BDO Seidman, LLP
Accountants and Consultants

233 N. Michigan Ave., Suite 2500
Chicago, Illinois 60601
Telephone: 312-856-9100
Fax: 312-856-1379

April 11, 2006

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

Re: File No. S7-03-06
Release No. 33-8655
Executive Compensation and Related Party Disclosure

Dear Ms. Morris:

BDO Seidman, LLP is pleased to respond to the Securities and Exchange Commission's request for comments on its Proposal, *Executive Compensation and Related Party Disclosure*. Our comments focus on the summary compensation table and transition issues.

Summary Compensation Table

We believe that the most meaningful measure of executive compensation is the amount that an executive earns in a year for service in that year. Therefore, we believe that the objective of the summary compensation table should be to disclose the annual compensation earned by the named executives, by component. The proposal does not accomplish that objective, particularly with respect to stock-based compensation. U.S. generally accepted accounting principles (GAAP) contain significant guidance about when employees earn their compensation, and that guidance determines when (which year) an employer records the compensation expense. We recommend that the Commission base the Summary Compensation Table on compensation expense recorded under GAAP for the named executives.

Stock-based compensation. Under the Proposal, the Stock Awards and Option Awards columns of the Summary Compensation Table would present the grant date fair value of an award as compensation in the year of grant. There would be no distinction between an award that is vested or exercisable immediately, versus an award that vests or becomes exercisable after the named executive has rendered specified years of service or satisfied defined performance conditions. Consider two similar companies with different compensation strategies. Company A annually awards stock with a fair value of $100,000 to its CEO. The shares are fully vested and nonforfeitable at grant. Company B awards stock with a fair value of $500,000 to its CEO once every five years. The shares vest 20%

per year for five years. If Company B's CEO leaves the Company before completing five years of service, he forfeits any unvested shares. Both companies are providing similar levels of compensation to their CEOs. Company A's Summary Compensation Table will disclose $100,000 of compensation from stock awards every year. Company B's Summary Compensation Table will disclose $500,000 of compensation from stock awards every fifth year, and zero in the four intervening years.

Under GAAP (FASB Statement No. 123 (revised 2004), *Share-Based Payment*), Company A will record $100,000 of compensation expense every year for the fully vested awards. Company B also will record $100,000 of compensation expense every year, because the fair value of the $500,000 will be amortized to compensation expense over the five years that the CEO is required to work to earn the full award.[1] Because both companies are providing similar levels of compensation to their CEOs, we believe that the GAAP compensation expense is a more relevant and more comparable benchmark for judging the level of compensation than the approach in the Proposal. Therefore, we recommend that the Summary Compensation Table disclose the compensation expense recorded for the preceding fiscal year for each of the named executives.

Under Statement 123(R), employers accrue compensation expense for stock-based compensation that vests (or becomes exercisable) in the future net of estimated forfeitures. That is, employers accrue compensation expense only for the percentage of awards that are expected to be earned. Those estimates are updated regularly, and ultimately compensation expense is recorded only for awards that are earned (that is, vest or become exercisable). Those estimates of forfeitures are developed based on experience with groups of employees. We do not believe that such estimated forfeitures are meaningful with respect to any individual. Therefore, we recommend that for the Summary Compensation Table, estimated forfeitures should be ignored. However, if a named executive actually forfeits an award for which compensation expense was disclosed in prior years, the reversal of compensation expense should be reported in the year of forfeiture if the named executive is still included in the Table.

Defined-benefit pension and postretirement benefits. The proposal would require disclosure in the All Other Compensation column of amounts related to the "aggregate increase in actuarial value…of all defined benefit and actuarial pension plans (including supplemental plans)" accrued during the year. "Aggregate increase in actuarial value" is not a defined or commonly understood term. As a result, we are concerned that the disclosures will not be comparable and may not be meaningful.

[1] Statement 123(R) would permit Company B to elect an alternative accounting policy under which compensation expense for this type of award is recorded faster than the method illustrated above.

