

SECURITIES PRACTICE GROUP

## SEC PROPOSES CHANGES TO REQUIRED EXECUTIVE COMPENSATION AND RELATED MATTERS DISCLOSURE

On January 17, 2006, the SEC proposed amendments that revise the disclosure requirements regarding executive and director compensation, related party transactions and corporate governance matters in proxy statements, annual reports and registration statements. The proposed amendments also modify the Form 8-K reporting requirements for executive compensation arrangements.

### EXECUTIVE OFFICER AND DIRECTOR COMPENSATION

Under the current disclosure rules, most of the disclosure regarding executive compensation is required to be disclosed in tabular format. The proposed rules refine this tabular format and combine it with narrative disclosure under a new "Compensation Discussion and Analysis" section to provide readers with a more clear and complete description of executive compensation.

The proposals contemplate that after this new discussion section, compensation disclosure would be divided into three categories:

- compensation over the last three years,
- holdings of outstanding equity-related interests received as compensation that are the source of future gains, and
- retirement plans and other post-employment payments and benefits.

Companies would provide the disclosure under each of these categories in both revised and newly-created tables. For example, the retirement and post-employment benefits section would include the Retirement Plan Potential Annual Payments and Benefits Table (which would disclose annual benefits payable to each named executive officer) and the Nonqualified Defined Contribution and Other Deferred Compensation Plans Table (which would disclose year-end balances, executive and company contributions, earnings and withdrawals for the fiscal year).

Under the proposed rules, director compensation would be disclosed in a Director Compensation Table, similar to the Summary Compensation Table for the named executive officers, and related narrative.

### RELATED PARTY TRANSACTIONS

The proposed rules expand the disclosure required for related party transactions. Companies would be required to disclose their procedures and policies for approving related party transactions and whether they are parties to transactions in which a related party has a direct or indirect material interest. In addition, the new rules broaden the categories of related parties and revise the disclosure threshold from \$60,000 to \$120,000.

## DIRECTOR INDEPENDENCE AND CORPORATE GOVERNANCE MATTERS

As part of the disclosure amendments, the SEC has proposed that a new Item 407 be created under Regulations S-K and S-B that would consolidate corporate governance disclosure. The proposed Item 407 requires disclosure relating to, among other things, director independence, committee member independence, board and committee meetings, nominating and audit committees and the policies and procedures of compensation committees in determining executive and director compensation.

## FORM 8-K

The proposed Form 8-K amendments both modify the required disclosure regarding employment arrangements of executive officers and consolidate all such disclosure under one item.

*The SEC release discussing these proposals may be found at <http://www.sec.gov/news/press/2006-10.htm>. If you have any questions, you are encouraged to please contact David Braswell or Jill Newbold.*

### DAVID BRASWELL

One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
314.552.6631  
[dbraswell@armstrongteasdale.com](mailto:dbraswell@armstrongteasdale.com)

### JILL NEWBOLD

One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
314.259.4720  
[jnewbold@armstrongteasdale.com](mailto:jnewbold@armstrongteasdale.com)

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*St. Louis, MO*  
One Metropolitan Square  
St. Louis, Missouri 63102  
(314) 621-5070

*Jefferson City, MO*  
3405 West Truman Boulevard  
Jefferson City, Missouri 65109  
(573) 636-8394

*Kansas City, MO*  
2345 Grand Boulevard  
Kansas City, Missouri 64108  
(816) 221-3420

*Las Vegas, NV*  
701 North Green Valley Parkway  
Henderson, Nevada 89074  
(702) 678-5070

*Belleville, IL*  
23 South First Street  
Belleville, Illinois 62220  
(618) 397-4411

*Edwardsville, IL*  
241 North Main Street  
Edwardsville, Illinois 62025  
(618) 655-4004

*Shanghai, China*  
1376 Nan Jing Xi Lu  
Shanghai Centre - Suite 718  
Shanghai 200040  
P.R. China  
011-8621-6279-8808

*Overland Park, KS*  
7400 West 132nd Street  
Overland Park, Kansas 66213  
(913) 814-0969

*Washington, DC*  
1747 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
(202) 454-2800