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407 – The Lead Director: Duties, Compensation and Independence

Jay Freeland

President & CEO

Faro Technologies, Inc.

Alana Griffin

Deputy General Counsel

Synovus Financial Corp.

Gary Ivey

Partner

Alston & Bird LLP

Lou Neeb

Lead Director

Denny's Corporation

Faculty Biographies

Jay Freeland

President & CEO

Faro Technologies, Inc.

Alana Griffin

Alana L. Griffin is deputy general counsel and assistant secretary of Synovus Financial Corp. Her responsibilities include advising the board of directors and executive management on corporate governance and securities matters, regulatory issues, corporate transactions, and litigation management. Prior to joining Synovus, Ms. Griffin served as senior vice president, assistant general counsel and secretary for HomeBanc Corp. For a decade, Ms. Griffin was in private practice at King & Spalding LLP, where her practice was focused on representation of public and private companies in a variety of industries in securities matters, mergers and acquisitions and corporate governance matters. She was previously associated with Davis Polk & Wardwell, where she represented issuers and underwriters in a variety of capital raising transactions.

She is a member of the advisory board of the Southeastern chapter of the Society of Corporate Governance Professionals and the Association of Corporate Counsel.

Ms. Griffin received a BS, magna cum laude, from the University of South Carolina Honors College and her JD, cum laude, from Georgetown University Law Center. She was a member of the *Georgetown University Law Review* and the J. Braxton Craven moot court team.

Gary Ivey

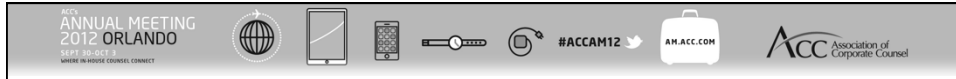
Gary Ivey, formerly co-coordinator of the firm's corporate practices, is a partner in the corporate transactions and securities group and is a seasoned transactional lawyer and corporate counselor. He concentrates his practice in the areas of public and private offerings of equity and debt securities, including Rule 144A transactions, tender offers, exchange offers, restructurings and recapitalizations, mergers and acquisitions, going private transactions and corporate governance, particularly focused on public company representation. His clients have covered a variety of industry sectors, including retail, restaurant and food service, manufacturing, automotive, media, and sports and entertainment.

Mr. Ivey is recognized in *Super Lawyers* magazine and in The Best Lawyers in America in the corporate, mergers and acquisitions and securities law areas. He advises public company boards of directors and board committees regarding fiduciary duties in the context of fundamental corporate transactions and ongoing operations, as well as

compliance with Sarbanes-Oxley, Dodd-Frank and rules and regulations of the SEC, the NYSE and NASDAQ.

Mr. Ivey received his JD degree from Stanford Law School, where he was a member of the *Stanford Law Review*, and his undergraduate degree from the University of North Carolina at Chapel Hill.

Lou Neeb
Lead Director
Denny's Corporation

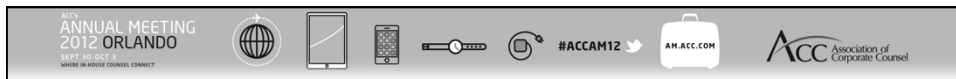


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Background

- Early 2000's—Corporate scandals, including Enron, Worldcom, etc. result in enactment of Sarbanes-Oxley and increased focus on the independence of public company boards and their oversight function
- 2003—NYSE rulemaking on corporate governance—Section 303A.03 of the Listed Company Manual requires independent directors to meet in executive sessions away from management
- 2004—ISS indicates that it would generally recommend FOR shareholder proposals to separate CEO and board chair positions, unless the company has a strong countervailing governance structure, including a designated lead director with clearly delineated duties
- 2009—Effectively anticipating Dodd-Frank requirements a year later, SEC rulemaking requires proxy statement disclosure relating to board leadership structure, etc.

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NYSE Section 303A.03

- “[N]on-management directors of each listed company must meet at regularly scheduled executive sessions without management”
- “A non-management director must preside over each executive session, although the same director is not required to preside at all executive sessions”
- “If one director is chosen to preside at all of these executive sessions, his or her name must be disclosed” either on the company’s website or in its annual proxy statement
- “[I]f the same individual is not the presiding director at every meeting, a listed company must disclose the procedure by which a presiding director is selected for each executive session”
- “[A] listed company must also disclose the method for [interested parties (not just shareholders)] to communicate directly with the presiding director or with those directors as a group” either on the company’s website or in its annual proxy statement

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ISS’ 2012 Proxy Voting Guidelines

- ISS will generally recommend that shareholders “vote FOR shareholder proposals requiring that the chairman’s position be filled by an independent director, unless the company satisfies *all*” of several enumerated criteria
- Included among those criteria is that the company have a “[d]esignated lead director, elected by and from the independent board members with clearly delineated and comprehensive duties”


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Item 407(h) of Regulation S-K—Corporate Governance Disclosure in Annual Meeting Proxy Statements

- “Briefly describe the leadership structure of the registrant’s board, such as whether the same person serves as both principal executive officer and chairman of the board, or whether two individuals serve in those positions”
- “If one person serves as both principal executive officer and chairman of the board...disclose whether the registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the board”
- “This disclosure should indicate why the registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the registrant”


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Other Recent Rule Changes or Trends

- Elimination of broker voting on director nominees in uncontested elections
- Movement toward majority (rather than plurality) voting in the election of directors
- Evolving rules regarding the process for shareholder nomination of directors








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Does Title Matter?

- Lead Director
- Presiding Director
- Non-Executive Board Chair

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Current Leadership Structures Represented on the Panel


- Denny's—separate board chair and CEO
- Faro—separate board chair and CEO, with a separate lead director also appointed
- Synovus—combined board chair and CEO, with a lead director appointed

- Policy decision or circumstantial?
- How was decision made to go with current structure?
- Any special circumstances impacting the decision, i.e., response to rule changes, market or other factors?


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Who Should be Tapped to Serve as Lead Director?

- Industry experience?
- Job experience?
- Tenure on board?
- Committee chair?
 - Nominating/Governance committee?
 - Other?
- Someone from the outside?
- Temperament?
- Time demands?
- Role of CEO in selection process?
- Other considerations?


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Role of the Lead Director

- Preside over executive sessions
- Set agendas for executive sessions
- Call meetings of independent directors, as needed
- Briefing of/feedback to the CEO/chair following executive sessions
- Work with CEO/chair to set agendas for board meetings
- Ensure information flow to directors; director preparation for meetings

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Relationship with the CEO/board chair

- What is the ideal lead director/CEO relationship?
 - Mentor/Coach
 - Goal-setter
 - Confidante
 - Advocate
 - Friend
- Varying approaches based on CEO experience, temperament, etc.
- Role in addressing CEO performance issues
- Role in CEO compensation decisions (in collaboration with compensation committee)

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CEO Communications


- Logistics
 - How often?
 - Regularly scheduled meetings or simply as needed?
 - During and outside of board meetings?
 - Face-to-face?
- Substance
 - Setting the ground rules upfront
 - Developing trust, but maintaining sense of accountability and representation of the board
 - Establishing areas of focus—strategic planning, risk oversight, special projects, etc.

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Interaction with Other Directors


- Leadership style
- Gaining trust of, establishing credibility with, other directors; overcoming resistance
- Setting the ground rules
 - Interaction among directors
 - Interaction between directors and management; monitoring disputes between directors and management
- Relative roles of lead director and committee chairs
 - Avoiding competition, “turf battles”
 - Participation in committee meetings
- Communications among directors outside of board meetings
- Identifying deficiencies in board make-up
- Role in board self-evaluation process; dealing with underperforming directors

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Interaction with Other Constituents

- Communications with shareholders
 - Coordination with CEO and management
 - When and under what circumstances?
- Engaging outside counsel and other advisors
 - When appropriate and when not?
 - Addressing management concerns

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Strategic Planning

- Striking balance between CEO direction-setting and an engaged board
- Level of information going to the board and timing of delivery
- When to support?/When to “challenge?”
- When to stay at 30,000 foot level?/When to drill down?
- Providing feedback to CEO and management team
- Role of executive sessions in strategic planning process

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Risk Oversight

- Growing area of concern, particularly since financial crisis
- Identifying areas for board attention—short-term, immediate issues; long-term concerns
- Encouraging open discussion, but avoiding filibusters
- How to “challenge” management
- Role of board diversity in risk oversight
- Process versus substance
- Assigning particular areas of risk to committees
- Role of executive session in risk oversight process

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Internal Investigations

- Whistleblower claims, etc.
- Communications with various constituents
 - Management—CEO, general counsel, etc.
 - Other directors
 - Shareholders
 - Outside counsel
 - Regulators
- Working with outside counsel and other experts—when to engage?
- Overseeing disclosures
- Concluding investigation and overseeing remedies

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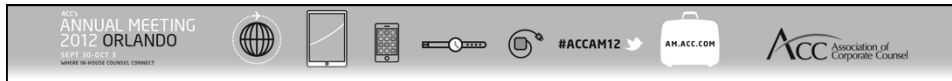


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Major Transactions

- Setting the ground rules for lead director involvement; when and how?
- Decision to form and delegate oversight to a special committee
- Putting transaction into context of the company's overall strategic framework
- Dealing with potential conflicts of interest—potentially hostile transactions, etc.
- Focus on fiduciary obligations of the board, and outside directors in particular
- Potential communications with the board of other party

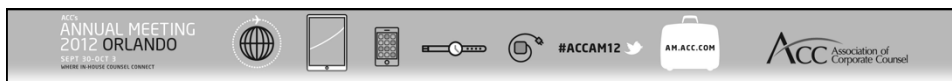


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Succession Planning

- CEO succession—Lead director versus nominating/governance committee
 - Role of the CEO in the process
- Director succession generally
- Lead Director succession








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Attributes of a Successful Lead Director?

- Independence
- Setting the “tone at the top”
- “Leading by example”
- Able to communicate
- Able to listen and to collaborate
- Able to ask the hard questions (or make sure they are asked) and to “challenge”
- Able to maintain trust and credibility with various, sometimes contending, constituents
- “Thick-skinned”


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How to Measure the Success of a Lead Director

- Process versus substance
- Functioning of the board, i.e., do the “trains run on time?”
- Collegiality of the board
- The success of the CEO
- Company performance
- Dealing with special circumstances—crisis management, transactions, etc.
- Other considerations


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Lead Director Tenure

- How long should a lead director serve in that capacity? Should there be a stated term limit?
- Factors impacting tenure
 - Identifying a successor
 - CEO succession issues
 - Corporate transactions
 - Other considerations




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Lead Director Compensation

- Current practice on the panel
- How determined?
 - Time demands
 - Level of responsibility
- As compared with other board members
 - In relation to other directors generally
 - In relation to committee chairs
- Some market comparisons

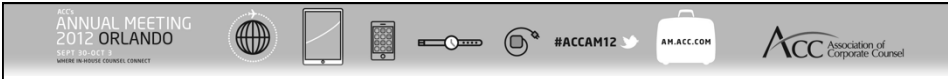


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When and How to Review and Update Lead Director Role?

- Board self-evaluation process
 - Lead Director performance review?
- Proxy season—time to address proxy statement disclosure of leadership structure and possible changes to it
- Ongoing feedback and communication
- Responding to changed circumstances of the company, the board and the lead director



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The Past/Present/Future of the Lead Director Role

- How have the roles of, and expectations for, lead directors changed over time?
- Formal/Informal?
- How is the role likely to change in the years to come?
- What will be the key drivers of that change?

Excerpt from
NYSE Listed Company Manual
303A.00 Corporate Governance Standards

* * * * *

303A.03 Executive Sessions

To empower non-management directors to serve as a more effective check on management, the non-management directors of each listed company must meet at regularly scheduled executive sessions without management.

Commentary: To promote open discussion among the non-management directors, companies must schedule regular executive sessions in which those directors meet without management participation. "Non-management" directors are all those who are not executive officers, and includes such directors who are not independent by virtue of a material relationship, former status or family membership, or for any other reason.

Regular scheduling of such meetings is important not only to foster better communication among non-management directors, but also to prevent any negative inference from attaching to the calling of executive sessions. A non-management director must preside over each executive session, although the same director is not required to preside at all executive sessions.

While this Section 303A.03 refers to meetings of non-management directors, listed companies may instead choose to hold regular executive sessions of independent directors only. An independent director must preside over each executive session of the independent directors, although the same director is not required to preside at all executive sessions of the independent directors.

If a listed company chooses to hold regular meetings of all non-management directors, such listed company should hold an executive session including only independent directors at least once a year.

Disclosure Requirements: If one director is chosen to preside at all of these executive sessions, his or her name must be disclosed either on or through the listed company's website or in its annual proxy statement or, if the listed company does not file an annual proxy statement, in its annual report on Form 10-K filed with the SEC. If this disclosure is made on or through the listed company's website, the listed company must disclose that fact in its annual proxy statement or annual report, as applicable, and provide the website address. Alternatively, if the same individual is not the presiding director at every meeting, a listed company must disclose the procedure by which a presiding director is selected for each executive session. For example, a listed company may wish to rotate the presiding position among the chairs of board committees.

In order that all interested parties (not just shareholders) may be able to make their concerns known to the non-management or independent directors, a listed company must also disclose a method for such parties to communicate directly with the presiding director or with those directors as a group either on or through the listed company's website or in its annual proxy statement or, if the listed company does not file an annual proxy statement, in its annual report on Form 10-K filed with the SEC. If this disclosure is made on or through the listed company's website, the listed company must disclose that fact in its annual

proxy statement or annual report, as applicable, and provide the website address. Companies may, if they wish, utilize for this purpose the same procedures they have established to comply with the requirement of Rule 10A-3 (b)(3) under the Exchange Act regarding complaints to the audit committee, as applied to listed companies through Section 303A.06.

