



LEGAL ALERT

January 13, 2010

SEC Adopts Say-on-Pay Proxy Rules for TARP Companies

On January 12, 2010, the U.S. Securities and Exchange Commission (the “SEC”) adopted amendments to its proxy rules requiring companies that have received financial assistance under the Troubled Asset Relief Program (“TARP”) provide their shareholders an advisory vote on executive compensation as required by Section 111(e) of the Emergency Economic Stabilization Act of 2009, as amended (the “EESA”). Although the amended proxy rules only apply to public companies that are registered under Section 12(b) and 12(g) of the Exchange Act of 1934, as amended, all TARP recipients must provide an advisory vote on executive compensation as required by the EESA.

The amended proxy rules state that if any proxy solicitation is made by a TARP recipient during a period in which any obligation arising from financial assistance provided under TARP remains outstanding and the solicitation relates to an annual meeting of shareholders (or a special meeting in lieu of the annual) for which proxies will be solicited for the election of directors, the company must provide a

separate non-binding shareholder vote to approve the compensation of executives, as disclosed pursuant to Item 402 of Regulation S-K, including the compensation discussion and analysis, the compensation tables, and any related material. Nonetheless, smaller reporting companies are not required to include a compensation discussion and analysis in their proxy statements in order to comply with the new rule.

Furthermore, a TARP recipient that is required to provide a separate shareholder advisory vote on executive compensation under these amendments is not required to file a preliminary proxy statement with the SEC. However, a company that voluntarily provides its shareholders with an advisory vote on executive compensation still must file a preliminary proxy statement.

Feel free to contact us if you have any question regarding how these amendments to the SEC proxy rules may impact your company.

Bybel Rutledge LLP
1017 Mumma Road, Lemoyne, PA 17043
Phone: 717-731-1700
Fax: 717-731-8205
Website: www.bybelrutledge.com