

**SECURITIES AND EXCHANGE COMMISSION
ADVISORY COMMITTEE ON
SMALL AND EMERGING COMPANIES**

Washington, DC 20549-3628

February __, 2017

The Honorable Michael S. Piwowar
Acting Chairman
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1070

Dear Acting Chairman Piwowar:

As you know, the Securities and Exchange Commission organized the Advisory Committee on Small and Emerging Companies to provide the Commission with advice on the Commission's rules, regulations, and policies with regard to its mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation, as they relate to the following:

- (1) capital raising by emerging privately held small businesses and publicly traded companies with less than \$250 million in public market capitalization;
- (2) trading in the securities of such businesses and companies; and
- (3) public reporting and corporate governance requirements to which such businesses and companies are subject.

On behalf of the Advisory Committee, we are pleased to submit the enclosed recommendations regarding corporate board diversity. These recommendations were discussed at Advisory Committee meetings held on October 5 and December 7, 2016, and approved by the members of the Advisory Committee present and voting at a meeting held February 15, 2017.

We and the other members of the Advisory Committee are prepared to provide any additional assistance that the Commission or its staff may request with respect to these recommendations.

Respectfully submitted on behalf of the Advisory Committee,

Stephen M. Graham
Committee Co-Chair

Sara Hanks
Committee Co-Chair

Members of the Advisory Committee

Robert Aguilar
Xavier Gutierrez
Brian Hahn
Jenny Kassan
Catherine V. Mott*
Jonathan Nelson
Patrick Reardon
Lisa Shimkat*
Annemarie Tierney
Gregory C. Yadley
Laura Yamanaka

Non-voting members

Michael Pieciak

* Not present at the meeting held on October 5, 2016.

Enclosure

cc: Acting Chairman Michael S. Piwowar
 Commissioner Kara M. Stein
 Shelley E. Parratt
 Elizabeth Murphy
 Sebastian Gomez Abero
 Julie Z. Davis

U.S. Securities and Exchange Commission
Advisory Committee on Small and Emerging Companies

Recommendation Regarding Disclosure of Board Diversity

From the October 5, 2016 and December 7, 2016 Meetings

AFTER CONSIDERING THAT:

1. The Advisory Committee's objective is to provide the U.S. Securities and Exchange Commission (the "Commission") with advice on its rules, regulations and policies with regard to its mission of protecting investors, maintaining fair, orderly and efficient markets, and facilitating capital formation, as they relate to, among other things, capital raising by emerging privately held small businesses and publicly traded companies with less than \$250 million in public market capitalization.
2. Board diversity has been associated with improved competitiveness and talent management, greater access to capital, more sustainable profits, and better relations with stakeholders and therefore plays an important role in capital formation for small and emerging companies.
3. Accordingly, information regarding board diversity is important to stockholders, employees and customers.
4. In 2009, the Commission adopted a rule (Item 407(c)(2)(vi) of Regulation S-K (the "Rule")) requiring companies to disclose in their proxy statements whether a nominating committee considers diversity in identifying nominees for the company's board of directors, and if it is considered, how. The Rule also requires that if the company has a policy with regard to the consideration of diversity in identifying director nominees, how that policy is implemented and how its effectiveness is assessed.
5. The Rule has failed to generate information useful to stockholders, employees and customers in assessing board diversity.

THE COMMITTEE RECOMMENDS THAT:

The Commission amend Item 407(c)(2) of Regulation S-K to require issuers to describe, in addition to their policy with respect to diversity, if any, the extent to which their boards are diverse. While, generally, the definition of diversity should be up to each issuer, issuers should include disclosure regarding race, gender, and ethnicity of each member/nominee as self-identified by the individual. While disclosure should be the default, issuers should have the option to opt-out.