Annual Meeting Proxy Statement Disclosure Requirements

Regarding Corporate Governance Issues

Item 407 of SEC Regulation S-K – Corporate Governance¹

(a) *Director independence.* Identify each director and, when the disclosure called for by this paragraph is being presented in a proxy or information statement relating to the election of directors, each nominee for director, that is independent under the independence standards applicable to the registrant under paragraph (a)(1) of this Item. In addition, if such independence standards contain independence requirements for committees of the board of directors, identify each director that is a member of the compensation, nominating or audit committee that is not independent under such committee independence standards. If the registrant does not have a separately designated audit, nominating or compensation committee or committee performing similar functions, the registrant must provide the disclosure of directors that are not independent with respect to all members of the board of directors applying such committee independence standards.

(1) In determining whether or not the director or nominee for director is independent for the purposes of paragraph (a) of this Item, the registrant shall use the applicable definition of independence, as follows:

(i) If the registrant is a listed issuer whose securities are listed on a national securities exchange or in an inter-dealer quotation system which has requirements that a majority of the board of directors be independent, the registrant's definition of independence that it uses for determining if a majority of the board of directors is independent in compliance with the listing standards applicable to the registrant. When determining whether the members of a committee of the board of directors are independent, the registrant's definition of independence that it uses for determining if the members of that specific committee are independent in compliance with the independence standards applicable for the members of the specific committee in the listing standards of the national securities exchange or inter-dealer quotation system that the registrant uses for determining if a majority of the board of directors are independent. If the registrant does not have independence standards for a committee, the independence standards for that specific committee in the listing standards of the national securities exchange or inter-dealer quotation system that the registrant uses for determining if a majority of the board of directors are independent.

(ii) If the registrant is not a listed issuer, a definition of independence of a national securities exchange or of an inter-dealer quotation system which has requirements that a majority of the board of directors be independent, and state which definition is used. Whatever such definition the registrant chooses, it must use the same definition with respect to all directors and nominees for director. When determining whether the members of a specific committee of the board of directors are independent, if the

¹ Item 407 of Regulation S-K is provided in its entirety for context. See subsection (h) – Board Leadership Structure and Role in Risk Oversight.

national securities exchange or national securities association whose standards are used has independence standards for the members of a specific committee, use those committee specific standards.

(iii) If the information called for by paragraph (a) of this Item is being presented in a registration statement on Form S-1 (§239.11 of this chapter) under the Securities Act or on a Form 10 (§249.210 of this chapter) under the Exchange Act where the registrant has applied for listing with a national securities exchange or in an inter-dealer quotation system that has requirements that a majority of the board of directors be independent, the definition of independence that the registrant uses for determining if a majority of the board of directors is independent, and the definition of independence that the registrant uses for determining if members of the specific committee of the board of directors are independent, that is in compliance with the independence listing standards of the national securities exchange or inter-dealer quotation system on which it has applied for listing, or if the registrant has not adopted such definitions, the independence standards for determining if the majority of the board of directors is independent and if members of the committee of the board of directors are independent of that national securities exchange or inter-dealer quotation system.

(2) If the registrant uses its own definitions for determining whether its directors and nominees for director, and members of specific committees of the board of directors, are independent, disclose whether these definitions are available to security holders on the registrant's Web site. If so, provide the registrant's Web site address. If not, include a copy of these policies in an appendix to the registrant's proxy statement or information statement that is provided to security holders at least once every three fiscal years or if the policies have been materially amended since the beginning of the registrant's last fiscal year. If a current copy of the policies is not available to security holders on the registrant's Web site, and is not included as an appendix to the registrant's proxy statement or information statement, identify the most recent fiscal year in which the policies were so included in satisfaction of this requirement.

(3) For each director and nominee for director that is identified as independent, describe, by specific category or type, any transactions, relationships or arrangements not disclosed pursuant to Item 404(a) (§229.404(a)), or for investment companies, Item 22(b) of Schedule 14A (§240.14a-101 of this chapter), that were considered by the board of directors under the applicable independence definitions in determining that the director is independent.

Instructions to Item 407(a).

1. If the registrant is a listed issuer whose securities are listed on a national securities exchange or in an inter-dealer quotation system which has requirements that a majority of the board of directors be independent, and also has exemptions to those requirements (for independence of a majority of the board of directors or committee member independence) upon which the registrant relied, disclose the exemption relied upon and explain the basis for the registrant's conclusion that such exemption is applicable. The same disclosure should be provided if the registrant is not a listed issuer and the national securities exchange or inter-dealer quotation system selected by the registrant has exemptions that are applicable to the registrant. Any national securities

exchange or inter-dealer quotation system which has requirements that at least 50 percent of the members of a small business issuer's board of directors must be independent shall be considered a national securities exchange or inter-dealer quotation system which has requirements that a majority of the board of directors be independent for the purposes of the disclosure required by paragraph (a) of this Item.

2. Registrants shall provide the disclosure required by paragraph (a) of this Item for any person who served as a director during any part of the last completed fiscal year, except that no information called for by paragraph (a) of this Item need be given in a registration statement filed at a time when the registrant is not subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m(a) or 78 o (d)) respecting any director who is no longer a director at the time of effectiveness of the registration statement.

3. The description of the specific categories or types of transactions, relationships or arrangements required by paragraph (a)(3) of this Item must be provided in such detail as is necessary to fully describe the nature of the transactions, relationships or arrangements.

(b) *Board meetings and committees; annual meeting attendance*. (1) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of:

(i) The total number of meetings of the board of directors (held during the period for which he has been a director); and

(ii) The total number of meetings held by all committees of the board on which he served (during the periods that he served).

(2) Describe the registrant's policy, if any, with regard to board members' attendance at annual meetings of security holders and state the number of board members who attended the prior year's annual meeting.

Instruction to Item 407(b)(2).

In lieu of providing the information required by paragraph (b)(2) of this Item in the proxy statement, the registrant may instead provide the registrant's Web site address where such information appears.

(3) State whether or not the registrant has standing audit, nominating and compensation committees of the board of directors, or committees performing similar functions. If the registrant has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by each such committee. Such disclosure need not be provided to the extent it is duplicative of disclosure provided in accordance with paragraph (c), (d) or (e) of this Item.

(c) *Nominating committee*. (1) If the registrant does not have a standing nominating committee or committee performing similar functions, state the basis for the view of the board of directors that it is appropriate for the registrant not to have such a committee and identify each director who participates in the consideration of director nominees.

(2) Provide the following information regarding the registrant's director nomination process:

(i) State whether or not the nominating committee has a charter. If the nominating committee has a charter, provide the disclosure required by Instruction 2 to this Item regarding the nominating committee charter;

(ii) If the nominating committee has a policy with regard to the consideration of any director candidates recommended by security holders, provide a description of the material elements of that policy, which shall include, but need not be limited to, a statement as to whether the committee will consider director candidates recommended by security holders;

(iii) If the nominating committee does not have a policy with regard to the consideration of any director candidates recommended by security holders, state that fact and state the basis for the view of the board of directors that it is appropriate for the registrant not to have such a policy;

(iv) If the nominating committee will consider candidates recommended by security holders, describe the procedures to be followed by security holders in submitting such recommendations;

(v) Describe any specific minimum qualifications that the nominating committee believes must be met by a nominating committee-recommended nominee for a position on the registrant's board of directors, and describe any specific qualities or skills that the nominating committee believes are necessary for one or more of the registrant's directors to possess;

(vi) Describe the nominating committee's process for identifying and evaluating nominees for director, including nominees recommended by security holders, and any differences in the manner in which the nominating committee evaluates nominees for director based on whether the nominee is recommended by a security holder, and whether, and if so how, the nominating committee (or the board) considers diversity in identifying nominees for director. If the nominating committee (or the board) has a policy with regard to the consideration of diversity in identifying director nominees, describe how this policy is implemented, as well as how the nominating committee (or the board) assesses the effectiveness of its policy;

(vii) With regard to each nominee approved by the nominating committee for inclusion on the registrant's proxy card (other than nominees who are executive officers or who are directors standing for re-election), state which one or more of the following categories of persons or entities recommended that nominee: Security holder, non-management director, chief executive officer, other executive officer, third-party search firm, or other specified source. With regard to each such nominee approved by a

nominating committee of an investment company, state which one or more of the following additional categories of persons or entities recommended that nominee: Security holder, director, chief executive officer, other executive officer, or employee of the investment company's investment adviser, principal underwriter, or any affiliated person of the investment adviser or principal underwriter;

(viii) If the registrant pays a fee to any third party or parties to identify or evaluate or assist in identifying or evaluating potential nominees, disclose the function performed by each such third party; and

(ix) If the registrant's nominating committee received, by a date not later than the 120th calendar day before the date of the registrant's proxy statement released to security holders in connection with the previous year's annual meeting, a recommended nominee from a security holder that beneficially owned more than 5% of the registrant's voting common stock for at least one year as of the date the recommendation was made, or from a group of security holders that beneficially owned, in the aggregate, more than 5% of the registrant's voting common stock, with each of the securities used to calculate that ownership held for at least one year as of the date the recommendation was made, identify the candidate and the security holder or security holder group that recommended the candidate and disclose whether the nominating committee chose to nominate the candidate, *provided, however*, that no such identification or disclosure is required without the written consent of both the security holder or security holder group and the candidate to be so identified.

Instructions to Item 407(c)(2)(ix).

1. For purposes of paragraph (c)(2)(ix) of this Item, the percentage of securities held by a nominating security holder may be determined using information set forth in the registrant's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to the Exchange Act (or, in the case of a registrant that is an investment company registered under the Investment Company Act of 1940, the registrant's most recent report on Form N-CSR (§§249.331 and 274.128 of this chapter)), unless the party relying on such report knows or has reason to believe that the information contained therein is inaccurate.

2. For purposes of the registrant's obligation to provide the disclosure specified in paragraph (c)(2)(ix) of this Item, where the date of the annual meeting has been changed by more than 30 days from the date of the previous year's meeting, the obligation under that Item will arise where the registrant receives the security holder recommendation a reasonable time before the registrant begins to print and mail its proxy materials.

3. For purposes of paragraph (c)(2)(ix) of this Item, the percentage of securities held by a recommending security holder, as well as the holding period of those securities, may be determined by the registrant if the security holder is the registered holder of the securities. If the security holder is not the registered owner of the securities, he or she can submit one of the following to the registrant to evidence the required ownership percentage and holding period:

a. A written statement from the "record" holder of the securities (usually a broker or bank) verifying that, at the time the security holder made the recommendation, he or she had held the required securities for at least one year; or

b. If the security holder has filed a Schedule 13D (§240.13d-101 of this chapter), Schedule 13G (§240.13d-102 of this chapter), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter), and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting ownership of the securities as of or before the date of the recommendation, a copy of the schedule and/or form, and any subsequent amendments reporting a change in ownership level, as well as a written statement that the security holder continuously held the securities for the one-year period as of the date of the recommendation.

4. For purposes of the registrant's obligation to provide the disclosure specified in paragraph (c)(2)(ix) of this Item, the security holder or group must have provided to the registrant, at the time of the recommendation, the written consent of all parties to be identified and, where the security holder or group members are not registered holders, proof that the security holder or group satisfied the required ownership percentage and holding period as of the date of the recommendation.

Instruction to Item 407(c)(2).

For purposes of paragraph (c)(2) of this Item, the term *nominating committee* refers not only to nominating committees and committees performing similar functions, but also to groups of directors fulfilling the role of a nominating committee, including the entire board of directors.

(3) Describe any material changes to the procedures by which security holders may recommend nominees to the registrant's board of directors, where those changes were implemented after the registrant last provided disclosure in response to the requirements of paragraph (c)(2)(iv) of this Item, or paragraph (c)(3) of this Item.

Instructions to Item 407(c)(3).

1. The disclosure required in paragraph (c)(3) of this Item need only be provided in a registrant's quarterly or annual reports.

2. For purposes of paragraph (c)(3) of this Item, adoption of procedures by which security holders may recommend nominees to the registrant's board of directors, where the registrant's most recent disclosure in response to the requirements of paragraph (c)(2)(iv) of this Item, or paragraph (c)(3) of this Item, indicated that the registrant did not have in place such procedures, will constitute a material change.

(d) *Audit committee.* (1) State whether or not the audit committee has a charter. If the audit committee has a charter, provide the disclosure required by Instruction 2 to this Item regarding the audit committee charter.

(2) If a listed issuer's board of directors determines, in accordance with the listing standards applicable to the issuer, to appoint a director to the audit committee who is not independent (apart from the requirements in §240.10A-3 of this chapter), including as a result of exceptional or limited or similar circumstances, disclose the nature of the relationship that makes that individual not independent and the reasons for the board of directors' determination.

(3)(i) The audit committee must state whether:

(A) The audit committee has reviewed and discussed the audited financial statements with management;

(B) The audit committee has discussed with the independent auditors the matters required to be discussed by the statement on Auditing Standards No. 61, as amended (AICPA, *Professional Standards*, Vol. 1. AU section 380),¹ as adopted by the Public Company Accounting Oversight Board in Rule 3200T;

(C) The audit committee has received the written disclosures and the letter from the independent accountant required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the audit committee concerning independence, and has discussed with the independent accountant the independent accountant's independence; and

(D) Based on the review and discussions referred to in paragraphs (d)(3)(i)(A) through (d)(3)(i)(C) of this Item, the audit committee recommended to the board of directors that the audited financial statements be included in the company's annual report on Form 10-K (17 CFR 249.310) (or, for closed-end investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), the annual report to shareholders required by section 30(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-29(e)) and Rule 30d-1 (17 CFR 270.30d-1) thereunder) for the last fiscal year for filing with the Commission.

(ii) The name of each member of the company's audit committee (or, in the absence of an audit committee, the board committee performing equivalent functions or the entire board of directors) must appear below the disclosure required by paragraph (d)(3)(i) of this Item.

