (d) should be based on achieving threshold performance goals, except if the threshold performance goals have already been achieved in prior fiscal year, such number shall be based on reaching the target or maximum performance goals. Once the performance condition is satisfied, the shares underlying the award should be reflected in column (b) if vested or (c) if the options remain unvested.

3. Columns (e) and (f) should reflect the exercise price and expiration date.

4. Column (g) should reflect the number of shares of unvested stock awards outside of those granted under an equity incentive plan, and column (h) should reflect the market value of those shares. The market value should be determined by multiplying the number in column (g) by the closing market price of company stock at the end of the last completed fiscal year.

5. Column (i) should reflect the number of shares of unvested stock awards under an equity incentive plan, and column (j) should reflect the market value of those shares. The market value should be determined by multiplying the number in column (i) by the closing market price of company stock at the end of the last completed fiscal year.

VI. OPTION EXERCISES AND STOCK VESTED TABLE

Option Exercises and Stock Vested

Name	Option awards		Stock awards	
	Number of shares acquired on exercise (#)	Value realized on exercise ($)	Number of shares acquired on vesting (#)	Value realized on vesting ($)
(a)	(b)	(c)	(d)	(e)
PEO				
PEO				
A				
B				
C				

A. In columns (b) and (c), enter in number of shares acquired upon exercise and the value realized upon exercise. The value realized is the aggregate dollar value on the date of exercise of the number of shares underlying the options exercised reduced by the aggregate exercise price. Do not include the value of any other payments even if related to the option (such payments should be reported as "Other Compensation" in the Summary Compensation Table.

B. In columns (d) and (e), report the number of shares acquired upon vesting and the total dollar value of the shares acquired upon vesting on the date of vesting. If any shares are deferred, report the deferred shares with a footnote reflecting the terms of the deferral.

VII. PENSION BENEFITS TABLE

A. Overview-Terms-Concepts.

1. Table should reflect each plan that provides for payments or benefits primarily following retirement, including, but not limited to, tax-qualified defined benefit plans and supplemental executive retirement plans but excluding qualified and nonqualified defined contribution plans.

2. Each plan under which an executive accrued a benefit should be disclosed in a separate row.

3. Table designed to disclose retirement benefits that may have otherwise been "hidden."

4. Table replaces the already existing pension table.

Name (a)	Plan name (b)	Number of years of credited service (#) (c)	Present value of accumulated benefit ($) (d)	Payments during last fiscal year ($) (e)
PEO				
PEO				
A				
B				
C				

B. Table Instructions:

1. In columns (b) and (c), report the plan name and the number of years of service credited to the executive under the plan. If the number of years of service credited for an executive differs from the executive's actual years of service, include in a footnote a discussion of the difference and the impact on the executive's benefit.

2. Line (d) should reflect the present value (the lump sum value, regardless of whether this form is available to the executive) of the executive's accumulated benefit under the plan.

   a. Value should be computed as of the same pension plan measurement date used for determining the liability on the company's audited financial statements for the last completed fiscal year.

   b. Value should be based on same assumptions (interest rate, etc.) used for determining liability on the company's financial statements.

   c. The value should assume that the retirement age is the normal retirement age as defined in the plan or, if not so defined, at the time when the participant can elect to receive an unreduced benefit.

   d. Estimates should be based on current compensation and future levels of compensation should not be estimated for the calculation.

   e. In separating benefit under tax-qualified defined benefit plan from any supplemental plan, company should apply IRS limitations in effect as of the measurement date.

3. In column (e), report value of any benefits paid under any retirement plan during the year to the executive.

C. Narrative Description: Following table, include a narrative description of the various pension arrangements, including the following factors:

1. The material terms and conditions of payments and benefits available under the plan including the plan's normal retirement payment and benefit formula and eligibility standards.

2. The effect of the form of benefit elected by the executive on the amount of annual benefit.

3. If any named executive officer is currently eligible for early retirement under any plan, identify that named executive officer and the plan, and describe the plan's early retirement payment and benefit formula and eligibility standards.

4. The specific elements of compensation included in applying the payment and benefit formula.

5. If the named executive officer participates in more than one plan, explain the purposes of the different plans.

6. Any company policies with respect to granting extra years of credited service.

VIII. NONQUALIFIED DEFERRED COMPENSATION (DEFINED CONTRIBUTION)

A. Overview-Terms-Concepts.

1. Table applies to only defined contribution-type non-qualified plans. Unlike Pension Benefits Table, the Nonqualified Deferred Compensation Table excludes tax-qualified plans.

