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Executive Compensation Diagnostic Review

Manatt's Executive Compensation and Employee Benefits team can review your executive compensation arrangements. We can help you identify areas of noncompliance to minimize the risks of negative publicity, potential securities violations and costly litigation that can damage the reputation and earnings potential of your company and executive team.

Why This? Why Now?

Competitive compensation packages are critical to attracting and retaining toplevel executive teams that will move your company forward. Your duty is to ensure that your company's executive compensation arrangements are structured and maintained to comply with the Internal Revenue Code (IRC), SEC disclosure requirements, and other rules and regulations to minimize threats of litigation.

Regulators require compliance with a wide variety of changing tax laws, federal and state securities laws, and corporate governance laws (e.g., SarbanesOxley and DoddFrank). At the same time, shareholders increasingly expect compliance with constantly evolving voting guidelines issued by International Shareholder Services (ISS) and Glass Lewis. Shareholder activists and plaintiffs' attorneys complaining of excessive executive compensation despite diminishing returns have filed lawsuits against company management and boards of directors for breaching their fiduciary duties and failing to comply with the many areas regulating executive compensation.

Our goal is to help you reduce the risk of unwelcome shareholder attention and unnecessary and costly litigation. Manatt's Executive Compensation Diagnostic Review is a partnerlevel assessment of your company's executive compensation programs designed to identify and avoid significant compliance and risk issues. Manatt will review your SEC disclosures, equity incentive plan documents, employment agreements, deferred compensation plans, compensation committee documents, and ISS and Glass Lewis voting recommendation reports.

We'll obtain pertinent information about your operational practices and discuss industryspecific risks and best practices.

We will provide a highlevel summary report to identify areas of material risk and noncompliance and provide general suggestions for corrective action. Or for a flat fee, depending on your needs, we will prepare an indepth analysis of your compensation arrangements. In both cases, we will help you decide on and implement a costeffective action plan. (See [Sample EC Diagnostic Report](#).)

Manatt's review will cover the following areas:

Tax Issues

Deferred Compensation Arrangements (IRC §409A)

The term "deferred compensation" is broadly defined under the tax code. The penalty for noncompliance is a 20 percent "additional tax" plus interest and regular taxes, all assessed on the amount improperly deferred. We will identify and review all deferred compensation arrangement to ensure compliance with Code Section 409A.

Excess Golden Parachute Payments (IRC §280G)

We will review all arrangement that implicate the Code Section 280G. To the extent there are any planning opportunities, they will be identified and implemented as desired.

Securities Disclosures

What is reported, when and to whom are critical to legal compliance and investor relations. Our assessment can help you better understand these issues. When we're done, you can be confident knowing what problems exist, if any, and having a plan to ensure that they are thoughtfully resolved. The securities review will cover:

- Compensation discussion and analysis
- Executive compensation tables
- An equity plan prospectus
- Other "1934 Act" disclosures

Corporate Governance

Finally, we look at the organization and processes of your company, including roles, responsibilities and procedures, to ensure you are efficient, compliant and at the least possible risk of litigation. This review will cover:

- Equity award practices and procedures
- Exchange (Nasdaq and NYSE) listing rules
- Compensation committee governance
- ISS and Glass Lewis voting guidelines

About Manatt

Manatt is a multidisciplinary, integrated national professional services firm known for quality and an extraordinary commitment to clients. We are keenly focused on specific industry sectors, providing legal and consulting capabilities at the very highest levels to achieve our clients' business objectives.

Our groundbreaking approach—bringing together legal services, advocacy and business strategy—differentiates us from our competitors and positions us to provide a unique and compelling value proposition. We strive to be essential to our clients.

From our roots in [banking](#), [entertainment](#) and [government](#), we work with clients from industries as diverse as [health care](#), [financial services](#), [media](#), [technology](#), [retail and consumer products](#), [real estate](#), and [energy](#). Our practice mix and deep understanding of the industries that drive the U.S. and global economies benefit clients as we resolve complex and potentially enterprise-threatening disputes, help finance their operations and expand their businesses, and navigate the maze of law and regulation governing virtually all commercial activity.

Our strong presence in America's most important business markets enables us to address and exceed client expectations. Our largest offices are strategically located in [Los Angeles](#), [New York](#), [Silicon Valley](#), [San Francisco](#), [Orange County](#), [Chicago](#), [Washington, D.C.](#), and [Boston](#). Our state capital offices in [Sacramento](#) and [Albany](#) provide connections to government decision makers and to solutions that are unavailable from our competitors.

Beyond this energizing work, we are deeply committed to diversity, to public service, to involvement in the communities we serve and to excellence in all we do.

For more information, visit <https://www.manatt.com> or contact:

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