(4)(i) If the registrant meets the following requirements, provide the disclosure in paragraph (d)(4)(ii) of this Item:

(A) The registrant is a listed issuer, as defined in §240.10A-3 of this chapter;

(B) The registrant is filing an annual report on Form 10-K (§249.310 of this chapter) or a proxy statement or information statement pursuant to the Exchange Act (15 U.S.C. 78a *et seq.*) if action is to be taken with respect to the election of directors; and

(C) The registrant is neither:

(1) A subsidiary of another listed issuer that is relying on the exemption in §240.10A-3(c)(2) of this chapter; nor

(2) Relying on any of the exemptions in §240.10A-3(c)(4) through (c)(7) of this chapter.

(ii)(A) State whether or not the registrant has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)), or a committee performing similar functions. If the registrant has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the registrant's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(B) If applicable, provide the disclosure required by §240.10A-3(d) of this chapter regarding an exemption from the listing standards for audit committees.

(5) *Audit committee financial expert*. (i)(A) Disclose that the registrant's board of directors has determined that the registrant either:

(1) Has at least one audit committee financial expert serving on its audit committee; or

(2) Does not have an audit committee financial expert serving on its audit committee.

(B) If the registrant provides the disclosure required by paragraph (d)(5)(i)(A)(1) of this Item, it must disclose the name of the audit committee financial expert and whether that person is independent, as *independence* for audit committee members is defined in the listing standards applicable to the listed issuer.

(C) If the registrant provides the disclosure required by paragraph (d)(5)(i)(A)(2) of this Item, it must explain why it does not have an audit committee financial expert.

Instruction to Item 407(d)(5)(i).

If the registrant's board of directors has determined that the registrant has more than one audit committee financial expert serving on its audit committee, the registrant may, but is not required to, disclose the names of those additional persons. A registrant choosing to identify such persons must indicate whether they are independent pursuant to paragraph (d)(5)(i)(B) of this Item.

(ii) For purposes of this Item, an *audit committee financial expert* means a person who has the following attributes:

(A) An understanding of generally accepted accounting principles and financial statements;

(B) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(C) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally

comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

(D) An understanding of internal control over financial reporting; and

(E) An understanding of audit committee functions.

(iii) A person shall have acquired such attributes through:

(A) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(B) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(C) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(D) Other relevant experience.

(iv) *Safe harbor.* (A) A person who is determined to be an audit committee financial expert will not be deemed an *expert* for any purpose, including without limitation for purposes of section 11 of the Securities Act (15 U.S.C. 77k), as a result of being designated or identified as an audit committee financial expert pursuant to this Item 407.

(B) The designation or identification of a person as an audit committee financial expert pursuant to this Item 407 does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.

(C) The designation or identification of a person as an audit committee financial expert pursuant to this Item does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

Instructions to Item 407(d)(5).

1. The disclosure under paragraph (d)(5) of this Item is required only in a registrant's annual report. The registrant need not provide the disclosure required by paragraph (d)(5) of this Item in a proxy or information statement unless that registrant is electing to incorporate this information by reference from the proxy or information statement into its annual report pursuant to General Instruction G(3) to Form 10-K (17 CFR 249.310).

2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (d)(5)(iii)(D) of this Item, the registrant shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosures required under Item 401(e) (§229.401(e)).

3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of paragraph (d)(5) of this Item, the term *board of directors* means the supervisory or non-management board. In the case of a foreign private issuer meeting the requirements of §240.10A-3(c)(3) of this chapter, for purposes of paragraph (d)(5) of this Item, the term *board of directors* means the issuer's board of auditors (or similar body) or statutory auditors, as applicable. Also, in the case of a foreign private issuer, the term *generally accepted accounting principles* in paragraph (d)(5)(ii)(A) of this Item means the body of generally accepted accounting principles used by that issuer in its primary financial statements filed with the Commission.

4. A registrant that is an Asset-Backed Issuer (as defined in §229.1101) is not required to disclose the information required by paragraph (d)(5) of this Item.

Instructions to Item 407(d).

1. The information required by paragraphs (d)(1)–(3) of this Item shall not be deemed to be "soliciting material," or to be "filed" with the Commission or subject to Regulation 14A or 14C (17 CFR 240.14a-1 through 240.14b-2 or 240.14c-1 through 240.14c-101), other than as provided in this Item, or to the liabilities of section 18 of the Exchange Act (15 U.S.C. 78r), except to the extent that the registrant specifically requests that the information be treated as soliciting material or specifically incorporates it by reference into a document filed under the Securities Act or the Exchange Act. Such information will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

2. The disclosure required by paragraphs (d)(1)–(3) of this Item need only be provided one time during any fiscal year.

3. The disclosure required by paragraph (d)(3) of this Item need not be provided in any filings other than a registrant's proxy or information statement relating to an annual meeting of security holders at which directors are to be elected (or special meeting or written consents in lieu of such meeting).

(e) *Compensation committee.* (1) If the registrant does not have a standing compensation committee or committee performing similar functions, state the basis for the view of the board of directors that it is appropriate for the registrant not to have such a committee and identify each director who participates in the consideration of executive officer and director compensation.

(2) State whether or not the compensation committee has a charter. If the compensation committee has a charter, provide the disclosure required by Instruction 2 to this Item regarding the compensation committee charter.

(3) Provide a narrative description of the registrant's processes and procedures for the consideration and determination of executive and director compensation, including:

(i)(A) The scope of authority of the compensation committee (or persons performing the equivalent functions); and

(B) The extent to which the compensation committee (or persons performing the equivalent functions) may delegate any authority described in paragraph (e)(3)(i)(A) of this Item to other persons, specifying what authority may be so delegated and to whom;

(ii) Any role of executive officers in determining or recommending the amount or form of executive and director compensation; and

(iii) Any role of compensation consultants in determining or recommending the amount or form of executive and director compensation (other than any role *limited* to consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the registrant, and that is available generally to all salaried employees; or providing information that either is not customized for a particular registrant or that is customized based on parameters that are not developed by the compensation consultant, and about which the compensation consultant does not provide advice) during the registrant's last completed fiscal year, identifying such consultants, stating whether such consultants were engaged directly by the compensation committee (or persons performing the equivalent functions) or any other person, describing the nature and scope of their assignment, and the material elements of the instructions or directions given to the consultants with respect to the performance of their duties under the engagement:

(A) If such compensation consultant was engaged by the compensation committee (or persons performing the equivalent functions) to provide advice or recommendations on the amount or form of executive and director compensation (other than any role *limited* to consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the registrant, and that is available generally to all salaried employees; or providing information that either is not customized for a particular registrant or that is customized based on parameters that are not developed by the compensation consultant, and about which the compensation consultant does not provide advice) and the compensation consultant or its affiliates also provided additional services to the registrant or its affiliates in an amount in excess of \$120,000 during the registrant's last completed fiscal year, then disclose the aggregate fees for determining or recommending the amount or form of executive and director compensation and the aggregate fees for such additional services. Disclose whether the decision to engage the compensation consultant or its affiliates for these other services was made, or recommended, by management, and whether the compensation committee or the board approved such other services of the compensation consultant or its affiliates.

(B) If the compensation committee (or persons performing the equivalent functions) has not engaged a compensation consultant, but management has engaged a compensation consultant to provide advice or recommendations on the amount or form of executive and director compensation (other than any role *limited* to consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the registrant, and that is available generally to all salaried employees; or providing information that either is not customized for a particular registrant or that is customized based on parameters that are not developed by the compensation consultant, and about which the compensation consultant does not provide advice) and such compensation consultant or its affiliates has provided additional services to the registrant in an amount in excess of \$120,000 during the registrant's last completed fiscal year, then disclose the aggregate fees for determining or recommending the amount or form of executive and director compensation and the aggregate fees for any additional services provided by the compensation consultant or its affiliates.

(iv) With regard to any compensation consultant identified in response to Item 407(e)(3)(iii) whose work has raised any conflict of interest, disclose the nature of the conflict and how the conflict is being addressed.

Instruction to Item 407(e)(3)(iv).

For purposes of this paragraph (e)(3)(iv), the factors listed in §240.10C-1(b)(4)(i) through (vi) of this chapter are among the factors that should be considered in determining whether a conflict of interest exists.

(4) Under the caption "Compensation Committee Interlocks and Insider Participation":

(i) Identify each person who served as a member of the compensation committee of the registrant's board of directors (or board committee performing equivalent functions) during the last completed fiscal year, indicating each committee member who:

(A) Was, during the fiscal year, an officer or employee of the registrant;

(B) Was formerly an officer of the registrant; or

(C) Had any relationship requiring disclosure by the registrant under any paragraph of Item 404 (§229.404). In this event, the disclosure required by Item 404 (§229.404) shall accompany such identification.

(ii) If the registrant has no compensation committee (or other board committee performing equivalent functions), the registrant shall identify each officer and employee of the registrant, and any former officer of the registrant, who, during the last completed fiscal year, participated in deliberations of the registrant's board of directors concerning executive officer compensation.

(iii) Describe any of the following relationships that existed during the last completed fiscal year:

(A) An executive officer of the registrant served as a member of the compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of another entity, one of whose executive officers served on the compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of the registrant;

(B) An executive officer of the registrant served as a director of another entity, one of whose executive officers served on the compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of the registrant; and

(C) An executive officer of the registrant served as a member of the compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of another entity, one of whose executive officers served as a director of the registrant.

(iv) Disclosure required under paragraph (e)(4)(iii) of this Item regarding a compensation committee member or other director of the registrant who also served as an executive officer of another entity shall be accompanied by the disclosure called for by Item 404 with respect to that person.

Instruction to Item 407(e)(4).

For purposes of paragraph (e)(4) of this Item, the term *entity* shall not include an entity exempt from tax under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)).

(5) Under the caption "Compensation Committee Report:"

(i) The compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) must state whether:

(A) The compensation committee has reviewed and discussed the Compensation Discussion and Analysis required by Item 402(b) (§229.402(b)) with management; and

(B) Based on the review and discussions referred to in paragraph (e)(5)(i)(A) of this Item, the compensation committee recommended to the board of directors that the Compensation Discussion and Analysis be included in the registrant's annual report on Form 10-K (§249.310 of this chapter), proxy statement on Schedule 14A (§240.14a-101 of this chapter) or information statement on Schedule 14C (§240.14c-101 of this chapter).

(ii) The name of each member of the registrant's compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) must appear below the disclosure required by paragraph (e)(5)(i) of this Item.

Instructions to Item 407(e)(5).

1. The information required by paragraph (e)(5) of this Item shall not be deemed to be "soliciting material," or to be "filed" with the Commission or subject to Regulation 14A or 14C (17 CFR 240.14a-1 through 240.14b-2 or 240.14c-1 through 240.14c-101), other than as provided in this Item, or to the liabilities of section 18 of the Exchange Act (15 U.S.C. 78r), except to the extent that the registrant specifically requests that the information be treated as soliciting material or specifically incorporates it by reference into a document filed under the Securities Act or the Exchange Act.

2. The disclosure required by paragraph (e)(5) of this Item need not be provided in any filings other than an annual report on Form 10-K (§249.310 of this chapter), a proxy statement on Schedule 14A (§240.14a-101 of this chapter) or an information statement on Schedule 14C (§240.14c-101 of this chapter). Such information will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference. If the registrant elects to incorporate this information by reference from the proxy or information statement into its annual report on Form 10-K pursuant to General Instruction G(3) to Form 10-K, the disclosure required by paragraph (e)(5) of this Item will be deemed furnished in the annual report on Form 10-K and will not be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act as a result as a result of furnishing the disclosure in this manner.

3. The disclosure required by paragraph (e)(5) of this Item need only be provided one time during any fiscal year.

(f) *Shareholder communications.* (1) State whether or not the registrant's board of directors provides a process for security holders to send communications to the board of directors and, if the registrant does not have such a process for security holders to send communications to the board of directors, state the basis for the view of the board of directors that it is appropriate for the registrant not to have such a process.

(2) If the registrant has a process for security holders to send communications to the board of directors:

(i) Describe the manner in which security holders can send communications to the board and, if applicable, to specified individual directors; and

(ii) If all security holder communications are not sent directly to board members, describe the registrant's process for determining which communications will be relayed to board members.

Instructions to Item 407(f).

1. In lieu of providing the information required by paragraph (f)(2) of this Item in the proxy statement, the registrant may instead provide the registrant's Web site address where such information appears.

2. For purposes of the disclosure required by paragraph (f)(2)(ii) of this Item, a registrant's process for collecting and organizing security holder communications, as well as similar or related activities, need not be disclosed provided that the registrant's process is approved by a majority of the independent directors or, in the case of a registrant that is an investment company, a majority of the directors who are not "interested persons" of the investment company as defined in section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)).

3. For purposes of this paragraph, communications from an officer or director of the registrant will not be viewed as "security holder communications." Communications from an employee or agent of the registrant will be viewed as "security holder communications" for purposes of this paragraph only if those communications are made solely in such employee's or agent's capacity as a security holder.

4. For purposes of this paragraph, security holder proposals submitted pursuant to §240.14a-8 of this chapter, and communications made in connection with such proposals, will not be viewed as "security holder communications."

(g) *Smaller reporting companies.* A registrant that qualifies as a "smaller reporting company," as defined by §229.10(f)(1), is not required to provide:

(1) The disclosure required in paragraph (d)(5) of this Item in its first annual report filed pursuant to section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m(a) or 78o(d)) following the effective date of its first registration statement filed under the Securities Act (15 U.S.C. 77a *et seq.*) or Exchange Act (15 U.S.C. 78a *et seq.*); and

(2) Need not provide the disclosures required by paragraphs (e)(4) and (e)(5) of this Item.

