



June 27, 2007

John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto, Ontario M5H 3S8

Anne-Marie Beaudoin, Directrice du secrétariat  
Autorité des marchés financiers  
Tour de la Bourse  
800, square Victoria  
C.P. 246, 22<sup>e</sup> étage  
Montréal, Québec, H4Z 1G3

(Submitted via email)

Re: Proposed Form 51-102F6 Statement of Executive Compensation

Dear Sir/Madam,

WorldatWork is pleased for the opportunity to submit comment in response to the Canadian Security Administrators' (CSA) request for comment on Proposed Form 51-102F-6 Statement of Executive Compensation, issued March 29, 2007.

By way of background, WorldatWork is a U.S.-based not-for-profit association with 24,000 members around the world who work in the compensation, executive

compensation, and human resources fields. Although the largest number of WorldatWork members reside in the U.S, the association's second largest group is in Canada. Nearly 2,000 Canadians currently hold membership in WorldatWork.

Since 1976, the association has offered the premier professional certification for the compensation field, called the Certified Compensation Professional designation, CCP®. Since that time, more than 11,000 individuals worldwide have earned the CCP® professional designation.

The following comments are based on input from a number of association members who are long-term professionals in the compensation and executive compensation fields. Because our membership also includes a substantial proportion of the executive compensation consultants, these comments incorporate some of their feedback on the proposal as well. Many of the comments below are similar to the comments we provided the U.S. Securities and Exchange Commission (SEC) in 2006 when they issued a similar request for comment.

WorldatWork would be happy to directly respond or arrange a membership response to any questions for clarification on these or any other pending issues associated with either employee or executive compensation.

## **Overview**

The 50+ year history of WorldatWork includes substantial research into compensation systems, pay-for-performance, executive and board compensation and compensation transparency, including *The Knowledge of Pay Study (2002)*, which concluded: "improving pay knowledge in an organization will increase the value of human capital."

As such, we are supportive of the CSA goal of better and more understandable executive compensation information for the benefit of investors. At the same time, we are hopeful that the CSA and other regulatory bodies -- such as the U.S. SEC -- remain cognizant of the totality of new compensation-related compliance requirements that have been imposed on organizations in recent years.

Further, we welcome the CSA's notion that U.S. and Canadian executive compensation disclosure requirements should be in alignment for the benefit of organizations that do business and operate throughout North America.

We must also note, however, that some compensation professionals in our membership believe that – while beneficial in many ways for investors – additional transparency of executive compensation could create an unintended ratcheting-up of compensation levels. It is possible that the ability to make more direct comparisons of compensation levels could create situations in which an executive would think: “I should be earning *at least* as much as he/she is.”

Below are detailed comments on several items. We have specifically chosen not to comment on the entire proposal, but instead only on those items that might have the greatest impact on the work performed by professionals in the fields of compensation and executive compensation.

## **Item 1: General Provisions**

### A. Definitions

WorldatWork has published a “Glossary” of compensation and total rewards terminology for many years. For your information, below are the definitions that the association of compensation professionals has promoted through its *Glossary of Terms*:

*"Incentive Plan. Formula-driven pay plan that is designed to reward the accomplishment of specific results. Rewards usually are tied to expected results identified at the beginning of the performance cycle. The plans can be individual, group, companywide or a combination or any. Incentive plans are forward-looking; in contrast to bonuses, they are not discretionary."*

*"Bonus. Usually a lump-sum payment (cash, shares, etc.) made once a year in addition to an employee's normal salary or wage for a fiscal or calendar year. Generally nondiscretionary and not based on predetermined performance criteria or standards."*

*"Discretionary Bonus. A plan in which management determines the size of the bonus pool and the amounts to be allocated to specific individuals after a performance period. These have no predetermined formula or promises, and are not guaranteed."*

#### **Item 1(d) Definition of NEO**

The requirement to disclose compensation information about three additional non-NEOs may create unintended and unhealthy internal equity pressure (i.e., "why is he/she being paid that when I'm not?"), and may hinder the ability to attract and retain talent because of a reluctance to be in this compensation disclosure spotlight. In addition, this requirement may have an unintended impact of causing qualified and viable candidates who might refuse to consider switching employers specifically because their new compensation package might be subject to disclosure.

If this requirement must move forward to the final rule, it should be limited to the CEO, CFO and others in senior management positions only – not merely anyone

who's compensation might thrust them into the top five. Clearly, the top sales person or celebrities have no real interest in becoming CEO, and have little if any influence on the company's governance. Further, they have a right to privacy.

We also must respectfully disagree with the usage of "total compensation" to determine these named individuals. Instead, we recommend that the definition of compensation for this group of five be limited to base salary plus bonus (or total cash compensation) but not "total compensation" because so many of the elements to be reported in that column can be affected by other circumstances such as the aggregate increase in the actuarial value of a pension plan (usually due to an officer's age), the voluntary deferrals by an officer and the performance of those investments, and one-time awards made to recruit or retain a member of the senior management team.

## **Item 2 – CD&A**

The proposal, if finalized, would require companies to provide new detail regarding various elements of the compensation program, including: program objectives, what is designed to reward and not reward, and how each element fits into the company's overall compensation objectives.

