

## Deadline Approaching for Compensation Committee Charter Amendments

*If you have any questions regarding the matters discussed in this memorandum, please contact any of the attorneys listed on page 2, or call your regular Skadden contact.*

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**A**s a reminder, by **July 1, 2013**, compensation committee charters must comply with the new New York Stock Exchange (NYSE) and Nasdaq Stock Market (Nasdaq) listing requirements that were approved by the Securities and Exchange Commission (SEC) earlier this year.

A listed company's compensation committee charter must reflect the authority and responsibilities of the compensation committee under SEC rules issued under the Dodd-Frank Act. Although most charters already reflect the committee's authority to retain consultants, counsel and advisers, many charters will need to be amended in order to reflect the committee's responsibility to consider conflicts of interest before selecting consultants, counsel or advisers. The committee should take into consideration all factors relevant to a determination of the potential adviser's independence from management, including the following factors:

- the provision of other services to the listed company by the person that employs the compensation consultant, counsel or other adviser (the firm);
- the amount of fees received from the listed company by the firm as a percentage of total firm revenue;
- the firm's policies and procedures designed to prevent conflicts of interest;
- any business or personal relationship of the compensation consultant, counsel or other adviser with a member of the compensation committee;
- any listed company stock owned by the consultant, counsel or adviser; and
- any business or personal relationship of the consultant, counsel or adviser or the firm with an executive officer of the listed company.

Note that the listing standards do not require a compensation consultant, counsel or other adviser to be independent, only that the compensation committee consider the enumerated factors before selecting or receiving advice.

Companies that have not yet reviewed their compensation charters and made revisions to reflect the foregoing requirements should take steps to have any changes to their charters approved no later than **July 1, 2013**. Because charter amendments will typically require review by the compensation committee and approval by the board of directors, companies should move quickly to ensure timely compliance with the NYSE and Nasdaq exchange listing requirements.

*If you have any questions regarding the matters discussed in this memorandum, please contact any of the attorneys listed below or call your regular Skadden contact.*

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