(h) *Board leadership structure and role in risk oversight.* Briefly describe the leadership structure of the registrant's board, such as whether the same person serves as both principal executive officer and chairman of the board, or whether two individuals serve in those positions, and, in the case of a registrant that is an investment company, whether the chairman of the board is an "interested person" of the registrant as defined in section 2(a)(19) of the Investment Company Act (15 U.S.C. 80a-2(a)(19)). If one person serves as both principal executive officer and chairman of the board, or if the chairman of the board of a registrant that is an investment company is an "interested person" of the registrant, disclose whether the registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the board. This disclosure should indicate why the registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the registrant. In addition, disclose the extent of the board's role in the risk oversight of the registrant, such as how the board administers its oversight function, and the effect that this has on the board's leadership structure.

Instructions to Item 407.

1. For purposes of this Item:

a. *Listed issuer* means a listed issuer as defined in §240.10A-3 of this chapter;

b. *National securities exchange* means a national securities exchange registered pursuant to section 6(a) of the Exchange Act (15 U.S.C. 78f(a));

c. *Inter-dealer quotation system* means an automated inter-dealer quotation system of a national securities association registered pursuant to section 15A(a) of the Exchange Act (15 U.S.C. 78o-3(a)); and

d. *National securities association* means a national securities association registered pursuant to section 15A(a) of the Exchange Act (15 U.S.C. 78o-3(a)) that has been approved by the Commission (as that definition may be modified or supplemented).

2. With respect to paragraphs (c)(2)(i), (d)(1) and (e)(2) of this Item, disclose whether a current copy of the applicable committee charter is available to security holders on the registrant's Web site, and if so, provide the registrant's Web site address. If a current copy of the charter is not available to security holders on the registrant's Web site, include a copy of the charter in an appendix to the registrant's proxy or information statement that is provided to security holders at least once every three fiscal years, or if the charter has been materially amended since the beginning of the registrant's last fiscal year. If a current copy of the charter is not available to security holders on the registrant's Web site, and is not included as an appendix to the registrant's proxy or information statement, identify in which of the prior fiscal years the charter was so included in satisfaction of this requirement.

EXCERPT FROM SEC PROPOSED RULEMAKING – RELEASE NO. 9052**PROXY DISCLOSURE AND SOLICITATION ENHANCEMENTS****JULY 10, 2009***** * * * *****New Disclosure about Company Leadership Structure and the Board's Role in the Risk Management Process**

We are proposing a new disclosure requirement to Item 407 of Regulation S-K and a corresponding amendment to Item 7 of Schedule 14A that would require disclosure of the company's leadership structure and why the company believes it is the best structure for it at the time of the filing. This proposed disclosure would appear in proxy and information statements. Under the proposed amendments, companies also would be required to disclose whether and why they have chosen to combine or separate the principal executive officer and board chair positions. In some companies, the role of principal executive officer and board chairman are combined, and a lead independent director is designated to chair meetings of the independent directors. Those companies would also be required to disclose whether and why the company has a lead independent director, as well as the specific role the lead independent director plays in the leadership of the company. In proposing this requirement, we note that different leadership structures may be suitable for different companies depending on factors such as the size of a company, the nature of a company's business, or internal control considerations, among other things. Regardless of the type of leadership structure selected by a company, the disclosure would provide investors with insights about why the company has chosen that particular leadership structure.

In making voting and investment decisions, investors should be provided with meaningful information about the corporate governance practices of companies.¹ One important aspect of a company's

¹ See, for example, National Association of Corporate Directors, Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies, (Mar. 2009) ("Every board should explain, in proxy materials and other

corporate governance practices is its board's leadership structure. Our proposed amendments to Item 407 are not intended to influence a company's decision regarding its board leadership structure. Disclosure of board leadership structure and why the company believes this is the best structure will increase the transparency for investors into how boards function.

We also are proposing to require additional disclosure in proxy and information statements about the board's role in the company's risk management process. Companies face a variety of risks, including credit risk, liquidity risk, and operational risk. Similar to disclosure about the leadership structure of a board, disclosure about the board's involvement in the risk management process should provide important information to investors about how a company perceives the role of its board and the relationship between the board and senior management in managing the material risks facing the company. Given the role that risk and the adequacy of risk oversight have played in the recent market crisis, we believe it is important for investors to understand the board's, or board committee's role in this area. For example, how does the board implement and manage its risk management function, through the board as a whole or through a committee, such as the audit committee?² Such disclosure might address questions such as whether the persons who oversee risk management report directly to the board as whole, to a committee, such as the audit committee, or to one of the other standing committees of the board; and whether and how the board, or board committee, monitors risk. We believe that this disclosure will provide key insights into how a company's board perceives and manages a company's risks.

communications with shareholders, why the governance structures and practices it has developed are best suited to the company.”)

² Section 303A of the NYSE's Listed Company Manual provides that the audit committee of companies listed on the exchange must “discuss guidelines and policies to govern the process by which risk assessment and management is undertaken.”

We also are proposing that registered management investment companies provide the new Item 407 disclosure about leadership structure and the board's role in the risk management process in proxy and information statements.³ Similar to the transparency provided to investors in corporate issuers, we believe that providing this disclosure to investors in investment companies should enable them to consider their management structure preference, if any, when deciding where to invest.⁴ We have, however, tailored the proposal to the management structure of funds. Accordingly, we propose to require that a fund disclose whether the board chair is an "interested person" of the fund, as defined in Section 2(a)(19) of the Investment Company Act.⁵ If the board chair is an interested person, a fund would be required to disclose whether it has a lead independent director and what specific role the lead independent director plays in the leadership of the fund. We are also proposing to require similar disclosure in statements of additional information filed as part of registration statements on Forms N-1A, N-2, and N-3.⁶

³ See proposed Item 22(b)(11) of Schedule 14A.

⁴ In the context of this rulemaking, we believe it is appropriate to propose to require disclosure about fund management that is similar to the disclosure requirement for corporate issuers. In another context and for other purposes, the Commission previously considered a number of issues, including disclosure, regarding fund governance that we are not addressing here. See Investment Company Governance, File No. S7-03-04.

⁵ 15 U.S.C. 80a-2(a)(19).

⁶ See proposed Item 17(b)(1) of Form N-1A; proposed Item 18.5(a) of Form N-2; proposed Item 20(d)(i) of Form N-3. We are proposing to require this disclosure in the statement of additional information because not all funds hold annual meetings for the election of directors.

A large number of funds are organized as entities in jurisdictions which do not require funds to hold an annual shareholder meeting to elect directors. See, for example, Md. Code Ann., Corps. & Ass'ns Code § 2-501(b) (2009) (law exempts funds from annual meeting requirement in any year that the fund is not required to act upon the election of directors under the Investment Company Act); Del. Code Ann. tit. 12, § 3806 (2009) (statutory trust law structure has the effect of generally not requiring shareholder meetings). See also Sheldon A. Jones et al., The Massachusetts Business Trust and Registered Investment Companies, 13 DEL. J. CORP. L. 421 (1988) (noting that the organizational and operational requirements of Massachusetts business trusts are not specified by statute, and a fund's essential structure is contained in the trust agreement, which generally includes a provision eliminating the need for annual shareholder meetings to elect directors) Closed-end funds registered on national securities exchanges, however, are required to hold an annual meeting to elect directors under the rules of the exchanges. See, for example, AMEX Company Guide §704; New York Stock Exchange Listed Company Manual §302.00.

EXCERPT FROM SEC FINAL RULEMAKING – RELEASE NO. 9089**PROXY DISCLOSURE ENHANCEMENTS****DECEMBER 16, 2009**

New Disclosure about Board Leadership Structure and the Board's Role in Risk Oversight

We proposed a new disclosure requirement to Item 407 of Regulation S-K and a corresponding amendment to Item 7 of Schedule 14A to require disclosure of the company's leadership structure and why the company believes it is the most appropriate structure for it at the time of the filing. The proposal also required disclosure about the board's role in the company's risk management process. We are adopting the proposals with some changes.

1. Proposed Amendments

Under the proposed amendments, companies would be required to disclose their leadership structure and the reasons why they believe that it is an appropriate structure for the company. As part of this proposed disclosure, companies would be required to disclose whether and why they have chosen to combine or separate the principal executive officer and board chair positions. In addition, in some companies the role of principal executive officer and board chairman are combined, and a lead independent director is designated to chair meetings of the independent directors. For these companies, the proposed amendments would require disclosure of whether and why the company has a lead independent director, as well as the specific role the lead independent director plays in the leadership of the company. In proposing this requirement, we noted that different leadership structures may be suitable for different companies depending on factors such as the size of a company, the nature of a company's business, or internal control considerations, among other things. Irrespective of the type of leadership structure selected by a

company, the proposed requirements were intended to provide investors with insights about why the company has chosen that particular leadership structure.

We also proposed to require additional disclosure in proxy and information statements about the board's role in the company's risk management process. Disclosure about the board's approach to risk oversight might address questions such as whether the persons who oversee risk management report directly to the board as whole, to a committee, such as the audit committee, or to one of the other standing committees of the board; and whether and how the board, or board committee, monitors risk.

We also proposed that funds provide the new Item 407 disclosure about leadership structure and the board's role in the risk management process in proxy and information statements and similar disclosure as part of registration statements on Forms N-1A, N-2 and N-3. The proposed amendments were tailored to require that a fund disclose whether the board chair is an "interested person" of the fund, as defined in Section 2(a)(19) of the Investment Company Act. We proposed that if the board chair is an interested person, a fund would be required to disclose whether it has a lead independent director and what specific role the lead independent director plays in the leadership of the fund.

2. Comments on the Proposed Amendments

Comments were mostly supportive of the proposals.¹ Commenters believed the disclosure regarding a company's leadership structure and the board's role in risk management process would provide useful information to investors and improve investor understanding of the role of the board in a company's risk management practices.² Some commenters opposed the disclosures. Many of these commenters believed that the proposed amendments were too vague and would likely elicit boilerplate

¹ See, e.g., letters from AFL-CIO, Chairmen's Forum, Calvert, CII, CalSTRS, the General Board of Pension and Health Benefits of the United Methodist Church, Hermes, Norges Bank, Pfizer, RiskMetrics, and SEIU.

² See, e.g., letters from CII, the General Board of Pension and Health Benefits of the United Methodist Church, IGS, and RIMS.

descriptions of a company's management hierarchy and risk management that would not provide significant insight or meaning to investors.³

Many commenters suggested revisions to the proposed disclosure requirements. For instance, several commenters recommended that we use the phrase "board leadership structure" rather than "company leadership structure" and noted that the discussion of the board leadership structure and the board's role in risk management are two separate disclosure items.⁴ These commenters believed that the use of the phrase "company leadership structure" could be misinterpreted to require a discussion of a company's management leadership structures. Other commenters suggested that we replace the phrase "risk management" with "risk oversight" because the board's role is to oversee management, which is responsible for the day-to-day issues of risk management.⁵

Several commenters believed disclosure of the board's role in risk management would be more effective as part of a comprehensive discussion of a company's risk management processes, rather than as stand-alone disclosure.⁶ They suggested that companies be allowed to provide the required disclosure in the MD&A discussion included in the Form 10-K, and to incorporate by reference this information in the proxy statement rather than repeat the information.

With respect to funds, commenters addressing the issue generally supported the proposal that funds disclose whether the board chair is an "interested person" as defined under the Investment Company Act.⁷ In addition, commenters noted the importance of fund board oversight of risk

management,⁸ but commenters were split regarding whether we should require disclosure about fund board oversight of risk management.⁹

3. Final Rule

After consideration of the comments, we are adopting the proposals substantially as proposed with a few technical revisions in response to comments. We believe that, in making voting and investment decisions, investors should be provided with meaningful information about the corporate governance practices of companies.¹⁰ As we noted in the Proposing Release, one important aspect of a company's corporate governance practices is its board's leadership structure. Disclosure of a company's board leadership structure and the reasons the company believes that its board leadership structure is appropriate will increase the transparency for investors as to how the board functions.

As stated above, the amendments were designed to provide shareholders with disclosure of, and the reasons for, the leadership structure of a company's board concerning the principal executive officer, the board chairman position and, where applicable, the lead independent director position. We agree with commenters that the phrase "board leadership structure" instead of "company leadership structure" would avoid potential misunderstanding that the amendments require a discussion of the structure of a company's management leadership.¹¹ We also agree with commenters that the phrase "risk oversight" instead of "risk management" would be more appropriate in describing the board's responsibilities in this area.¹²

⁸ See, e.g., letters from IDC and MFDf.

⁹ See letters from Calvert and MFDf (supporting disclosure). But see letters from the Investment Company Institute and IDC (opposing disclosure).

¹⁰ See, e.g., National Association of Corporate Directors, *Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies*, (Mar. 2009) ("Every board should explain, in proxy materials and other communications with shareholders, why the governance structures and practices it has developed are best suited to the company.").

¹¹ See letter from Honeywell.

¹² See, e.g., letters from Ameriprise Financial and Protective Life Corporation.

³ See, e.g., letters from Cleary Gottlieb, S&C and Theragenics.

⁴ See, e.g., letters from Business Roundtable and Honeywell.

⁵ See, e.g., letters from GovernanceMetrics and PLC.

⁶ See, e.g., letters from ABA and JPMorgan.

⁷ See, e.g., letters from Independent Directors Council ("IDC") and Mutual Fund Directors Forum ("MFDf").

Under the amendments, a company is required to disclose whether and why it has chosen to combine or separate the principal executive officer and board chairman positions, and the reasons why the company believes that this board leadership structure is the most appropriate structure for the company at the time of the filing. In addition, in some companies the role of principal executive officer and board chairman are combined, and a lead independent director is designated to chair meetings of the independent directors. In these circumstances, the amendments will require disclosure of whether and why the company has a lead independent director, as well as the specific role the lead independent director plays in the leadership of the company. As we previously stated in the Proposing Release, these amendments are intended to provide investors with more transparency about the company's corporate governance, but are not intended to influence a company's decision regarding its board leadership structure.

