§ 240.14a–15 Differential and contingent compensation in connection with roll-up transactions.

(a) It shall be unlawful for any person to receive compensation for soliciting proxies, consents, or authorizations directly from security holders in connection with a roll-up transaction as provided in paragraph (b) of this section, if the compensation is:

(1) Based on whether the solicited proxy, consent, or authorization either approves or disapproves the proposed roll-up transaction; or

(2) Contingent on the approval, disapproval, or completion of the roll-up transaction.

(b) This section is applicable to a roll-up transaction as defined in Item 901(c) of Regulation S-K (§ 229.901(c) of this chapter), except for a transaction involving only:

(1) Finite-life entities that are not limited partnerships;

(2) Partnerships whose investors will receive new securities or securities in another entity that are not reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k–1); or

(3) Partnerships whose investors' securities are reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k–1).

§ 240.14a–16 Internet availability of proxy materials.

(a)(1) A registrant shall furnish a proxy statement pursuant to §240.14a–3(a), or an annual report to security holders pursuant to §240.14a–3(b), to a security holder by sending the security holder a Notice of Internet Availability of Proxy Materials, as described in this section, 40 calendar days or more prior to the security holder meeting date, or if no meeting is to be held, 40 calendar days or more prior to the date the votes, consents or authorizations may be used to effect the corporate action, and complying with all other requirements of this section.

(b) Unless the registrant chooses to follow the full set delivery option set forth in paragraph (n) of this section, it must provide the record holder or respondent bank with all information listed in paragraph (d) of this section in sufficient time for the record holder or respondent bank to prepare, print and send a Notice of Internet Availability of Proxy Materials to beneficial owners at least 40 calendar days before the meeting date.

(b)(1) All materials identified in the Notice of Internet Availability of Proxy Materials must be publicly accessible, free of charge, at the Web site address specified in the notice on or before the time that the notice is sent to the security holder and such materials must remain available on that Web site through the conclusion of the meeting of security holders.

(2) All additional soliciting materials sent to security holders or made public after the Notice of Internet Availability of Proxy Materials has been sent must be made publicly accessible at the specified Web site address no later than the day on which such materials are first sent to security holders or made public.

(3) The Web site address relied upon for compliance under this section may not be the address of the Commission's electronic filing system.

(4) The registrant must provide security holders with a means to execute a proxy as of the time the Notice of Internet Availability of Proxy Materials is first sent to security holders.

(c) The materials must be presented on the Web site in a format, or formats, convenient for both reading online and printing on paper.

(d) The Notice of Internet Availability of Proxy Materials must contain the following:

(1) A prominent legend in bold-face type that states " Important Notice Regarding the Availability of Proxy Materials for the Shareholder Meeting To Be Held on [insert meeting date] ";

(2) An indication that the communication is not a form for voting and presents only an overview of the more complete proxy materials, which contain important information and are
available on the Internet or by mail, and encouraging a security holder to access and review the proxy materials before voting;

(3) The Internet Web site address where the proxy materials are available;

(4) Instructions regarding how a security holder may request a paper or e-mail copy of the proxy materials at no charge, including the date by which they should make the request to facilitate timely delivery, and an indication that they will not otherwise receive a paper or e-mail copy;

(5) The date, time, and location of the meeting, or if corporate action is to be taken by written consent, the earliest date on which the corporate action may be effected;

(6) A clear and impartial identification of each separate matter intended to be acted on and the soliciting person’s recommendations, if any, regarding those matters, but no supporting statements;

(7) A list of the materials being made available at the specified Web site;

(8) A toll-free telephone number, an e-mail address, and an Internet Web site where the security holder can request a copy of the proxy statement, annual report to security holders, and form of proxy, relating to all of the registrant’s future security holder meetings and for the particular meeting to which the proxy materials being furnished relate;

(9) Any control/identification numbers that the security holder needs to access his or her form of proxy;

(10) Instructions on how to access the form of proxy, provided that such instructions do not enable a security holder to execute a proxy without having access to the proxy statement and, if required by §240.14a-3(b), the annual report to security holders; and

(11) Information on how to obtain directions to be able to attend the meeting and vote in person.

