

## SEC Adopts Final Rule on Say-on-Pay and Golden Parachute Compensation

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On January 25, 2011, the Securities and Exchange Commission (SEC) adopted final rules implementing the approval of executive compensation (and frequency of approval of executive compensation) and golden parachute compensation as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Under the final rules, public companies subject to the federal proxy rules are required to: (1) provide their shareholders with an advisory vote on executive compensation at least once every three calendar years ("say-on-pay"), (2) provide their shareholders with an advisory vote on the desired frequency of these votes at least once every six calendar years (say-on-frequency); (3) provide shareholders with an advisory vote on golden parachute arrangements and understandings in connection with merger and other corporate transactions (say-on-golden-parachute compensation); and (4) provide additional disclosure of golden parachute arrangements in merger proxy statements. The say-on-pay and say-on-frequency votes are required at least once every three years and every six years, respectively, beginning with the first annual shareholders' meeting taking place on or after January 21, 2011. The say-on-golden-parachute disclosure and vote requirements apply to shareholder meetings occurring on or after January 25, 2011. The final rules are largely an adoption of the proposed rules issued in October 2010. However, there are several notable differences, including a more limited requirement to discuss in the CD&A the company's consideration of only the most recent say-on-pay vote (as opposed to all prior votes); the addition of a requirement to disclose in proxy materials when the next say-on-pay vote will occur; a higher threshold requirement (i.e., by majority vote) to exclude shareholder proposals for a new vote on say-on-frequency; and a new requirement on Form 8-K to disclose the issuer's decision on the say-on-frequency vote. In addition, the SEC adopted a temporary exemption for smaller reporting companies (public float less than \$75 million) so that these issuers will not be required to conduct a say-on-pay or say-on-frequency vote until the first annual or other meeting of shareholders occurring on or after January 21, 2013. A copy of the final rule can be found [here](#).