The final rules also require companies to describe the board's role in the oversight of risk. We were persuaded by commenters who noted that risk oversight is a key competence of the board, and that additional disclosures would improve investor and shareholder understanding of the role of the board in the organization's risk management practices.¹³ Companies face a variety of risks, including credit risk, liquidity risk, and operational risk. As we noted in the Proposing Release, similar to disclosure about the leadership structure of a board, disclosure about the board's involvement in the oversight of the risk management process should provide important information to investors about how a company perceives the role of its board and the relationship between the board and senior management in managing the material risks facing the company. This disclosure requirement gives companies the flexibility to describe how the board administers its risk oversight function, such as through the whole board, or through a separate risk committee or the audit committee, for example. Where relevant, companies may want to

¹³ See, e.g., letters from Norges Bank and RIMS.

address whether the individuals who supervise the day-to-day risk management responsibilities report directly to the board as a whole or to a board committee or how the board or committee otherwise receives information from such individuals.

The final rules also require funds to provide disclosure about the board's role in risk oversight. Funds face a number of risks, including investment risk, compliance, and valuation; and we agree with commenters who favored disclosure of board risk oversight by funds.¹⁴ As with corporate issuers, we believe that additional disclosures would improve investor understanding of the role of the board in the fund's risk management practices. Furthermore, the disclosure should provide important information to investors about how a fund perceives the role of its board and the relationship between the board and its advisor in managing material risks facing the fund.

¹⁴ See letters from Calvert and MFDF.

Excerpt from ISS 2012 U.S. Proxy Voting Summary Guidelines

* * * * *

Independent Chair (Separate Chair/CEO)

Generally vote FOR shareholder proposals requiring that the chairman's position be filled by an independent director, unless the company satisfies *all* of the following criteria:

The company maintains the following counterbalancing governance structure:

- Designated lead director, elected by and from the independent board members with clearly delineated and comprehensive duties. (The role may alternatively reside with a presiding director, vice chairman, or rotating lead director; however the director must serve a minimum of one year in order to qualify as a lead director.) The duties should include, but are not limited to, the following:
 - presides at all meetings of the board at which the chairman is not present, including executive sessions of the independent directors;
 - serves as liaison between the chairman and the independent directors;
 - approves information sent to the board;
 - approves meeting agendas for the board;
 - approves meeting schedules to assure that there is sufficient time for discussion of all agenda items;
 - has the authority to call meetings of the independent directors;
 - if requested by major shareholders, ensures that he is available for consultation and direct communication;
- Two-thirds independent board;
- All independent key committees;
- Established governance guidelines;
- A company in the Russell 3000 universe must not have exhibited sustained poor total shareholder return (TSR) performance, defined as one- and three-year TSR in the bottom half of the company's four-digit GICS industry group (using Russell 3000 companies only), unless there has been a change in the Chairman/CEO position within that time. For companies not in the Russell 3000 universe, the company must not have underperformed both its peers and index on the basis of both one-year and three-year total shareholder returns, unless there has been a change in the Chairman/CEO position within that time;
- The company does not have any problematic governance or management issues, examples of which include, but are not limited to:
 - Egregious compensation practices;
 - Multiple related-party transactions or other issues putting director independence at risk;
 - Corporate and/or management scandals;
 - Excessive problematic corporate governance provisions; or
 - Flagrant actions by management or the board with potential or realized negative impacts on shareholders.

Excerpt from Denny's Corporation

April 5, 2012 Annual Meeting Proxy Statement

* * * * *

Board Leadership Structure and Risk Oversight

Over the past eleven years, the Company has separated the positions of CEO and Board Chair and has appointed an independent Board Chair. During a seven-month period (June 2010 – January 2011), Ms. Smithart-Oglesby, in addition to her role as Board Chair, also held the position of Interim CEO while the Company conducted the hiring process for a permanent CEO. At the conclusion of that seven-month period, and with the hiring of Mr. Miller as the Company's CEO, the two positions were again separated. Ms. Smithart-Oglesby now serves solely as Board Chair. The Company believes having a separate CEO and Board Chair is an important part of its overall commitment to the highest standards of corporate governance and believes that it allows the Board to effectively develop and oversee its business strategy and monitor risk. The separate positions also allow the Board to freely perform its management oversight function. Additionally, each member of the Board, with the exception of Messrs. Miller and Wolfinger, is independent under the applicable standards. It is the Board's policy to appoint a Lead Director during any time when the Board Chair position is not held by an independent director. Consequently, during the seven-month period referenced above, Mr. Neeb, as an independent director, was appointed by the Board to serve as the Lead Director. As Lead Director, Mr. Neeb's responsibilities included (i) regularly meeting (by phone or in person) with the Interim CEO to discuss the financial and operational status of the Company, (ii) staying abreast of Company issues in greater depth than required of other Board members in order to assist, if necessary, during the period of transition of Company leadership, and (iii) leading periodic executive sessions of the independent Board members.

The Board has the ultimate responsibility for risk management. However, the Board has delegated the responsibility of risk assessment and risk management to the Audit Committee. Periodically, with the assistance of management, the Audit Committee undertakes an extensive Company-wide risk assessment. This extensive risk assessment identifies the main strategic, operational and financial risks the Company is facing based on its strategic objectives. The assessment also identifies the steps that management is or should be taking to address and mitigate exposure to such risks, and the Audit Committee will periodically receive reports from management regarding the steps that management is taking to address and mitigate such risks.

Excerpt from FARO Technologies, Inc.**April 13, 2012 Annual Meeting Proxy Statement**

Role and Risk Oversight of the Board of Directors

The Board provides general oversight and direction for the Company, monitors the Company's performance and also acts as an advisor and counselor to senior management. In particular, the Board performs the following functions:

- Reviews and approves operating, organizational, financial and strategic plans;
- Reviews the Company's operational, financial and strategic performance;
- Oversees and evaluates management's systems for internal control, financial reporting and public disclosure;
- Oversees the Company's global risk management framework;
- Establishes corporate governance standards;*
- Selects, evaluates and compensates the Company's executive officers, including the Chief Executive Officer;
- Oversees and evaluates senior management performance and compensation; and
- Plans for effective development and succession of the Chief Executive Officer and senior management.

*In 2010, the Board of Directors adopted Corporate Governance Guidelines, which are available on the Company's website at www.faro.com, by first clicking "Investors" and then "Leadership."

In its oversight of the Company's global risk management, the Board reviews the overall risk exposure of the Company and discusses with management the Company's risk assessment and risk management policies, including management's efforts to identify, monitor, control and report risk exposure. Management regularly reports to the Board on significant operational, financial, strategic, and regulatory risks the Company faces. In addition, as part of its review of the Company's strategic plans, the Board reviews the operational and financial risks, political and regulatory risks, and employment and labor risks of its global business operations. The independent members of the Board also discuss Company oversight and significant risks in executive session.

Each Board committee is also responsible for reviewing the Company's risk exposure with respect to the committee's areas of responsibility, discussing such risks with Company management, and reporting significant risks to the Board. The Compensation Committee particularly reviews risks related to the Company's compensation policies and practices, and the Audit Committee focuses on significant risks associated with financial exposures.

Leadership Structure of the Board of Directors

Simon Raab, one of the Company's founders and its past Chief Executive Officer, currently serves as Chairman of the Board and is an independent director. The independent members of the Board have elected Stephen Cole, an independent director, to serve as the Lead Director. Jay W. Freeland, the Company's current Chief Executive Officer, also serves as a director.

The Chairman of the Board and the Chief Executive Officer set the agenda for Board meetings with input from the Lead Director. Board materials related to agenda items are provided to Board members sufficiently in advance of Board meetings to allow the directors to prepare for discussion of the items at the meeting. In addition, executive sessions, or meetings of independent directors, are held at least quarterly for a discussion of relevant subjects. The Lead Director presides over and prepares the agenda for executive sessions of the independent directors; provides input to the schedule of Board meetings; facilitates information flow and communication between the independent directors and Company management and the Chairman of the Board; coordinates the activities of the other independent directors; together with the Governance and Nominating Committee, provides advice to the Board and Company management with respect to corporate governance and recommends to the Board membership of Board committees; recommends to the Chairman of the Board the retention of Board consultants; together with the Compensation Committee and the Board, evaluates the performance of the Chief Executive Officer; and performs such other duties and responsibilities as the Board of Directors from time to time determines.

We believe that our current Board structure appropriately ensures that an independent director serves in a Board leadership position, acting as a liaison between the Board and Company management and allowing the independent directors to effectively oversee Company management and key issues related to strategy, risk and integrity. The current Board structure also permits the independent directors to discuss and address risk management with Company management in Board meetings, as well as separate from management in executive session.

Excerpts from Synovus Financial Corp.

March 16, 2012 Annual Meeting Proxy Statement

Recent Corporate Governance Initiatives

In the second half of 2010, Synovus' Board and management concentrated significant efforts and resources into a review of Synovus' overall corporate governance practices, focused on succession planning, responsiveness to the changing needs for financial institution boards in the current regulatory environment (including the pending governance changes for financial institutions contemplated by The Dodd-Frank Wall Street Reform and Consumer Protection Act, which we refer to as the Dodd-Frank Act) and consideration of governance practices among similarly sized financial institutions. In November 2010, after careful consideration and reflection, the Board approved a series of changes to Synovus' corporate governance structure. These changes include:

- Reducing the overall size of the Board, taking into account the age and expertise of existing directors, the need for orderly succession planning of the Board and its committees, desired diversity of subject matter and technical expertise, and independence requirements;
- Decreasing the mandatory retirement age of directors to age 72, subject to such exceptions as the Board deems necessary or appropriate to facilitate orderly succession planning of the Board and its committees;
- Reducing the number of current or former executives of Synovus serving on the Board, after taking into account the need for orderly succession planning of the Board and its committees;
- Reducing the size of the Executive Committee of the Board to consist solely of the chairpersons of each standing Board committee and Synovus Bank's Credit Committee, the Chairman of the Board, the Chief Executive Officer and the Lead Director, with the Executive Committee being led by the Chief Executive Officer; and
- Rotating committee chairpersons and the Lead Director.

In furtherance of these initiatives and after consultation with the Corporate Governance and Nominating Committee, four of Synovus' directors did not stand for re-election at the 2011 Annual Meeting, and two new independent director nominees were elected at the 2011 Annual Meeting. In addition, after consultation with the Corporate Governance and Nominating Committee, three of Synovus' current directors will not stand for re-election at the Annual Meeting — Richard E. Anthony, James H. Blanchard and Richard Y. Bradley. The Board has nominated two new independent director nominees for election to the Board at the Annual Meeting — Stephen T. Butler and Jerry W. Nix. Along with the two new directors elected in 2011, these nominees, if elected, will further diversify our Board and provide additional financial and risk expertise to our Board. The Board, under the leadership of the Corporate Governance and Nominating Committee, will

continue to actively pursue and consider additional independent directors to be added to the Board in the future.

Risk Oversight

Under Synovus' Corporate Governance Guidelines, the Board is charged with providing oversight of Synovus' risk management processes. In accordance with NYSE requirements, the Audit Committee is primarily responsible for overseeing the risk management function at Synovus on behalf of the Board. The Risk Committee assists the Audit Committee in fulfilling this risk oversight function. In carrying out their responsibilities, the Audit Committee and Risk Committee work closely with Synovus' Chief Risk Officer and other members of Synovus' enterprise risk management team. The Risk Committee meets at least quarterly with the Chief Risk Officer and other members of management and receives a comprehensive report on enterprise risk management, including management's assessment of risk exposures (including risks related to liquidity, credit, operations and regulatory compliance, among others), and the processes in place to monitor and control such exposures. The Audit Committee and Risk Committee also receive updates between meetings from the Chief Risk Officer, the Chief Executive Officer, the Chief Financial Officer and other members of management relating to risk oversight matters. The Audit Committee and Risk Committee provide a report on risk management to the full Board on at least a quarterly basis. In addition, at least annually, the Chief Risk Officer and members of the risk staff make a presentation on enterprise risk management to the full Board.

In addition, the other committees of the Board consider the risks within their areas of responsibility. For example, the Compensation Committee considers the risks that may be implicated by our executive compensation programs. For a discussion of the Compensation Committee's review of Synovus' senior executive officer compensation plans and employee incentive compensation plans and the risks associated with these plans, see "Compensation Committee Report— Incentive Compensation Plan Risk Assessment" on page 49 of this Proxy Statement.

The Board's role in risk oversight is an integral part of Synovus' overall enterprise risk management framework. For a more detailed description of Synovus' enterprise risk management framework, see "Part I – Item 1. Business – Enterprise Risk Management" in Synovus' 2011 Annual Report.

Leadership Structure of the Board

In accordance with Synovus' bylaws, our Board of Directors elects our Chief Executive Officer and our Chairman, and each of these positions may be held by the same person or may be held by two persons. Under our Corporate Governance Guidelines, the Board does not have a policy, one way or the other, on whether the role of the Chairman and Chief Executive Officer should be separate and, if it is to be separate, whether the Chairman should be selected from the non-employee directors or be an employee. However, our Corporate Governance Guidelines require that, if the Chairman of the Board is not an independent director, the Corporate Governance and Nominating Committee shall nominate, and a majority of the independent directors shall elect, a Lead Director. Under its charter, the Corporate Governance and Nominating Committee

periodically reviews and recommends to the Board the leadership structure of the Board and, if necessary, nominates the Lead Director candidate. Currently, one individual serves as Chief Executive Officer and Chairman and Synovus also has a Lead Director.

