

CLIENT UPDATE

NYSE SECTION 303A WRITTEN AFFIRMATION UPDATED FOR NEW COMPENSATION COMMITTEE STANDARDS

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The NYSE has updated its Section 303A written affirmation form to reflect the recent modifications to the NYSE listing standards for compensation committees of equity issuers. The new affirmation form must be used by listed companies with annual meetings held after January 15, 2014 and is available on the NYSE's website.¹

The modifications to the NYSE's listing standards were adopted to comply with applicable provisions of the Dodd-Frank Act intended to further compensation committee transparency and independence. The updates to the written affirmation form include the following:

- Companies must affirm that they have a compensation committee satisfying the requirements of Section 303A.05 (or are relying on a transition provision as discussed below);
- Companies must disclose their determination as to whether or not each compensation committee member has any compensatory fee arrangements with the company and/or is an affiliate of the company or its affiliates; and
- If a compensation committee member receives any consulting, advisory or other compensatory fees, the company must describe the source of such compensation.

The transition periods and exemptions to the NYSE's compensation committee independence standards generally continue to apply. If a

¹ https://usequities.nyx.com/sites/usequities.nyx.com/files/final_domestic_company_annual_written_affirmation_1_16_14.pdf

listed company is relying on the transition provisions provided in Section 303A.00, for example in connection with an IPO, it must disclose the basis for this reliance along with the names of any compensation committee member relying on the transition and, if known, the expected compliance date. Similarly, if a member of a listed company's compensation committee ceases to be independent due to circumstances outside of their reasonable control, the company must disclose the basis for the reliance on the compensation committee independence cure period and the name of any such committee member.

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Please do not hesitate to contact us with any questions.

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