S.E.C. to Propose New Rules on How Executive Pay Is Reported

The New York Times
By Stephen Labaton
January 11, 2006

WASHINGTON, Jan. 10 - Outlining the details of his first major initiative, Christopher Cox, the new head of the Securities and Exchange Commission, said that next week the agency would propose the most extensive overhaul since 1992 of the way companies disclose compensation to senior executives and directors.

"The marketplace for executive compensation has proceeded apace in the intervening decade and a half and the results have been an increasing amount of executive compensation that is escaping disclosure," Mr. Cox told a group of reporters over lunch at the agency's headquarters.

Once adopted, the new rules would provide considerable assistance to investors, who are often unable to glean from corporate filings the total compensation of top executives. But the rules would still fall far short of the ambitious corporate democracy proposals made for many years by stockholders and some lawmakers, including one proposal that would give the investors some say in setting pay scales.

Those proposals have gained little political traction in Washington, even as a growing body of evidence has emerged to suggest that at many companies there is no correlation between executive pay and company performance.

Still, in a sign of how much the landscape has changed over the last decade, business groups that previously had resisted changes on executive compensation disclosure rules now appear generally supportive of the effort.

Mr. Cox and other officials emphasized that the proposed changes were not intended to reduce skyrocketing compensation packages but to make them more transparent. They are also supposed to force boards to provide more explanation for them, he said.

He dismissed the notion that more information about large packages could result in ever-escalating salaries and bidding wars for top executive talent.

"There is a counterargument that says making more information available will cause upward pressure," he said. "But that's just not how markets work. Markets function best when there is more disclosure."

At the luncheon Mr. Cox and Alan L. Beller, director of the commission's corporate finance division, said the rules would require greater disclosure of deferred compensation and executive compensation when a company's ownership changed hands.

By lowering the disclosure limit for executive perks to $10,000, from $50,000, as the current draft of the proposal contemplates, companies would be required to provide more information

about a wide range of benefits that often go undetected or are imprecisely described. Those include club memberships, the use of executive jets and cars, and payments made by companies to cover the taxes on compensation and benefits.

Companies would also have to provide more statistical tables listing retirement plans and would have to go beyond boilerplate language in justifying compensation packages. They would require companies to put a precise value on stock options in the table listing executive compensation.

The new rules would apply to the chief executive, the chief financial officer and the top three other executives, as well as all board members.

High compensation packages in recent years have prompted a series of suggestions for legislation, and the proposals being promoted by Mr. Cox have been under study at the agency since 2004. In recent years, companies including Tyco, General Electric and Walt Disney have settled accusations by the commission that they failed to properly give shareholders the details of large pay packages.

Officials hope the rules can be in place by the 2007 proxy season, although investors at some companies may begin to see changes this year.

Recent studies have shown that compensation of top executives has increased at a far greater rate than for other workers, and that there is often little correlation between pay and performance.

A report two months ago by the Corporate Library, a research organization that promotes better corporate governance, found that compensation of chief executives at 2,000 of the biggest companies increased 30 percent in 2004, compared with 15 percent in 2003 and 9.5 percent in 2002.

A study by Lucian A. Bebchuk of Harvard and Yaniv Grinstein of Cornell found that corporate assets used to compensate the top five executives at companies grew from less than 5 percent to more than 10 percent of aggregate corporate earnings from 1993 to 2003. The result was a large decline in company and portfolio values with no associated strengthening of management incentives.

Another study, by Mark Van Clieaf, managing director of MVC Associates International, a management consulting firm, and Janet Langford Kelly, a Northwestern University law professor, found that 60 companies in the bottom 10th of the Russell 3000 index lost $769 billion in market value and $475 billion in economic value in the five years through 2004.

They paid their top five executives more than $12 billion over the same period.