The Chairman of the Board is responsible for chairing Board meetings and meetings of shareholders, setting the agendas for Board meetings and providing information to the Board members in advance of meetings and between meetings. Pursuant to Synovus' Corporate Governance Guidelines, the duties of the Lead Director include the following:

- Working with the Chairman of the Board, Board and Corporate Secretary to set the agenda for Board meetings;
- Calling meetings of the independent and non-management directors, as needed;
- Ensuring Board leadership in times of crisis;
- Developing the agenda for and chairing executive sessions of the independent directors and executive sessions of the non-management directors;
- Acting as liaison between the independent directors and the Chairman of the Board on matters raised in such executive sessions;
- Chairing Board meetings when the Chairman of the Board is not in attendance;
- Attending meetings of the committees of the Board, as necessary or at his/her discretion, and communicating regularly with the Chairs of the principal standing committees of the Board;
- Working with the Chairman of the Board to ensure the conduct of the Board meeting provides adequate time for serious discussion of appropriate issues and that appropriate information is made available to Board members on a timely basis;
- Performing such other duties as may be requested from time-to-time by the Board, the independent directors or the Chairman of the Board; and
- Being available, upon request, for consultation and direct communication with major shareholders.

After careful consideration, the Corporate Governance and Nominating Committee has determined that Synovus' current Board structure is the most appropriate leadership structure for Synovus and its shareholders at this time.



CORPORATE GOVERNANCE POLICY

As revised and restated by the Board of Directors of
Denny's Corporation on August 25, 2006, and as amended
January 26, 2010 and January 25, 2011

I. INTRODUCTION/CORPORATE GOVERNANCE PHILOSOPHY

The Board of Directors (the “Board”) and management of Denny’s Corporation (“Denny’s” or the “Company”) clearly recognize the importance of a firm commitment to key corporate governance standards. Consequently, it is the goal of the Board and management to develop and adhere to a set of standards that not only complies to the letter with all applicable regulatory guidance, but implements ‘best practices’ of corporate governance. The corporate governance standards established by the Board and endorsed by senior management, which are set forth in the following pages of this corporate governance policy, provide a structure within which Denny’s directors and management can effectively pursue the Company’s objectives for the benefit of its shareholders. These standards are intended to further supplement, and in no way contradict, supersede, or replace the rules and regulations set forth in the Company’s by-laws which are in place to help ensure the efficient functioning of the Company, the Board and Board members.

II. BOARD COMPOSITION, QUALIFICATION, AND SELECTION

The Company’s by-laws currently permit up to fifteen (15) directors to serve on the Board. The current size of the Board is ten (10) which the Board believes is appropriate. The Board will assess its size from time to time to determine whether its size continues to be appropriate.

The Board will have a majority of its directors meet the criteria for independence as required by the Nasdaq Stock Market, Inc. (“Nasdaq”). The Board’s Corporate Governance and Nominating Committee is responsible for recommending annually to the Board, for its final approval, director-nominees. Therefore, this Committee will annually review the requisite skills and characteristics that the Board seeks in Board members as well as the composition of the Board as a whole, including an annual evaluation of whether members qualify as independent under applicable standards. During the course of a year, directors are expected to inform the Board of any material changes in their circumstances or relationships that may impact their designation by the Board as independent.

Nominees for director will be selected on the basis of achievement in their personal careers; board experience; wisdom; integrity; ability to make independent, analytical inquiries; understanding of the business environment; and willingness to devote adequate time to their Board duties. The Board believes that each director should have a basic understanding of (i) the principal operational and financial objectives, plans and strategies of the Company, (ii) the results of operations and financial condition of the Company; and (iii) the relative standing of the Company in relation to its competitors. The Board is committed to a diversified membership. The Board will not discriminate on the basis of race, color, national origin, gender, religion or disability in selecting director nominees.

Since service on too many boards can interfere with an individual’s ability to perform his or her responsibilities, Denny’s has set a limit of four (4) public company boards on which a director may serve in addition to his or her service on the Denny’s Board. Additionally, directors are required to inform the Chairman of the Board in advance of accepting an invitation to serve on another public company board. Also, a director who retires from or changes the job or

principal responsibility they held when they were selected to the Board will submit an irrevocable resignation that will be effective upon Board acceptance of such resignation. The Corporate Governance and Nominating Committee will promptly act to determine whether to accept the Director's resignation and will submit such recommendation for prompt consideration by the Board, and the Board will act on the Committee's recommendation. The Corporate Governance Committee and the Board may consider any factors they deem relevant in deciding whether to accept a Director's resignation.

III. BOARD AND DIRECTOR RESPONSIBILITIES

The business of the Company is managed under the oversight and direction of the Board, which represents and is accountable to the shareholders of the Company. The Board shall regularly evaluate the strategic direction of the Company, management policies and the effectiveness with which management implements its policies.

The basic responsibility of the directors is to act in good faith and with due care so as to exercise their business judgment on an informed basis in what they reasonably and honestly believe to be in the best interests of the Company and its shareholders. In discharging that obligation, directors should be entitled to rely on the honesty and integrity of the Company's senior management and its outside advisors and auditors, to the fullest extent permitted by law. The directors also shall be entitled to have the Company purchase reasonable directors' and officers' liability insurance on their behalf, with the benefits of: (i) indemnification to the fullest extent permitted by law and the Company's articles of incorporation, by-laws and any indemnification agreements, and (ii) limitation on liability to the Company as provided by state law and the Company's articles of incorporation.

The specific duties and responsibilities of the Board will include, among other things, hiring of the Company's Chief Executive Officer ("CEO"); overseeing the management of the business and affairs of the Company; overseeing effective corporate governance; selecting and recommending to shareholders appropriate candidates for election to the Board; reviewing and, where appropriate, approving the business plans, major strategies and financial objectives of the Company; evaluating Board processes and performance and the overall effectiveness of the Board; evaluating the performance of the Company and of senior management; requiring, approving and overseeing the implementation of the Company's succession plans; reviewing compliance with applicable laws and regulations and adopting policies of corporate conduct to assure compliance with applicable laws and regulations and to assure maintenance of necessary accounting, financial, and other controls; overseeing the integrity of the accounting and financial information reported to the public; and showing through its actions, its awareness that the Company's long-term success depends upon its strong relationship with its customers, employees, suppliers, franchisees, and the communities in which it operates.

IV. BOARD LEADERSHIP, ORGANIZATION AND COMMITTEE STRUCTURE

The Denny's Board shall be led by a chairman. The Chairman of the Board may be the CEO of the Company (if a member of the Board) or any other member of the Board. The Chairman of the Board shall be determined annually by the Board, through its Corporate Governance and Nominating Committee, in its discretion, given the Company's present and

anticipated circumstances. In the event the CEO serves as the Chairman, a “Lead Director” shall be appointed from among those directors “outside” (i.e., not employed by the Company) the Company. The Lead Director role will include regularly meeting (by phone or in person) with the CEO to discuss the financial and operational status of the Company and generally staying abreast of Company issues in a more in-depth manner than required of other Board members in order to assist, if necessary, during the transition of Company or Board leadership.

Like most boards of directors of publicly owned corporations, Denny’s Board operates, in part, through committees. A committee structure permits the Board to delegate certain of its oversight function to a committee allowing it to address key areas in more depth than may be possible with a full board meeting. The Denny’s Board currently has established the following three (3) standing committees (as described further below) to which it delegates certain of its oversight functions: Audit and Finance Committee, Compensation and Incentives Committee, and the Corporate Governance and Nominating Committee. The Board has the flexibility to form new committees or disband existing ones depending upon the particular interests and issues facing the Board or as may legally be required. Decisions about committee membership and committee chairs shall be made by the full Board, based upon the recommendations from the Corporate Governance and Nominating Committee. Committee membership shall be designated annually and committee chairs shall be appointed to serve on a three-year basis. Each committee is required to apprise the full board of their activities on a regular basis.

The responsibilities of each committee shall be understood and clearly defined in a written charter approved by the full Board. The charters will set forth the purposes, goals, and responsibilities of each respective committee as well as qualifications for committee membership, committee structure and operations, and committee reporting to the Board.

V. BOARD OPERATIONS

Directors are expected to prepare for and use reasonable efforts to participate in all Board meetings and meetings of committees on which they serve. The Board and committees will meet as frequently as necessary to properly discharge their responsibilities, provided that the full Board will meet at least four (4) times per year.

The Chairman of the Board, or when applicable the lead director, in consultation with the CEO, will set the agenda for each Board meeting. The committee chairs, in consultation with management, will set the agenda for committee meetings. While the agendas will initially be set by the Chairman of the Board or the committee chairs, each director is free to suggest the inclusion of items on the agendas.

Information and data that are important to the Board’s understanding of the business to be conducted at a Board or committee meeting will, to the extent practicable, be distributed in writing to the directors sufficiently in advance of the meeting to permit meaningful review, and directors are expected to review in detail the provided materials in advance of each meeting. Additionally, the non-management directors will be given the opportunity to meet in executive sessions in conjunction with each regularly scheduled board meeting and at such other times, as they deem appropriate.

Board members will have complete access to the Company's management. Board members should use judgment to be sure that any contacts are not distracting to the business operation of the Company. Furthermore, the Board encourages senior management, from time to time, to bring other members of management into Board and committee meetings who: (a) can provide additional insight into the items being discussed because of personal involvement in these areas, and/or (b) represent members of management with future potential that the senior management believes should be given exposure to the Board.

As a general rule, management will speak on behalf of the Company. Comments and other statements from the entire Board, if appropriate, will generally be made by the CEO. It is suggested that, in normal circumstances, each director will refer all inquiries from third parties to management.

VI. DIRECTOR COMPENSATION

The Compensation Committee shall regularly review the compensation that is provided to the Company's directors and shall make recommendations to the Board regarding any appropriate modifications. Such compensation should remunerate the directors fairly for their service to the Board. It should also support the Company's goal of attracting and retaining the most qualified persons to the Board. Director compensation should include stock-based components to align the interests of the directors with those of the shareholders of the Company. The Board has determined that the Company's compensation goals are met by a compensation package that includes meeting fees, retainer arrangements, restricted stock, deferred stock units, and stock options. Directors who are employees of the Company shall not receive any additional compensation for their services as directors.

VII. DIRECTOR ORIENTATION AND CONTINUING EDUCATION

The Company shall provide new directors with materials and briefings to permit them to become familiar with the Company's business, industry, and governance practices. Additionally, the Company shall provide additional educational opportunities to directors on an ongoing basis to enable them to better perform their duties and to recognize and deal appropriately with issues that arise.

VIII. BOARD AND SENIOR MANAGEMENT EVALUATION

The Board shall conduct periodic, generally annual, self-evaluations to determine whether it and its committees are following the procedures necessary to function effectively. The Board, through its Corporate Governance and Nominating Committee, will also periodically evaluate whether individuals sitting on the Board bring the skills and expertise appropriate for the Company and how they work as a group. The Board shall also annually review the performance of the CEO and shall participate with the CEO in the evaluation of senior management. The results of the evaluation shall be promptly shared with the CEO and senior management.

IX. BOARD RELATIONSHIP TO SENIOR MANAGEMENT AND INDEPENDENT ADVISORS

Board members shall have full access to senior management. Any meetings or contacts that a director wishes to initiate may be arranged through the CEO or the Secretary or directly by the director. The directors will use their judgment to ensure that any such contact is not disruptive to the business operations of the Company. It is the expectation of the Board that directors will keep the CEO informed of communications between a director and an officer or another member of management, as appropriate. Additionally, the Board and Board committees, as necessary and appropriate, may seek advice from outside advisors, independent of management, with respect to matters within their responsibility.

X. CEO SELECTION, EVALUATION AND MANAGEMENT SUCCESSION

The Board will be responsible for the selection, hiring, and negotiating of the employment terms of the Company's CEO. The Compensation and Incentives Committee will review and approve corporate goals and objectives relevant to the compensation of the CEO and will evaluate his or her performance based on these goals and objectives and set the CEO's compensation level based on this evaluation. Additionally, the Corporate Governance and Nominating Committee will monitor and oversee the planning for CEO and senior management succession. The Corporate Governance and Nominating Committee will identify and periodically update qualities and characteristics it believes is necessary for an effective CEO and senior officers. With these principles in mind, the committee will also periodically review the development and progression of potential internal candidates against these standards. Additionally, advance planning for contingencies, such as the departure, death, or disability of the CEO or other top executives is critical so that, in the event of an untimely vacancy, the Company has in place an emergency succession plan to facilitate the transition to both interim and long-term leadership.

XI. STOCK OWNERSHIP OF DIRECTORS AND SENIOR MANAGEMENT

In accordance with the Board's belief that directors and executive officers should own Company stock and have a financial stake in the Company, the Board has enacted Stock Ownership Guidelines, effective January 25, 2011. The Stock Ownership Guidelines help ensure that the Company's leaders are fully aligned with the Company's shareholders by requiring directors and executive officers to own a meaningful number of Company shares. These guidelines may be found on the Company's Web site at www.dennys.com.

XII. POLICY REVIEW AND DISCLOSURE

This Corporate Governance Policy will be periodically reviewed and updated when appropriate by the Board through its Corporate Governance and Nominating Committee who will also be responsible for monitoring subsequent compliance by the Board and management. Additionally, the Corporate Governance and Nominating Committee will be responsible for seeing that the policy is adequately disclosed to the Company's shareholders, potential investors, and the public in general by way of the Company's web site.

FARO TECHNOLOGIES, INC.
BOARD OF DIRECTORS
CORPORATE GOVERNANCE GUIDELINES

The following corporate governance guidelines (these “Guidelines”) have been approved and adopted by the Board of Directors (the “Board”) of FARO Technologies, Inc. (the “Company”) to provide a framework within which the Board and management can effectively pursue the Company’s objectives for the benefit of its shareholders. These guidelines, along with the Company’s Articles of Incorporation, Bylaws, Global Ethics Policy, Senior Financial Officer Ethics Policy, Related Person Transaction Policy and the charters of the various Board committees, provide the foundation for the Company’s corporate governance.

The Board believes that the Company’s long-term success is dependent upon the maintenance of an ethical business environment that focuses on adherence to both the letter and spirit of regulatory and legal mandates, as well as the Company’s Global Ethics Policy and Senior Financial Officer Ethics Policy. The Board expects management to conduct operations in an ethical manner consistent with applicable laws, rules and regulations and the Company’s Global Ethics Policy and Senior Financial Officer Ethics Policy.

