



July 12, 2006

Nancy M. Morris
Secretary,
Securities and Exchange Commission
100 F Street, NE,
Washington, DC 20549-9303

RE: File Number S7-03-06
Executive Compensation and Related Party Disclosure

Dear Ms Morris:

I am writing in my capacity as Chairman of the Remuneration Committee of the International Corporate Governance Network (ICGN), a global membership organization of institutional and private investors, corporations and advisors from 38 countries with capital under management of more than US\$10 trillion. The ICGN requests that the Commission accept this letter as additional comment in response to the Commission's proposed Executive Compensation and Related Party Disclosure rule.

Recent reports regarding stock option granting practices at some companies have raised significant concern for investors. Concerns center on two major topics: 1) the potential that some stock option grants have been backdated; and 2) the potential that companies may be purposely timing equity grants to take advantage of significant events or news released that are likely to affect the market value of their stock. We believe the Commission should consider potential amendments to the proposed rule as well as other disclosure requirements in response to these issues.

The ICGN recognizes that backdating and grant timing are not necessarily illegal. However, we strongly believe these practices are inconsistent with the best long-term interests of shareowners and obviously have very significant potential legal ramifications in the case of backdating. In each case, we believe these practices are akin to insider trading and very specific disclosures should be required to assist investors in monitoring the behavior of companies in this regard.

Accordingly, we request the Commission consider the following actions:

- 1) Amend the Executive Compensation and Related Party Disclosure rule proposal to provide the following:
 - a) Requirements that companies disclose whether they have adopted a comprehensive policy regarding equity grants. The required disclosure should include specific components of the policy, including grant date timing, methodologies for establishing strike prices, the roles of responsible parties related to key steps in establishing and administering equity grants, and the basic procedures the company will use to ensure the equity grants are administered in compliance with the policy. The ICGN believes this policy should address all equity grants to any employees, not just Section 16 officers, but any differences in the treatment of varying classes of employees should be clearly delineated.
 - b) The date(s) in the preceding year in which the committee approved each equity grant, and the date the grant became effective. Any discrepancy between these dates should be fully explained. The ICGN continues to support the Commission's proposed disclosure of the grant date for stock or option awards in the Supplemental Annual Compensation Tables.
 - c) For each equity grant, a requirement that companies provide a brief explanation for the purpose of the award and the grant date of the award. We believe the Commission should require adequate disclosure such that investors will be able to clearly identify situations in which equity grants are made, even if only partially, for the purpose of timing specific events or news, whether specific to the company or otherwise.
- 2) Review current requirements and enforcement of disclosures related to equity grants made to Section 16 officers. The ICGN believes the provisions in the Sarbanes-Oxley Act that strengthened the reporting requirements under Section 16(a) of the Exchange Act have likely been an impediment to backdating practices since their implementation in August 2002. Under the new rules, companies must now report through a Form 4 filing changes in beneficial ownership, including grants of stock options, within two business days.

However, it appears that in some instances companies are not filing Form 4 in a timely manner. According to a recent study¹, roughly one fifth of a sample of approximately 3,700 option grants between August 2002 and November

¹ Does backdating explain the stock price pattern around executive stock option grants? Randall A. Heron, Kelley School of Business, Indiana University, and Erik Lie, Henry B. Tippie College of Business, University of Iowa. Paper is forthcoming in the Journal of Financial Economics. JEL classification: J33; M52 Keywords: Executive stock option grants; Backdating.

2004 violated the two business day reporting requirement. Moreover, the study indicated that those grants that were not timely reported were associated with return patterns suggestive of backdating, and the magnitude of the return pattern was greater the longer the delay in reporting. Thus, it appears that if companies are not abiding by the two day reporting requirement the beneficial impact of the requirement as it relates to inhibiting backdating is diminished.

The ICGN requests the Commission consider the following actions related to Form 4:

- a) Increased enforcement action and penalties for non-compliance with the current 2 business day filing requirement for Form 4.
- b) Enforce disclosure in the annual proxy statement of each instance a company violates the reporting requirements related to a change in beneficial ownership, and require the reason for the violation and the status of any action resulting from the violation.

In addition to improved disclosure related to equity granting policies and procedures noted above, the ICGN believes SEC enforcement action is a critical element of an appropriate response to the backdating scandal. The ICGN strongly supports the SEC's regulatory actions to date. We believe it is critical that the Commission fully investigate all instances where there is evidence of backdating, and take strong action in circumstances where improper behavior is discovered. In cases where it is determined fraudulent or misrepresentative disclosures and financial statements occurred, we believe it is appropriate for the Commission to seek to nullify the related grants or seek restitution of the gains associated with the grants.

Sincerely,

Ted White
Chairman,
ICGN Executive Remuneration Committee

Cc: Mark Anson, Chairman, ICGN
Anne Simpson, Executive Director, ICGN