

LEGAL UPDATE

SEC ISSUES RULES ON EXECUTIVE COMPENSATION WHICH ADDRESS OPTION BACKDATING

The Securities and Exchange Commission (SEC) continued to move quickly to address the options timing scandal, the scandal du jour involving corporate fraud and accounting improprieties with respect to backdating and grants of options immediately prior to the release of favorable information. The final rules adopted by the SEC on July 26, 2006 relating to executive compensation provide for enhanced disclosure regarding option grant disclosure including discussion regarding the reasons for selecting a particular grant date and exercise price for stock options. The rule changes follow the civil and criminal securities fraud charges brought recently against Brocade Communications Systems Inc. and the several investigations launched by the SEC into options timing.

Executive compensation had proved a popular topic even prior to the outbreak of the options timing scandals. SEC Chairman Christopher Cox noted that the executive compensation rule proposals had generated more than 20,000 comments, more than any other proposal ever made by the SEC. The final rules adopt in significant part the proposals made earlier this year regarding modernization of the SEC's rules regarding disclosure of executive and director compensation, related person transactions, director independence and other corporate governance matters, and security ownership of officers and directors. These rules will provide investors with one number for total annual compensation for each named executive officer and a principles-base narrative disclosure in a new Compensation Discussion and Analysis section written in plain English.

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