I. REGULAR BOARD FUNCTIONS

The Board, directly and through its appropriate committees, shall:

- Review and approve strategic plans;
- Review the Company’s financial and strategic performance;
- Oversee and evaluate management’s systems for internal control, financial reporting and public disclosure;
- Establish corporate governance standards;
- Select, evaluate and compensate the Company’s executive officers, including the Chief Executive Officer;
- Oversee and evaluate senior management performance and compensation;
- Plan for effective succession of the Chief Executive Officer and senior management;
- Set a tone for a climate of corporate trust and confidence;
- Set standards for director qualification;
- Set standards for director orientation and continuing education; and
- Undertake an annual performance evaluation of the Board.

The Board, in consultation with the Lead Director, shall also retain legal, accounting and other advisors who report directly to the Board, to the extent the Board deems necessary or appropriate to carry out its responsibilities. Such advisors may be the regular advisors to the Company.

II. SELECTION OF THE BOARD

Except where the Company is legally required by contract, its Articles of Incorporation, its Bylaws, or otherwise to provide a third party with the right to nominate directors, the Board is responsible for selecting nominees for the Board and recommending them for election to the Board by the shareholders. The Governance and Nominating Committee of the Board (the "Governance and Nominating Committee") has primary responsibility for the screening process ~~necessary to identify qualified candidates~~ and recommend such candidates to the Board. The Governance and Nominating Committee shall annually review the appropriate experience, skills and qualifications expected of Board members in the context of the current membership of the Board. This assessment should include, in the context of the perceived needs of the Board at that time, issues of experience, reputation, judgment, diversity and skills. If the Governance and Nominating Committee determines that adding or replacing a director is advisable, the Committee shall initiate a search for a suitable candidate, which may include working with other directors, management, and a search firm retained to assist in the search, each as the Governance and Nominating Committee deems necessary or appropriate.

The Governance and Nominating Committee shall establish a Director Nomination Process to consider nominations for directors, including those received from the Company's shareholders, and shall consider all appropriate candidates proposed by the directors, management, or the Company's shareholders. The Governance and Nominating Committee should evaluate the candidates based on the needs of the Board at that time, which may include current or recent experience as a senior executive officer, business expertise currently desired on the Board (with specific attention given to the requirements for membership on the Audit Committee of the Board (the "Audit Committee")), industry experience, and general ability to enhance the overall composition ~~of the Board~~, as well as the criteria established from time to time by the Governance and Nominating Committee. The Governance and Nominating Committee shall then meet to consider the selected candidate(s) and submit the approved candidate(s) to the full Board for approval as a nominee.

III. BOARD COMPOSITION

A. Size of the Board

The Company's Articles of Incorporation and Bylaws provide that the number of directors of the Company shall be fixed from time to time by a majority of the Board, but shall never be less than three or more than 15. The Governance and Nominating Committee, in consultation with the Chairman of the Board, shall periodically examine the composition of the Board and determine whether the Board would better serve its purposes with the addition or subtraction of one or more directors. The Board shall determine, after considering the recommendations of the Governance and Nominating Committee, the number of members of the Board appropriate to provide that all of the necessary or desirable core competencies are possessed by the Board as a whole.

B. Director Independence

The Company shall have at all times a majority of independent directors, as required by the Nasdaq Stock Market (“Nasdaq”). At least once per year, the Board shall review each relationship that exists between a director and his or her related interests for the purpose of determining whether the director is independent under Nasdaq’s rules. This information shall be initially reviewed by the Governance and Nominating Committee and subsequently by the full Board.

The Board shall consider all relevant facts and circumstances when making a determination of independence. The Board shall consider the issue not merely from the standpoint of a director, but also from that of persons or organizations with which the director has a significant affiliation. An independent director should be free of any relationship with the Company or its management that is reasonably likely to impair the director’s ability to make independent judgments.

C. The Lead Director

The independent directors shall appoint an independent director to serve as the Lead Director and act as principal liaison between the independent directors and the Chairman of the Board. The Lead Director shall be responsible for coordinating the activities of the independent directors and shall advise the Chairman of the Board as to the quality, quantity and timeliness of the flow of information from the Company’s management that is necessary for the independent directors to effectively and responsibly perform their duties. The Lead Director shall also advise the Board and management with respect to compliance with the Company’s corporate governance policies, including these Guidelines.

D. Service on Other Boards of Directors

Directors must be willing to devote sufficient time to carrying out their duties and responsibilities effectively and should be committed to serving on the Board for an extended period of time. Prior to accepting an invitation to serve on another public company’s board of directors, a director should advise the Chairman of the Board and the Chairman of the Governance and Nominating Committee. In deciding whether to serve on another public company board, the Board believes that directors should consider his or her time commitments, the potential affects on his or her attendance of Board meetings, and participation and effectiveness on all boards where he or she serves. The Governance and Nominating Committee will review on a case-by-case basis whether such board membership may unduly affect the ability of the director to fulfill the director’s duties to the Company.

E. Term Limits

The Board has determined not to establish formal term limits. However, the Governance and Nominating Committee shall review each director’s continued service on the Board shortly before the end of such director’s term. This review shall be conducted in connection with the Governance and Nominating Committee’s annual evaluation of governance and Board effectiveness, consideration of nominations to the Board for the annual meeting of shareholders at which such director’s term will expire, and the Board’s annual self-evaluation.

IV. BOARD MEETINGS

A. Schedule of Meetings

The Lead Director shall advise the Chairman of the Board as to an appropriate schedule of Board meetings to ensure that the directors, including the independent directors, can perform their duties responsibly without interfering with the flow of the Company's operations.

B. Selection of Agenda Items for Board Meetings

The Chairman of the Board and the Chief Executive Officer of the Company, in consultation with the Lead Director, shall establish the agenda for each Board meeting. Each other Board member may suggest the inclusion of items on the agenda. Each director may raise, at any Board meeting, subjects that are not on the agenda for that meeting.

C. Attendance at Board Meetings and Review of Board Materials

Each director is expected to attend all meetings of the Board and committees on which the director serves and should attend the Company's annual meeting of shareholders. In advance of each Board meeting, a proposed agenda and, to the extent feasible or appropriate, information and data that is important to an understanding of the business to be discussed, shall be distributed. Each director shall review these materials prior to the Board meeting.

D. Executive Sessions of Independent Directors

The Lead Director shall preside over and prepare or have prepared an agenda for all executive sessions of independent directors. The independent directors shall meet separately from the Chief Executive Officer at least quarterly at regularly scheduled executive sessions, which shall be on the same day as regular Board meetings, to discuss management succession and other issues. Any independent director may call, in accordance with the notice provisions of the Bylaws of the Company, an executive session of independent directors at any time.

E. Board Interaction with Shareholders and Institutional Investors.

The Board believes that management speaks for the Company. Shareholders and other interested parties who wish to communicate with the Board, a Board committee, the Lead Director, independent directors as a group, or other individual directors may do so by sending written communications to the applicable party or parties: c/o Secretary, FARO Technologies, Inc., 250 Technology Park, Lake Mary, Florida 32746. All written communications received in such manner will be forwarded promptly to the directors to whom the communication is directed or, if the communication is not directed to any particular directors(s), to the Board.

V. BOARD COMMITTEES

A. Number, Structure and Independence of Committees

The Company shall have an Audit Committee, a Compensation Committee, and a Governance and Nominating Committee of the Board. All members of the Audit Committee, the Compensation Committee and the Governance and Nominating Committee shall be “independent,” as such term is defined by Nasdaq and the applicable rules of the Securities and Exchange Commission (“SEC”). The members of the Compensation Committee shall also be “outside directors” as defined by Section 162(m) of the Internal Revenue Code and “non-employee directors” under Rule 16b-3 of the Securities Exchange Act of 1934, as amended. The Board may also appoint such other committees as it deems appropriate from time to time.

B. Assignment of Committee Members

In consultation with the Chairman of the Board and the Lead Director, the Governance and Nominating Committee shall, with consideration of the desires of individual Board members, recommend to the full Board the assignment of directors to committees and selection of the chairperson of the committees.

C. Committee Meetings

Committee chairpersons, in consultation with committee members, will determine the frequency and length of committee meetings; *provided, however*, that each committee shall meet independently and in separate sessions from the Board’s regular or special meetings at least twice per fiscal year. Each committee shall meet as set forth in each committee’s charter, and otherwise as frequently as required to carry out its responsibilities. Committee chairpersons, in consultation with the Chairman of the Board and the Lead Director, appropriate members of senior management and staff, will develop the agenda for each committee meeting.

VI. DIRECTOR OBLIGATIONS

A. Ethics and Conflicts of Interest

Directors, as well as officers and employees, must act ethically at all times and should acknowledge their adherence to the policies described in the Company’s Global Ethics Policy (and, if applicable, the Senior Financial Officer Ethics Policy) and in these Guidelines. If an actual or potential conflict of interest exists for a director, the director shall promptly inform the Audit Committee and the Chief Executive Officer. If a significant conflict exists that may impair a director’s ability to act in the best interests of the Company and its subsidiaries and the conflict cannot be resolved, the director should submit his or her resignation to the Board. All directors shall recuse themselves from any discussion or decision affecting their personal or professional interests and disclose the existence of such conflict to the remaining members of the Board.

B. Reliance on Others; Liability Insurance

In discharging their obligations and responsibilities, the Company's directors are entitled to rely, in good faith, on the honesty and integrity of their fellow directors, the Company's management, independent auditors and outside advisors. Further, to promote the ability of each director to act in accordance with the director's good faith business judgment without undue concern for the substantial risk of personal liability faced by public company directors, the Company shall seek to purchase and maintain at all times directors' and officers' liability insurance in amounts deemed reasonably appropriate.

C. Directors Who Change Their Present Job Responsibility

Directors who change their occupation shall immediately notify the Chairman of the Board and the Chairman of the Governance and Nominating Committee of such change and offer to resign from the Board. The Board, through the Governance and Nominating Committee, shall review the continued appropriateness of Board membership under the changed circumstances and shall determine whether to accept or reject the offer of resignation.

VII. DIRECTOR ORIENTATION AND EDUCATION

The Company will establish, or identify and provide access to, appropriate orientation programs, sessions or materials for newly elected directors. The program or materials will include information to acquaint new directors with the Company, including its strategy, long-range plans, financial statements, properties and operations, these Guidelines, the Global Ethics Policy and, if applicable, the Senior Financial Officer Ethics Policy. As part of the orientation, new directors will be introduced to the Company's senior management and its independent auditors.

The directors will also receive annual training concerning the Foreign Corrupt Practices Act, foreign business practices and regulations and business ethics. Additionally, from time to time, directors will receive information and updates on legal and regulatory changes that affect the Company and the directors. All directors are also encouraged to participate in continuing education programs sponsored by universities, stock exchanges and other organizations specializing in director education. The Company will reimburse the expenses of any such continuing education programs.

VIII. DIRECTOR COMPENSATION

The form and amount of director compensation will be determined by the Board. Changes in director compensation shall be recommended by the Compensation Committee to the Board, which may approve or deny such changes, in whole or in part. The Board believes that the level of director compensation generally should be competitive with that paid to directors of other corporations of similar size and complexity, and the time and effort required by the Company of its directors. The Board and the Compensation Committee understand that the independence of directors may be jeopardized if director compensation and perquisites exceed

customary levels, if the Company makes substantial charitable contributions to organizations with which a director is affiliated, or if the Company enters into consulting contracts with or provides other direct or indirect compensation to a director or an organization with which the director is affiliated.

IX. BOARD ACCESS TO SENIOR MANAGEMENT AND ADVISORS

Board members shall have unrestricted access to the Company's senior management. Furthermore, the Board encourages senior management, from time to time, to bring to Board meetings officers and managers who (a) can provide additional insight to matters before the Board because of such person's involvement in the areas being discussed, or (b) are officers and managers with potential for future advancement that senior management believes should be given exposure to the Board. As necessary and appropriate, Board members shall also have access to outside legal, accounting and other professional advisors to assist them in carrying out their duties and responsibilities as directors.

X. ANNUAL PERFORMANCE EVALUATIONS

The Board, under the oversight of the Governance and Nominating Committee, shall conduct an annual evaluation of itself to determine whether it and its committees are functioning effectively, both individually and as a whole. The Governance and Nominating Committee shall receive and review comments from each director and members of senior management and report to the Board with an assessment of the Board's performance. This assessment should review the Board's contribution as a whole and the areas in which the Board and/or management believes a better contribution is possible. Similar annual reviews and assessments shall be undertaken by each of the Board's committees.

XI. LEADERSHIP DEVELOPMENT

A. Formal Evaluation of the Chief Executive Officer

Each year, the full Board, the Compensation Committee and the Lead Director shall evaluate the performance of the Chief Executive Officer. In evaluating the Chief Executive Officer, the full Board, Compensation Committee and Lead Director shall take into consideration the Chief Executive Officer's performance in both qualitative and quantitative areas, such as leadership and vision, integrity, keeping the Board informed on matters affecting the Company and any affiliated subsidiaries, and the performance of the business, including the achievement of financial objectives and goals.

The evaluation will be communicated to the Chief Executive Officer by the Chairman of the Compensation Committee and the Lead Director and considered by the Compensation Committee in the course of its deliberations when establishing the compensation of the Chief Executive Officer for the following year.

B. Succession Planning

The Chief Executive Officer shall periodically provide to the Governance and Nominating Committee a report regarding succession planning for the position of Chief Executive Officer. The Chief Executive Officer will also communicate a recommendation for his or her successor as a result of an unexpected event to the Chairman of the Governance and Nominating Committee. This recommendation should be updated by the Chief Executive Officer periodically.

XII. PERIODIC REVIEW OF CORPORATE GOVERNANCE GUIDELINES

These Guidelines and the Company's other corporate governance policies shall be reviewed by the Governance and Nominating Committee and the Lead Director on a periodic basis, but not less than annually. Any recommended changes shall be submitted to the Board for consideration and approval.