Under GAAP, employers follow a consistent approach to estimate the additional benefit that employees earn for each year of service under their defined-benefit pension and postretirement plans. Under FASB Statement Nos. 87, *Employers' Accounting for Pensions*, and 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions*, that additional benefit earned is the sum of the service cost and interest cost components of the annual cost. Therefore, we recommend that the Summary Compensation Table disclose the sum of the service cost and interest cost components for the preceding fiscal year for each of the named executives.

Actuaries make those estimates for the entire participant group, rather than for any individual participant, and apply group assumptions about turnover and mortality. We noted above that we don't believe that group estimates of forfeitures are relevant to estimating the compensation of an individual named executive. Similarly, we don't believe that group assumptions about turnover or mortality are relevant to estimating the compensation of an individual named executive. Accordingly, for purposes of this disclosure in the Summary Compensation Table, we recommend that employers should use the methodology from Statements 87 and 106 to estimate the service cost and interest cost components for each named executive, without application of group assumptions.

Transition Issues

We suggest that the Commission consider modifying and clarifying the proposed approach to transition. Discussed below are transition issues we have identified and our suggestions for addressing them. We expect that there are other issues that we have not identified.

We have illustrated our concerns through the use of examples. For purposes of these examples, assume that the adopting release is published in the *Federal Register* on October 31, 2006. This would mean that the new rules would apply to:

- Annual reports for years ending on or after December 30, 2006;
- Proxy statements filed on or after January 29, 2007; and
- Registration statements that become effective on or after February 28, 2007.

Our suggestions are as follows:

1. Permit registrants that file annual reports under the old rules to incorporate information (e.g., information required by Part III of Form 10-K) by reference to proxy statements prepared in accordance with the new rules.

   For example, the new rules would not apply to a Form 10-K filed by a registrant with a November 30 year-end. If this registrant provides the Part III information by incorporating it by reference from its proxy statement and it files that proxy statement after January 29, 2007, the proxy statement will comply with the new rules. We assume that the Commission intends to permit this and suggest that the Commission make this clear in the adopting release.

2. Modify the transition approach for registration statements. Require a repeat issuer to first comply with the new rules in an annual report or proxy statement – not a registration statement. Require a non-reporting issuer to apply the new rules in registration statements based on the initial fling date, rather than the effective date.

   In our example timetable, the new rules would not apply to the annual report or, assuming the annual shareholders meeting is held a few months after year-end, the subsequent proxy statement of a repeat issuer with a July 31, 2006 year-end. If that registrant files a registration statement that becomes effective on or after February 28, 2007, it appears that that registrant would not be able to simply incorporate by reference (or retype) in the registration statement the information in its July 31, 2006 Form 10-K. Rather, it would need to update that information to comply with the new rules. While we believe such updating should be permitted, we do not believe it should be required. We believe requiring transition to the new rules solely via Exchange Act filings would be consistent with the Commission's greater reliance on Exchange Act reporting in regulating the securities offering process.[2]

   With respect to non-reporting issuers, if the requirement to comply the new rules is based on the effective date of the registration statement, issuers that file registration statements before the compliance date will either need to comply with the new rules before the compliance date or face the prospect of revising their disclosures if the registration statement does not become effective before the compliance date. We suggest that the Commission consider not requiring updating by such issuers that are already in registration when the new rules take effect.

3. Permit early adoption.

   Because the new rules are intended to enhance disclosure, we suggest that the Commission permit registrants to comply with them in lieu of the previous rules prior to the required compliance date. Depending on the approach the Commission takes regarding the transition matters discussed above, early adoption could also be an approach that a registrant might elect to avoid later updating problems.

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[2] See discussion in Release 33-8591, Section I.B.2.

We appreciate this opportunity to express our views to the Commission. We would be pleased to answer any questions the Commission or its staff might have about our comments. Please contact Wayne Kolins, National Director – Assurance Practice, at (212) 885-8595 or via electronic mail at wkolins@bdo.com, or Lee Graul, National Director – SEC Practice, at (312) 616-4667 or via electronic mail at lgraul@bdo.com.

Very truly yours,

BDO Seidman, LLP