

December 23, 2009

SEC Clarifies Effectiveness of New Disclosure Rules

Yesterday, the SEC issued interpretive guidance clarifying the effectiveness of the new executive compensation and corporate governance disclosure rules that were issued last week. As noted in [our memorandum outlining the new rules](#), last week's adopting release provided that the new rules applied in respect of fiscal years ending on or after December 20, 2009, but were not effective until February 28, 2010. Yesterday's interpretations provide several transitional guidelines, the most notable of which are summarized below. The full text of the guidance can be accessed at <http://sec.gov/divisions/corpfin/guidance/pdetinterp.htm>.

- Pre-February 28, 2010 Filings. Filings prior to February 28, 2010 are generally not required to comply with the new disclosure rules, even if they relate to fiscal years ending on or after December 20, 2009 or to annual meetings being held on or after February 28, 2010.
- Preliminary Proxy Statements and New Registrant Registration Statements. In an exception to the general rule, preliminary proxy statements filed prior to February 28, 2010 must comply with the new disclosure rules if the issuer expects to file the definitive proxy statement on or after February 28, 2010. Similarly, a new registrant filing a registration statement on or after December 20, 2009 must comply with the new disclosure rules in order for the statement to be declared effective on or after February 28, 2010.
- Voluntary Compliance. Filings prior to February 28, 2010 may voluntarily comply with the new disclosure rules. However, in a significant limitation, the guidance provides that a filing may apply the new equity compensation valuation rules *only* if it also complies with the other new executive compensation and corporate governance requirements.

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