(e)(1) The Notice of Internet Availability of Proxy Materials may not be incorporated into, or combined with, another document, except that it may be incorporated into, or combined with, a notice of security holder meeting required under state law, unless state law prohibits such incorporation or combination.

(2) The Notice of Internet Availability of Proxy Materials may contain only the information required by paragraph (d) of this section and any additional information required to be included in a notice of security holders meeting under state law; provided that:

(i) The registrant must revise the information on the Notice of Internet Availability of Proxy Materials, including any title to the document, to reflect the fact that:

(A) The registrant is conducting a consent solicitation rather than a proxy solicitation; or

(B) The registrant is not soliciting proxy or consent authority, but is furnishing an information statement pursuant to §240.14a-2; and

(ii) The registrant may include a statement on the Notice to educate security holders that no personal information other than the identification or control number is necessary to execute a proxy.

(f)(1) Except as provided in paragraph (h) of this section, the Notice of Internet Availability of Proxy Materials must be sent separately from other types of security holder communications and may not accompany any other document or materials, including the form of proxy.

(2) Notwithstanding paragraph (f)(1) of this section, the registrant may accompany the Notice of Internet Availability of Proxy Materials with:

(i) A pre-addressed, postage-paid reply card for requesting a copy of the proxy materials;

(ii) A copy of any notice of security holder meeting required under state law if that notice is not combined with the Notice of Internet Availability of Proxy Materials;

(iii) In the case of an investment company registered under the Investment Company Act of 1940, the company’s prospectus, a summary prospectus that satisfies the requirements of §230.498(b) of this chapter, or a report that is required to be transmitted to stockholders by section 30(e) of the Investment Company Act (15 U.S.C. 80a-29(e)) and the rules thereunder; and

(iv) An explanation of the reasons for a registrant’s use of the rules detailed
in this section and the process of re-
ceiving and reviewing the proxy mate-
rinals and voting as detailed in this sec-
tion.

(g) Plain English. (1) To enhance the
readability of the Notice of Internet Avail-
ability of Proxy Materials, the
registrant must use plain English prin-
ciples in the organization, language,
and design of the notice.

(2) The registrant must draft the lan-
guage in the Notice of Internet Avail-
ability of Proxy Materials so that, at a
minimum, it substantially complies
with each of the following plain
English writing principles:

(i) Short sentences;
(ii) Definite, concrete, everyday
words;
(iii) Active voice;
(iv) Tabular presentation or bullet
lists for complex material, whenever
possible;
(v) No legal jargon or highly tech-
nical business terms; and
(vi) No multiple negatives.

(3) In designing the Notice of Inter-
net Availability of Proxy Materials,
the registrant may include pictures,
logos, or similar design elements so
long as the design is not misleading
and the required information is clear.

(h) The registrant may send a form of
proxy to security holders if:

(1) At least 10 calendar days or more
have passed since the date it first sent
the Notice of Internet Availability of
Proxy Materials to security holders
and the form of proxy is accompanied
by a copy of the Notice of Internet
Availability of Proxy Materials; or

(2) The form of proxy is accompanied
or preceded by a copy, via the same
medium, of the proxy statement and
any annual report to security holders
that is required by §240.14a–3(b).

(i) The registrant must file a form of
the Notice of Internet Availability of
Proxy Materials with the Commission
pursuant to §240.14a–6(b) no later than
the date that the registrant first sends
the notice to security holders.

(j) Obligation to provide copies. (1) The
registrant must send, at no cost to the
record holder or respondent bank and
by U.S. first class mail or other reason-
ably prompt means, a paper copy of the
proxy statement, information state-
ment, annual report to security hold-
ers, and form of proxy (to the extent
each of those documents is applicable)
to any record holder or respondent
bank requesting such a copy within
three business days after receiving a
request for a paper copy.

(2) The registrant may send, at no
cost to the record holder or respondent
bank and via e-mail, an electronic copy
of the proxy statement, information
statement, annual report to security
holders, and form of proxy (to the ex-
tent each of those documents is appli-
cable) to any record holder or respond-
ent bank requesting such a copy within
three business days after receiving a
request for an electronic copy via e-
mail.

(3) The registrant must provide cop-
ies of the proxy materials for one year
after the conclusion of the meeting or
corporate action to which the proxy
materials relate, provided that, if the
registrant receives the request after
the conclusion of the meeting or cor-
porate action to which the proxy mate-
rals relate, the registrant need not
send copies via First Class mail and
need not respond to such request with-
in three business days.

