

laws, rules, and regulations, including insider trading laws.

- *Encouraging the reporting of any illegal or unethical behavior to appropriate personnel.* The company should proactively promote ethical behavior. The company must ensure that employees know that the company will not allow retaliation for reports made in good faith.

(3) Listed companies must have a majority of independent directors.

Each domestic issuer would be required to have a majority of independent directors on its board of directors, except that a domestic issuer of which more than 50% of the voting power is held by an individual, a group, or another company would not need to have a majority of independent directors on its board or have nominating/corporate governance and compensation committees composed of independent directors. However, all such controlled companies would be required to have at least a minimum three-person audit committee and otherwise comply with the audit committee requirements.

(4) In order to tighten the definition of "independent director" for purposes of these standards:

(a) No director would qualify as independent unless the board of directors affirmatively determines that the director has no material relationship with the listed company, either directly or as a partner, shareholder, or officer of an organization that has a relationship with the company. Companies would have to disclose these determinations.

The basis for a board determination that a relationship is not material would have to be disclosed in the company's annual proxy statement. A board could adopt and disclose categorical standards to assist it in making determinations of independence, and could make a general disclosure if a director meets these standards. Any determination of independence for a director who does not meet these standards would have to be specifically explained. A company would be required to disclose any standard it adopts. In the event that a director with a business or other relationship that does not fit within the disclosed standards is determined to be independent, a board would be required to disclose the basis for its determination.

(b) In addition, the following directors would not qualify as independent directors:

(i) A director who is a former employee of the listed company whose employment ended within the past five years.

(ii) A director who is, or in the past three years has been, affiliated with or

employed by a (present or former) auditor of the company (or of an affiliate). Such director could not be independent until three years after the end of either the affiliation or the auditing relationship.

(iii) A director who is, or in the past five years has been, part of an interlocking directorate in which an executive officer of the listed company serves on the compensation committee of another company that concurrently employs the director.

(iv) A director with an immediate family member in any of the foregoing categories. Immediate family includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, and anyone (other than employees) who shares such person's home.

(5) Regularly Scheduled Executive Sessions without Management.

In order to empower non-management directors to serve as a more effective check on management, non-management directors of each company would have to meet at regularly scheduled executive sessions without management. Non-management directors are all those who are not company officers, and include such directors who are not independent by virtue of a material relationship, former status or family membership, or for any other reason. There would not need to be a single presiding director at all executive sessions of the non-management directors. If one director is chosen to preside at these meetings, his or her name would have to be disclosed in the annual proxy statement. Alternatively, a company could disclose the procedure by which a presiding director is selected for each executive session. In order that interested parties may be able to make their concerns known to the non-management directors, a company would be required to disclose a method for such parties to communicate directly with the presiding director or with the non-management directors as a group.

(6) Nominating/Corporate Governance Committee.

Listed companies would be required to have a Nominating Committee/Corporate Governance Committee composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of the committee would not need to be an independent director.

The committee would be required to have a written charter that addresses:

- The committee's purpose, which, at a minimum, would be required to be: to identify individuals qualified to become

board members, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders; and to develop and to recommend to the board a set of corporate governance principles applicable to the company.

- The committee's goals and responsibilities, which would be required to reflect, at a minimum, the board's criteria for selecting new directors, and oversight of the evaluation of the board and management.

- An annual performance evaluation of the committee.

- Committee member qualifications, committee member appointment and removal, committee structure and operations (including authority to delegate to subcommittees), and committee reporting to the board.

- The committee's authority to retain and terminate any search firm to be used to identify director candidates, including sole authority to approve the search firm's fees and other retention terms.

If a company is required by contract or otherwise to provide third parties with the ability to nominate directors (for example, preferred stock rights to elect directors upon a dividend default, shareholder agreements, and management agreements), the selection and nomination of such directors would not need to be subject to the nominating committee process.

Boards could allocate the responsibilities of the nominating/corporate governance committee and the compensation committee to committees of their own denomination, provided that the committees are composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of the committee would not need to be an independent director. Any such committee would be required to have a published committee charter.

Controlled companies would not need to comply with the requirements of this provision.

(7) Compensation Committee.

Listed companies would be required to have a compensation committee composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of the committee would not need to be an independent director.

The committee would be required to have a written charter that addresses:

- The committee's purpose which, at a minimum, would be required to be: to discharge the board's responsibilities relating to compensation of the