2. New table is designed to show value of deferred compensation and how such compensation grows prior to payment.

3. Summary Compensation Table only reflects above-market earnings. This table will reflect all earnings.

4. Companies will need to determine what is a "nonqualified deferred compensation plan." The current definition under Code section 409A is quite broad.

Nonqualified Deferred Compensation

Name (a)	Executive contributions in last FY ($) (b)	Registrant contributions in last FY ($) (c)	Aggregate earnings in last FY ($) (d)	Aggregate withdrawals/ distributions ($) (e)	Aggregate balance at last FYE ($) (f)
PEO					
PFO					
A					
B					
C					

B. Instructions:

1. In columns (b) and (c), enter dollar value of aggregate executive and company contributions during last fiscal year. Footnote the extent to which any contributions were also reported in the Summary Compensation Table.

2. In column (d), report dollar value of aggregate interest or other earnings accrued during last fiscal year. Footnote the extent to which any contributions were also reported in the Summary Compensation Table.

3. In column (e), reflect the total withdrawals and distributions to the executive during the last fiscal year.

4. Column (f) should reflect the account balance at the end of the last fiscal year. Footnote the extent to which amounts reported in this column were previously reported as compensation in the Summary Compensation Tables for prior years.

C. Narrative: Following table, include a narrative description of each plan, including the following factors:

1. Types of compensation permitted to be deferred under each plan.

2. Measures for calculating interest and other plan earnings including whether measures are selected by the executive or registrant and the frequency and manner in which selections may be changed, quantifying interest rates and other earnings measure applicable during the company's last fiscal year. The preambles describe that where plan earnings are calculated by reference to actual earnings of mutual funds or other securities, it is sufficient to identify the reference security and quantify its return.

3. Material terms with respect to payouts, withdrawals, and distributions.

IX. POTENTIAL PAYMENTS UPON TERMINATION OR CHANGE-IN-CONTROL.

A. Identify. Each contract or agreement, whether written or unwritten, that provides for payment to a named executive officer upon termination of employment or change in control.

B. Material Factors. For each such agreement, disclose the following:

1. The specific circumstances that would trigger payment or benefits (including perks).

2. Describe and quantify estimated payments and benefits under each circumstance and how the payments are calculated.

3. The material conditions applicable to receipt of payments including such conditions as the requirement to execute non-compete or waiver.

4. Any other material factors.

C. Assumptions.

1. Estimated benefits under the agreements must assume that triggering event took place as of last day of last fiscal year. If payments are uncertain, must estimate and disclose assumptions in estimate.

2. Perks must be included (unless aggregate value does not exceed $10,000). Perks with value exceeding $10,000 must have value disclosed.

3. If any benefits are provided and already disclosed under the Pension Benefits Table or Nonqualified Deferred Compensation Table, refer to the tables. However, disclose whether any such benefits become vested or enhanced upon a triggering event.

X. DIRECTOR COMPENSATION TABLE

A. Overview-Terms-Concepts.

1. Directors who are also named executive officers do not need to be listed if the director's compensation is already listed in the Summary Compensation Table.

2. Although similar to the Summary Compensation Table, the director's table only provides information for the last fiscal year.

3. Directors can be grouped in a row if all compensation for each director is the same.

Director Compensation

Name (a)	Fees earned or paid in cash ($) (b)	Stock awards ($) (c)	Option Awards ($) (d)	Non-equity incentive plan compensation ($) (e)	Change in pension value and nonqualified deferred compensation earnings (f)	All other compensation ($) (g)	Total ($) (h)
A							
B							
C							
D							
E							

B. Instructions.

1. Columns (b) should reflect the cash awarded to directors.

2. For awards of stock, column (c) should reflect the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with FAS 123R. For awards of options, column (d) should reflect the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with FAS 123R. For columns (c) and (d), report any adjustments or repricing in a manner similar to the disclosure described in the Grants of Plan-Based Awards Table.

3. Column (e) should reflect any earnings under a non-equity incentive plan during the fiscal year.

4. Column (f) should reflect the change in pension value and above-market nonqualified deferred compensation earnings. The manner for determining these amounts is described above concerning the Summary Compensation Table.

5. Column (g) should reflect all other compensation determined in the same manner as the Summary Compensation Table, provided that this column should also include:

   a. consulting fees.

   b. annual costs of payments and promises of payments pursuant to director legacy programs and similar charitable award programs.

C. Narrative: Following the table, include a narrative description of any material factors necessary to understand director compensation, including:

1. Standard compensation arrangements for directors (retainer fees, meeting and other fees).

2. Whether any director has a different compensation package.

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