

109TH CONGRESS
1ST SESSION

H. R. 4291

To amend the Securities Exchange Act of 1934 to require additional disclosure to shareholders of executive compensation.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2005

Mr. FRANK of Massachusetts (for himself, Mr. GEORGE MILLER of California, Mr. OBEY, Mr. RANGEL, Mr. SABO, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to require additional disclosure to shareholders of executive compensation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protection Against Ex-
5 ecutive Compensation Abuse Act”.

1 **SEC. 2. ADDITIONAL EXECUTIVE COMPENSATION DISCLO-**
2 **SURES.**

3 (a) AMENDMENT.—Section 16 of the Securities Ex-
4 change Act of 1934 (15 U.S.C. 78n) is amended by adding
5 at the end the following new subsection:

6 “(i) ADDITIONAL EXECUTIVE COMPENSATION DIS-
7 CLOSURES.—

8 “(1) COMPENSATION PLAN.—

9 “(A) ANNUAL STATEMENTS AND PROXY
10 MATERIALS.—Each issuer required to file an
11 annual report under section 13(a) shall include
12 in such annual report, and in any proxy solici-
13 tation materials accompanying a proxy solici-
14 tation on behalf of the management of the issuer
15 in connection with an annual or other meeting
16 of the holders of the securities of the issuer, a
17 comprehensive statement of such issuer’s com-
18 pensation plan for the principal executive offi-
19 cers of the issuer. Such compensation plan shall
20 include—

21 “(i) any type of compensation (wheth-
22 er present, deferred, or contingent) paid or
23 to be paid to such principal executive offi-
24 cers, including—

1 “(I) an estimate of the present
2 value of any accrued pension of such
3 officers;

4 “(II) the estimated market value
5 of any other benefits received by such
6 officers; and

7 “(III) any agreements or under-
8 standings concerning any type of com-
9 pensation;

10 “(ii) the short- and long-term per-
11 formance measures that the issuer uses for
12 determining the compensation of such
13 principal executive officers and whether
14 such measures were met by such officers
15 during the preceding year; and

16 “(iii) the policy of the issuer adopted
17 pursuant to the rules promulgated under
18 paragraph (3).

19 “(B) SHAREHOLDER APPROVAL.—The
20 proxy solicitation materials containing the
21 statement required by subparagraph (A) shall
22 require a separate shareholder vote to approve
23 such compensation plan.

24 “(2) SHAREHOLDER APPROVAL OF GOLDEN
25 PARACHUTE COMPENSATION.—In any proxy solicita-

tion material that concerns an acquisition, merger, consolidation, or proposed sale or other disposition of substantially all the assets of an issuer—

“(A) the person making such solicitation shall disclose in the proxy solicitation material, in a clear and simple form in accordance with regulations of the Commission, any agreements or understandings that such person has with any principal executive officers of such issuer (or of the acquiring issuer, if such issuer is not the acquiring issuer) concerning any type of compensation (whether present, deferred, or contingent) that are based on or otherwise relate to the acquisition, merger, consolidation, sale, or other disposition; and

“(B) such proxy solicitation material shall require a separate shareholder vote to approve such agreements or understandings.

“(3) RETURN OF CERTAIN COMPENSATION.—

The Commission shall prescribe rules requiring each issuer to adopt a policy requiring the reimbursement by any principal executive officer to the issuer of any compensation received by such officer that is—

“(A) not provided for in the compensation plan required by paragraph (1);

1 “(B) based on performance by the officer
2 that does not meet the job performance meas-
3 ures identified in such statement;

4 “(C) incentive compensation or bonuses re-
5 ceived by such officer within 18 months before
6 any negative material restatement by the issuer;
7 or

8 “(D) related to fraud or misrepresentation
9 on the part of such officer.

10 “(4) PRINCIPAL EXECUTIVE OFFICER.—For
11 purposes of this subsection, the term ‘principal exec-
12 utive officer’ means—

13 “(A) all individuals serving as the chief ex-
14 ecutive officer of an issuer, or acting in a simi-
15 lar capacity, during the most recent fiscal year,
16 regardless of compensation level; and

17 “(B) for an issuer with total assets of—

18 “(i) more than \$250,000,000 but less
19 than \$500,000,000, the 2 most highly
20 compensated executive officers, other than
21 an individual identified under subpara-
22 graph (A), that were serving as executive
23 officers of an issuer at the end of the most
24 recent fiscal year; or

1 “(ii) more than \$500,000,000, the 4
 2 most highly compensated executive officers,
 3 other than an individual identified under
 4 subparagraph (A), that were serving as ex-
 5 ecutive officers of an issuer at the end of
 6 the most recent fiscal year.”.

7 (b) DEADLINE FOR RULEMAKING.—Not later than 1
 8 year after the date of the enactment of this Act, the Secu-
 9 rities and Exchange Commission shall issue any final rules
 10 and regulations required by the amendments made by sub-
 11 section (a).

12 **SEC. 3. CLEAR AND SIMPLE INTERNET DISCLOSURE.**

13 Section 16(a)(4) of the Securities Exchange Act of
 14 1934 (15 U.S.C. 78p(a)(4)) is amended—

15 (1) in subparagraph (B), by inserting “, in a
 16 clear, simple, and readily accessible format,” after
 17 “each such statement”; and

18 (2) in subparagraph (C), by inserting “, in a
 19 clear, simple, and readily accessible format,” after
 20 “that statement”.

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