(4) The registrant must maintain
records of security holder requests to
receive materials in paper or via e-mail
for future solicitations and must con-
tinue to provide copies of the materials
to a security holder who has made such
a request until the security holder re-
vokes such request.

(k) Security holder information. (1) A
registrant or its agent shall maintain
the Internet Web site on which it posts
its proxy materials in a manner that
does not infringe on the anonymity of
a person accessing such Web site.

(2) The registrant and its agents shall
not use any e-mail address obtained
from a security holder solely for the
purpose of requesting a copy of proxy
materials pursuant to paragraph (j) of
this section for any purpose other than
to send a copy of those materials to
that security holder. The registrant
shall not disclose such information to
any person other than an employee or
agent to the extent necessary to send a
copy of the proxy materials pursuant
to paragraph (j) of this section.

(1) A person other than the registrant
may solicit proxies pursuant to the
conditions imposed on registrants by this section, provided that:

(1) A soliciting person other than the registrant is required to provide copies of its proxy materials only to security holders to whom it has sent a Notice of Internet Availability of Proxy Materials; and

(2) A soliciting person other than the registrant must send its Notice of Internet Availability of Proxy Materials by the later of:

(i) 40 Calendar days prior to the security holder meeting date or, if no meeting is to be held, 40 calendar days prior to the date the votes, consents, or authorizations may be used to effect the corporate action; or

(ii) The date on which it files its definitive proxy statement with the Commission, provided its preliminary proxy statement is filed no later than 10 calendar days after the date that the registrant files its definitive proxy statement.

(3) Content of the soliciting person’s Notice of Internet Availability of Proxy Materials. (i) If, at the time a soliciting person other than the registrant sends its Notice of Internet Availability of Proxy Materials, the soliciting person is not aware of all matters on the registrant’s agenda for the meeting of security holders, the soliciting person’s Notice on Internet Availability of Proxy Materials must provide a clear and impartial identification of each separate matter on the agenda to the extent known by the soliciting person at that time. The soliciting person’s notice also must include a clear statement indicating that there may be additional agenda items of which the soliciting person is not aware and that the security holder cannot direct a vote for those items on the soliciting person’s proxy card provided at that time.

(ii) If a soliciting person other than the registrant sends a form of proxy not containing all matters intended to be acted upon, the Notice of Internet Availability of Proxy Materials must clearly state whether execution of the form of proxy will invalidate a security holder’s prior vote on matters not presented on the form of proxy.

(m) This section shall not apply to a proxy solicitation in connection with a business combination transaction, as defined in §230.165 of this chapter, as well as transactions for cash consideration requiring disclosure under Item 14 of §240.14a–101.

(n) Full Set Delivery Option. (1) For purposes of this paragraph (n), the term full set of proxy materials shall include all of the following documents:

(i) A copy of the proxy statement;

(ii) A copy of the annual report to security holders if required by §240.14a–3(b); and

(iii) A form of proxy.

(2) Notwithstanding paragraphs (e) and (f)(2) of this section, a registrant or other soliciting person may:

(i) Accompany the Notice of Internet Availability of Proxy Materials with a full set of proxy materials; or

(ii) Send a full set of proxy materials without a Notice of Internet Availability of Proxy Materials pursuant to paragraphs (d) and (n)(4) of this section is incorporated in the proxy statement and the form of proxy.

(3) A registrant or other soliciting person that sends a full set of proxy materials to a security holder pursuant to this paragraph (n) need not comply with

(i) The timing provisions of paragraphs (a) and (l)(2) of this section; and

(ii) The obligation to provide copies pursuant to paragraph (j) of this section.

(4) A registrant or other soliciting person that sends a full set of proxy materials to a security holder pursuant to this paragraph (n) need not include in its Notice of Internet Availability of Proxy Materials, form of proxy the following disclosures:

(i) Instructions regarding the nature of the communication pursuant to paragraph (d)(2) of this section;

(ii) Instructions on how to request a copy of the proxy materials; and

(iii) Instructions on how to access the form of proxy pursuant to paragraph (d)(10) of this section.