November 9, 2012

Institutional Shareholder Services Inc.
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Ladies and Gentlemen:

Thank you for offering to Pearl Meyer & Partners ("PM&P") the opportunity to comment on the proposed policy changes that Institutional Shareholder Services Inc. ("ISS") is considering for 2013 (the "Proposed Policy"). As a leading independent executive compensation consulting firm, we share your strong interest in developing and promoting sound corporate governance principles as they relate to executive compensation.

Our brief comments are focused on four of ISS' proposed 2013 U.S. policy topics: (1) Proposed Peer Group Methodology; (2) Realizable Pay; (3) Pledging of Company Stock; and (4) Say on Golden Parachutes.

(1) <u>Proposed Peer Group Methodology</u>

ISS has proposed changing the peer group selection methodology used in its pay-for-performance test whereby it would consider a company's self selected peers meeting ISS' size criteria (currently 0.45 to 2.1 times revenue (or assets if in financial services) and 0.2 to 5.0 times market cap) as an input to peer group formation. The methodology as proposed would draw peers from the subject company's GICS group as well as from GICS groups represented in the company's peer group. It would initially focus on peer companies in the same 8-digit sub-industry to identify peers that are more closely related in terms of industry. Finally, the methodology would prioritize peers that maintain the company near the median of the peer group, are in the subject company's peer group, and that have chosen the subject company as a peer. Other proposed changes include slightly relaxed size criteria, especially for very small and very large companies, and using revenue instead of assets for certain financial companies.

At the outset, we commend ISS for placing more emphasis on company-selected peers, which we have been advocating for quite some time. We suggest, however, that ISS also be open to considering, when appropriate, enterprise value and number of employees in evaluating proper peer groups. We also believe that an initial screen that outright eliminates companies outside of the 8-digit sub-industry may be inappropriate for company selected peers where GICS may not be relevant to the company's specific competitive landscape. Furthermore, some companies may have limited, if any, of the same 8-digit GICS entities in their peer group due to their unique situation, and we would urge ISS to consider the broader 4- or 2- digit CIGS entities in the company-selected peer group. Finally, it is critical that ISS provide specificity as to how the company's peer group will be considered and what weight it would be given as soon as possible. We stress the importance of obtaining this transparency by the end of November in ISS' final release, and before companies make their final pay decisions. Delaying the details until the beginning of the year in a follow-up technical release will bar companies from considering the impact of the new methodology in making important compensation-related decisions before year-end.

(2) Realizable Pay

ISS has indicated it is considering adding realizable pay to the qualitative review for large-cap companies that are identified as "high concern" under the pay-for-performance test. As proposed, realizable pay would consist of cash and equity compensation based on actual earned awards and target values for ongoing awards using stock price at the end of the measurement period in the case of equity awards, or target values for ongoing awards without a stock price component.

Again, at the outset, we commend ISS for its willingness to look beyond SEC required disclosures and give credit to how Boards may view compensation differently from Summary Compensation Table reporting.

However, we would urge ISS against limiting application of this important concept to large cap companies; small and medium cap companies may encounter the same problems in the pay-for-performance test as large cap companies if realizable pay is not a consideration. Moreover, realizable pay may be an even more appropriate reference point when evaluating pay and performance for these smaller-scaled companies as they typically experience greater volatility from their grant date stock prices.

ISS has solicited very specific commentary for application of this principle. As an overriding principle, we stress that for purposes of designing pay programs, making decisions and general assessment of pay-for-performance relationships, we do not think that a one-size fits all approach should ever be the norm. In the iterative process of developing programs, Boards, Committees, management and outside advisors must be mindful of the array of methodologies and time periods over which performance and pay could be viewed. However, in an effort to assist ISS in finding a suitable normalized approach to realizable pay, we offer the following suggestions:

- Realizable pay should include and be defined as:
    - Base salary, bonus & non-equity incentives: As reported in the Summary Compensation Table for the period
    - Restricted stock, restricted stock units, options and SARs: Intrinsic value of grants made during the period, valued at the end of the period
    - Performance shares/units:
        - For completed cycles: the payout value for award cycles that start and end during the period
        - For cycles in progress: intrinsic value of target awards at the end of the period

- We believe intrinsic value is a more appropriate methodology for a realizable pay analysis as it more accurately reflects value to the executive during the performance period, including but not limited to the impact of underwater equity and stock price volatility. In addition, the use of intrinsic value for the realizable pay analysis provides a contrast against the reported grant date values which are generally tied to Black-Scholes.

- The appropriate measurement period for realizable pay should be three years. A longer time period (i.e., five years) provides a better match to corporate planning and decision-making, as well as institutional investor perspective. Yet a shorter timeframe (i.e., one year) may be more relevant to compensation evaluation and more likely matched to the incumbent CEO. As such, we generally believe that a 3-year time period strikes a balance among these competing goals. Furthermore, this time period conveniently aligns with the three years of data reported in the Summary Compensation Table.

Once again, while we believe that the above normative approach is a reasonable methodology for ISS to employ in its analysis, we do not recommend that companies take this as a blanket rule to analyze how their programs are working. As we saw in the past year of proxy disclosure, many companies have done an exceptional job describing how their specific performance goals corresponded to particular compensation goals in terms of realizable pay. Companies should continue to tailor their analysis as they deem appropriate in designing their programs.