Compensation professionals would appreciate additional clarification and guidance in this section, as it appears that potential report requirements (e.g., identification of compensation elements and how amounts are calculated) may unintentionally force the disclosure of proprietary or competitive information -- despite assurances to the contrary.

Following the 2007 proxy season, it seems that the U.S. SEC is now interested in studying these disclosure requirements and providing additional guidance. Specifically, many companies chose not to provide specific performance targets. Further, the amount of information provided in U.S.-filed CD&A statements has

varied from several hundred words to many thousands of words and the U.S. SEC Commissioner has indicated his displeasure with the amount of “plain English” in the text. We believe it would be prudent for the CSA to study the guidance offered by the U.S. SEC, which is reportedly due to be released later in 2007.

### **Item 2 (b): Performance Graph**

We indicated in our comment to the U.S. SEC that, despite their interest in eliminating the Stock Performance Graph in the CD&A, WorldatWork supported the continuation of this graph because compensation professionals find that it is not overly burdensome to prepare, and because the association believes that it helps to reinforce the linkage between company performance and executive compensation.

### **Item 3: Summary Compensation Table**

WorldatWork is supportive of the goal of clear and concise tables to present investors with comparable information about compensation and consistency with the U.S. SEC. However, we believe there are a number of issues that need to be addressed and clarified in order to achieve what is intended.

Specifically, we are concerned about confusion resulting from the possibility of double counting of compensation elements, mixed time frames in the same table (i.e., current year *and* deferred), realized amounts versus compensation opportunities, accounting for deferred compensation, and the compliance burden of these new disclosures.

Obviously, the amounts relating to “salary” and “bonus” in the Summary Compensation Table would indicate straight-forward current year amounts for the year indicated. But in the same table, the “stock awards” and “option awards” columns would represent *possible* compensation – most likely to be earned or

paid out in future years. Stock awards and options are long-term compensation vehicles often designed and used as service- or performance-related incentives, and are intended to be paid out over a number of years. Thus, it would be misleading to assign and report a value for these *potential* compensation opportunities because the actual amounts earned later could be substantially different than what is reported in any given year.

In the “all other compensation” area of the Summary Compensation Table, the proposal appears to treat all earnings on deferred compensation as reportable compensation. Many companies have deferred compensation plans whereby a participant earns returns based on mutual fund or market index returns. Under such plans, the sponsoring company does not have control over the amount of earnings that may be derived by the participant. Indeed, in down-market years, this type of plan can result in negative compensation. As such, it is inappropriate to treat such market-based earnings as compensation. However, to the extent that the sponsoring company credits above-market earnings to deferred compensation accounts, the above-market portion should be treated as compensation.

With regard to perquisites, as we indicated to the U.S. SEC, we have concern with items that might technically be considered perquisites under a broad definition of the term – but which are vital to maintaining, for example, the personal security of the executive. For example, items such as home or personal security expenditures are a necessary part of life for executives in certain industries (i.e., financial services) and we believe the CSA should consider exempting these types of items.

Finally, regarding the notion of one column in the Summary Compensation Table would report a single figure of “total compensation.” Some of our members have opined that, while a simple column of “total compensation” is a laudable goal, the only way to obtain a true and accurate “apples-to-apples” comparison for

investors would be to include base pay, bonus, and stock awards only. As such, we would propose a splitting of the one Summary Compensation Table into potentially two tables: one relating to total compensation actually earned or “realized” and another table relating to the total compensation potential, “opportunity” – or some similar notion.

### **Item 7: Termination and Change-in-Control Benefits**

Some of the most negative visibility for executive compensation in recent years has come about from severance and change in control arrangements. Nonetheless, the proposal in this area is troubling for the compensation profession because of the lack of clarity and potential confusion that may result from this particularly burdensome new requirement of building potential scenarios. Providing estimates of severance payments is, in some cases, extraordinarily difficult because of the number of variables that could affect the amount a specific executive may get – depending on how and why the agreement is triggered. We believe this is an area that could be misleading and/or subject to manipulation.

We would favor tabular disclosure of: cash payments of severance and other unvested amounts, cash payments of previously vested amounts, number of shares (and value) of previously unvested stock options and awards that become vested due to severance or change in control, and the number of shares (and value) of previously vested stock options and stock awards.

In addition, we would support new narrative disclosures in this area such as:

- Whether a retired executive is simultaneously receiving both severance and retirement payments in retirement (“double dip”);
- Whether a severance benefit is payable on the death or disability of the executive;

- Whether the company can cease or “claw back” retirement payments or benefits due to violations of covenants,
- Whether severance pay and other benefits continue on or after normal retirement date; and,
- Whether a change in control would affect any of the above.

WorldatWork appreciates the opportunity to comment on this important proposal on behalf of our worldwide membership, and stand ready to assist further should the CSA feel the need to call upon us. Any questions regarding the contents of this document can be directed to Ryan Johnson at [rjohnson@worldatwork.org](mailto:rjohnson@worldatwork.org) or 480-905-5986.

WorldatWork  
14040 N. Northsight Blvd.  
Scottsdale, Arizona 85260  
USA