

“What keeps you up at night?”

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Executive compensation: under fire and what's to come

By Katayun I. Jaffari and John H. Chung

The current worldwide financial crisis and economic downturn have fueled an unprecedented level of outcry and activism on many fronts - most notably with respect to executive compensation. Within the last six months, there has been a myriad of proposed legislation and regulations by the U.S. Department of Treasury, the Securities and Exchange Commission and both houses of Congress that will certainly reshape the current landscape of executive compensation.

Despite the varied genesis of each piece of legislation, which are summarized in this article, they all have one common theme: an attempt to legislate executive pay practices of boards of directors and compensation committees. The first regulations were directed at financial institutions receiving governmental aid as a result of the economic crisis. These regulations, however, are becoming the landscape for best practices for executive pay and will have ramifications for all publicly traded companies.

The regulations include measures such as say-on-pay vote requirements, restrictions on tax gross-ups, golden parachute compensation and other severance payments, stricter standards for independence of compensation committees and their advisers, and clawbacks, or recovery, of compensation for unearned performance-based pay.

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