PM&P has also written an article detailing our thoughts as to how to assess realizable pay and performance which we would invite ISS to consider, which can be found at: http://www.pearlmeyer.com/TellingYourPFPStory

(3) Pledging of Company Stock

Pledging of company stock would be an additional item on ISS' list of problematic pay practices that may result in adverse vote recommendations in 2013. ISS states that pledging is a practice that is increasingly raising investor concerns. We understand and appreciate that there have certainly been extreme and widely-publicized instances of abusive practices. However, we do not believe that all instances of pledging constitute poor pay practices. Pledging within specified limits does not pose the significant risks that ISS and investors would clearly view as problematic, especially as it pertains to a founder with substantial wealth invested in the company. When pledging is limited, it would not pose meaningful risk of either (i) market disruption from forced sale or (ii) liquidation of an executive's entire position in company stock. In fact, pledging (within limits) may sustain an executive's alignment with company stock performance where the alternative would have been to sell shares.

Thus, we believe the policy should only be applicable if there are significant triggering thresholds and exceptions, as follows:

- The policy should only apply to pledging by executives and Directors (as drafted, the policy is unclear as to application). Individuals pledging below this level should not be impacted by a policy intended to cover those people who have the most influence over the direction and control of the company.

- The policy should not be triggered unless an executive or Director pledges at least 20% of his or her owned shares. Many executives with large holdings in any one investment consider it prudent to diversify their risks, and from a company standpoint, it may place a limit on excessive risk-taking. Allowing individuals to pledge a small portion of their positions to obtain a loan in order to diversify their portfolios is prudent in this scenario. As mentioned above, if an executive seeks to diversify and pledging is a poor pay practice, the only alternative may be the sale of shares.

- Special consideration should be given to founders. Specifically, ISS should draw a distinction between pledging (within limits) by the individual executive as compared with investment or financing/pledging activities undertaken by a family trust or charitable foundation. Although shares held "in trust" or by charitable organizations may appear in the beneficial ownership table for a founder who serves as trustee, these shares are held for the benefit of individuals other than the executive or Director. Those other individuals are typically not executives or Directors of the company, so application of a "no pledging" rule to the trust would be extending ISS's views on pledging well beyond the executives and Directors of a company to other shareholders.

(4) <u>Say on Golden Parachutes</u>

ISS' proposed policy recommends that investors vote on a case-by-case basis on golden parachute proposals ("SOGP"), including consideration of existing change-in-control arrangements maintained with named executive officers, rather than focusing primarily on new or extended arrangements. The updated policy notes that recent amendments that incorporate problematic features will carry more weight in the analysis, but the presence of multiple legacy problematic features will also be scrutinized.

At the outset, we note that we believe that the ultimate driver of whether or not a SOGP proposal should pass or receive a favorable recommendation is whether the executive value derived from the deal is excessive as compared to the value of the deal and wealth creation for shareholders. With that noted, we would urge ISS to reconsider its policy and provide that <u>only</u> recently adopted or materially amended agreements that incorporate problematic features should enter into ISS' recommendation on SOGP. In our experience, historic arrangements have been reviewed by the Compensation Committee and shareholders numerous times. In addition, Compensation Committees assess the effectiveness of the outstanding arrangements for a variety of potential outcomes on an ongoing basis. A focus on recently adopted or materially amended agreements is far more appropriate as recent changes are directly related to: (i) the transaction at hand; and (2) the current value of a company.

In addition, many legacy agreements have been in existence for years (often for over a decade) and as a practical matter it is very difficult for Boards to modify these arrangements without entering into significant renegotiations of executive compensation packages. The result can be far higher compensation requirements for current service based on the forgoing of a contingent payment - impacting competitive pay levels not only for the company, but also any organization which compares itself to that company.

Furthermore, we believe that an AGAINST vote recommendation on SOGP should be the "exception" rather than the "rule". Data provided by ISS shows that only 10.64% of the companies with SOGP in 2012 had no problematic pay practices. At the same time, more than 95% of companies experience a SOGP vote of more than 50% support when shareholders have supported the underlying merger. The implication is that when shareholders believe adequate value has been provided in the transaction, they will vote in favor of the SOGP regardless of the existence of any problematic pay practices.

Lastly, we comment on the fact that ISS has added single trigger equity acceleration to its proposed list of problematic features. From a practical perspective, there are often valid business reasons why an acquirer wouldn't desire the continuation of an outstanding equity award and wouldn't want to be required to create a substitute equity vehicle at the time of the transaction. For example, in a going private transaction, the new shareholders may not desire to have broad equity distribution which may require public disclosure of confidential information. As proposed, inclusion of single trigger equity acceleration as a problematic pay practice would discourage going private transactions which will reduce the value received or receivable by shareholders. Acceleration of equity at the time of the CIC is very common and, if included as proposed as a problematic pay practice, will likely lead to an excessive number of AGAINST vote recommendations even where shareholders have currently deemed the value of the transaction to be fair relative to market value despite the cost of the accelerated equity.

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Thank you very much for soliciting our comments on ISS's proposed 2013 policies. Please feel free to contact me (david.swinford@pearlmeyer.com), Yvonne Chen (yvonne.chen@pearlmeyer.com), or Deb Lifshey (deborah.lifshey@pearlmeyer.com) if you have any questions or would like to review these comments.

Sincerely,
PEARL MEYER & PARTNERS

By: Dave Swinford

David Swinford
President and CEO