XIII. DISCLOSURE OF CORPORATE GOVERNANCE GUIDELINES

The Company shall maintain, and update promptly, its investor relations Internet website to include these Guidelines, and its Audit, Compensation, and Governance and Nominating Committee Charters, and disclose in its annual proxy statement or annual report on Form 10-K that this information is available on the Company's website.

As Amended,
Effective February 28, 2012

Synovus Financial Corp. Corporate Governance Guidelines

Statement of Corporate Governance Philosophy

The role of the Board of Directors is to effectively govern the affairs of the Company for the benefit of its shareholders and other constituencies, which include the Company's employees, customers and the communities in which it does business. The Board will strive to ensure the success and continuity of the Company's business through the election of qualified management and through on-going oversight to assure the Company's activities are conducted in a legal, responsible and ethical manner.

1) Director Qualifications and Selection of New Director Candidates

The Corporate Governance and Nominating Committee has the responsibility of identifying, reviewing the qualifications of and recommending to the Board nominees for membership on the Board and reviewing and recommending with respect to any shareholder nominees. In discharging this responsibility, the Committee receives input from other Board members. In its review, the Committee considers such criteria and factors as:

- Whether the director/potential director possesses personal and professional integrity, sound judgment, forthrightness and has sufficient time and energy to devote to the affairs of the Company;
- Whether the director/potential director possesses a willingness to challenge and stimulate management and the ability to work as part of a team in an environment of trust;
- The extent of the director's/potential director's educational, business non-profit or professional acumen and experience;
- Whether the director/potential director assists in achieving a mix of Board members that represents a diversity of background, perspective and experience, including with respect to age, gender, race, place of residence and specialized experience;
- Whether an existing director has reached retirement age;
- Whether the director/potential director meets the independence requirements of the New York Stock Exchange Listing Standards;

- Whether the director/potential director has the financial acumen or other professional, educational or business experience relevant to an understanding of the Company's business;
- Whether the director/potential director would be considered a "financial expert" or "financially literate" as defined in the NYSE Listing Standards or applicable law;
- Whether the director/potential director, by virtue of particular technical expertise, experience or specialized skill relevant to the Company's current or future business, will add specific value as a Board member;
- The extent of the director's /potential director's ownership of shares of the Company or willingness to become an owner of shares consistent with the Company's Director Stock Ownership Guidelines;
- Whether the director/potential director is free from conflicts of interest with the Company; and
- Any factors related to the ability and willingness of a new director to serve, or an existing director to continue his/her service.

2) Board Independence

A majority of the Board of Directors will be directors that the Board of Directors has affirmatively determined meet the criteria for independence required by the NYSE and these Corporate Governance Guidelines.

A. Categorical Standards for Director Independence

The Corporate Governance and Nominating Committee will make recommendations to the Board annually as to the independence of directors as defined by the NYSE. To be considered independent under the NYSE Listing Standards, the Board must determine that a director does not have any direct or indirect material relationship with the Company. The Board has established the following standards to assist it in determining director independence. A director is not independent if:

- The director is, or has been within the last three years, an employee of the Company or an immediate family member is, or has been within the last three years, an executive officer of the Company.
- The director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than \$120,000 in direct compensation from the Company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided

such compensation is not contingent in any way on continued service). (Compensation received by an immediate family member for service as an employee of the Company (other than an executive officer) is not taken into consideration under this independence standard).

- (A) The director is a current partner or employee of a firm that is the Company's internal or external auditor; (B) the director has an immediate family member who is a current partner of such a firm; (C) the director has an immediate family member who is a current employee of such a firm and personally works on the Company's audit; or (D) the director or an immediate family member was within the last three years a partner or employee of such a firm and personally worked on the Company's audit within that time.
- The director or an immediate family member is, or has been within the last three years, employed as an executive officer of another company where any of the Company's present executive officers at the same time serves or served on that company's compensation committee.
- The director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company's consolidated gross revenues. (The principal amount of loans made by the Company to any director or immediate family member shall not be taken into consideration under this independence standard; however, interest payments or other fees paid in association with such loans would be considered payments.)

The following relationships will not be considered to be material relationships that would impair a director's independence:

- The director is a current employee, or an immediate family member of the director is a current executive officer, of a company that has made payments to, or received payments from, the Company for property or services (including financial services) in an amount which, in the prior fiscal year, is less than the greater of \$1 million, or 2% of such other company's consolidated gross revenues. (In the event this threshold is exceeded, and where applicable in the standards set forth below, the three year "look back" period referenced above will apply to future independence determinations).
- The director or an immediate family member of the director is a partner of a law firm that provides legal services to the Company and the fees paid to such law firm by the Company in the prior fiscal year were less than the greater of \$1 million, or 2% of the law firm's total revenues.
- The director or an immediate family member of the director is an executive officer of a tax exempt organization and the Company's contributions to the

organization in the prior fiscal year were less than the greater of \$1 million, or 2% of the organization's consolidated gross revenues.

- The director received less than \$120,000 in direct compensation from the Company during the prior twelve month period, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).
- The director's immediate family member received in his or her capacity as an employee of the Company (other than as an executive officer of the Company), less than \$250,000 in direct compensation from the Company in the prior fiscal year, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).
- The director or an immediate family member of the director has, directly, in his or her individual capacities, or, indirectly, in his or her capacity as the owner of an equity interest in a company of which he or she is not an employee, lending relationships, deposit relationships or other banking relationships (such as depository, trusts and estates, private banking, investment banking, investment management, custodial, securities brokerage, insurance, cash management and similar services) with the Company provided that:
 - 1) Such relationships are in the ordinary course of business of the Company and are on substantially the same terms as those prevailing at the time for comparable transactions with non-affiliated persons; and
 - 2) With respect to extensions of credit by the Company's subsidiaries:
 - (a) such extensions of credit have been made in compliance with applicable law, including Regulation O of the Board of Governors of the Federal Reserve, Sections 23A and 23B of the Federal Reserve Act and Section 13(k) of the Securities Exchange Act of 1934; and
 - (b) no event of default has occurred under the extension of credit.

For relationships not described above or otherwise not covered in the above examples, a majority of the Company's independent directors, after considering all of the relevant circumstances, may make a determination whether or not such relationship is material and whether the director may therefore be considered independent under the NYSE Listing Standards. The Company will explain the basis of any such determinations of independence in the next proxy statement.

For purposes of these independence standards an “immediate family member” includes a person’s spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person’s home.

For purposes of these independence standards “Company” includes any parent or subsidiary in a consolidated group with the Company.

B. Additional Criteria for Independent Audit Committee and Compensation Committee Members

In addition to being independent as determined under the Categorical Standards for Independence set forth in “A” above,

- members of the Audit Committee shall not (a) accept directly or indirectly any consulting, advisory, or other compensatory fee from the Company or any of its subsidiaries other than directors’ fees or (b) be an “affiliated person” of the Company or any of its subsidiaries, all as set forth in Rule 10A-3 promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”); and
- members of the Compensation Committee must qualify as “outside directors” as such term is defined under Section 162(m) of the Internal Revenue Code of 1986, as amended, and “non-employee directors” as such term is defined under Rule 16b-3 promulgated under the Exchange Act.

3) Size of Board

In accordance with the Company’s Bylaws, the Board shall consist of not less than 8 nor more than 25 members. It is the sense of the Board that this is the appropriate size range for the Board at the present time, allowing the Board to consider increasing or decreasing the size of the Board within this range if appropriate in the future to give the Board the flexibility to appoint interim directors during the periods between the Company’s Annual Meetings should outstanding candidates come to its attention.

4) Voting for Directors

In accordance with the Company's Bylaws, if none of the shareholders provides the Company notice of an intention to nominate one or more candidates to compete with the Board's nominees in a director election, or if the Company's shareholders have withdrawn all such nominations by the day before the Company mails its notice of meeting to its shareholders, a nominee must receive more votes cast for than against his or her election or re-election in order to be elected or re-elected to the Board. If any nominee for director does not receive the required vote for election or re-election, the Board expects such person to promptly tender his or her resignation following certification of the shareholder vote. The Board shall nominate for election or re-election as director only

candidates who agree to tender, promptly following such person's failure to receive the required vote for election or re-election at the next meeting at which such person would face election or re-election, an irrevocable resignation that will be effective upon board acceptance of such resignation. In addition, the Board shall fill director vacancies and new directorships only with candidates who agree to tender promptly following their appointment to the Board, the same form of resignation tendered by other directors in accordance with this corporate governance guideline.

The Corporate Governance and Nominating Committee will promptly consider the resignation offer and recommend to the Board whether to accept or reject it. In considering whether to accept the resignation, the Corporate Governance and Nominating Committee will consider all factors deemed relevant by members of the Corporate Governance and Nominating Committee.

The Board will act on the Corporate Governance and Nominating Committee's recommendation no later than 90 days following certification of the shareholder vote. In considering the Corporate Governance and Nominating Committee's recommendation, the Board will consider the factors considered by the Corporate Governance and Nominating Committee and such additional information and factors the Board believes to be relevant.

The Company will promptly disclose the Board's decision whether to accept the director's resignation offer in a Form 8-K filed with the Securities and Exchange Commission.

To the extent that one or more directors' resignations are accepted by the Board, the Corporate Governance and Nominating Committee will recommend to the Board whether to fill such vacancy or vacancies or to reduce the size of the Board.

Any director who tenders his or her resignation pursuant to this provision will not participate in the Corporate Governance and Nominating Committee recommendation or Board action regarding whether to accept the resignation offer.

If a majority of the members of the Corporate Governance and Nominating Committee did not receive the required vote for election or re-election at the same election, then the independent directors who did receive the required vote will appoint a committee amongst themselves to consider the resignation offers and recommend to the Board whether to accept or reject them. This Board committee may, but need not, consist of all of the independent directors who received the required vote for election or re-election or those independent directors who were not standing for election.

This corporate governance guideline will be summarized or included in each proxy statement relating to an election of directors of the Company.

5) Directors Who Change Their Job Responsibilities; Other Board Relationships

It is the sense of the Board that individual directors who change the job responsibility they held when they were elected to the Board should submit a letter of resignation for consideration by the Board. It is not the sense of the Board that in every instance the directors who retire or change from the position they held when they were elected to the Board should necessarily leave the Board. There should, however, be an opportunity for the Board, via the Corporate Governance and Nominating Committee, to review the continued appropriateness of Board membership under these circumstances. Directors should not serve on more than three other boards of publicly traded companies in addition to the Company's Board. Directors should also advise the Chairman of the Board and Chairman of the Corporate Governance and Nominating Committee in advance of accepting an invitation to serve on the board of another publicly traded company.

6) Term Limits

The Board does not believe it should establish term limits. While term limits could help ensure that there are fresh ideas and viewpoints available to the Board, they hold a disadvantage of losing the contribution of directors who have been able to develop, over a period of time, increasing insight into the Company and its operations, and therefore, provide an increasing contribution to the Board as a whole.

7) Retirement Age

It is the sense of the Board that the current retirement age of 72 is appropriate, with the point of determination being the age of the director on the day immediately preceding the date of the Company's annual shareholder meeting for any year. The Board may, from time to time, make an exception to this policy if appropriate to facilitate orderly succession planning of the Board or any Committee of the Board.

8) Selection of Chairman and Chief Executive Officer

The Board does not have a policy, one way or the other, on whether or not the role of the Chairman and Chief Executive Officer should be separate and, if it is to be separate, whether the Chairman should be selected from the non-employee directors or be an employee.

9) Lead Director

In the event the Chairman of the Board is not an independent director, as defined under the NYSE Listing Standards, the Corporate Governance and Nominating Committee will nominate an independent director to serve as a Lead Director, who shall be approved by a majority of the independent directors. The responsibilities of the Lead Director include:

- Building and maintaining a productive relationship with the Chief Executive Officer;
- Providing leadership to ensure the Board works in an independent, cohesive fashion;
- Working with the Chairman of the Board, Board and Corporate Secretary to set the agenda for Board Meetings;
- Having the authority to call meetings of the independent and non-management directors, as needed;
- Ensuring Board leadership in times of crisis;
- Developing the agenda for and chairing executive sessions of the independent directors and executive sessions of the non-management directors;
- Acting as liaison between the independent directors and the Chairman of the Board on matters raised in such sessions;
- Chairing Board meetings when the Chairman of the Board is not in attendance;
- Attending meetings of the committees of the Board, as necessary or at his/her discretion, and communicating regularly with the Chairs of the principal standing committees of the Board;
- Working with the Chairman of the Board to ensure the conduct of the Board meeting provides adequate time for serious discussion of appropriate issues and that appropriate information is made available to Board members on a timely basis;
- Performing such other duties as may be requested from time-to-time by the Board, the independent directors or the Chairman of the Board; and
- Availability, upon request, for consultation and direct communication with major shareholders.

10) Executive Sessions of Directors

The Board will meet in executive session at least eight times a year after regularly scheduled Board meeting and at such other times as may be requested by the Chairman of the Board or any director, from which all employees of the Company, other than employees who also serve as directors, will be excluded. The session will be presided over by the Chairman of the Board.

11) Executive Sessions of Non-Management Directors

Non-management directors of the Board will meet in executive session at least eight times a year after regularly scheduled Board meeting and at such other times as may be requested by any non-management director. Matters relating to CEO compensation, management development and succession planning and other more sensitive areas are discussed at these sessions. The session will be presided over by the Lead Director, or in the event the Chairman of the Board is independent, by the Chairman of the Board.

12) Executive Sessions of Independent Directors

Independent directors of the Board will meet in executive session at least once a year. The session will be presided over by the Lead Director, or in the event the Chairman of the Board is independent, by the Chairman of the Board.

13) Number and Independence of Committees; Availability of Committee Charters

The current committee structure of the Company seems appropriate. There will, from time to time, be occasions on which the Board may want to form a new committee or disband a current committee depending upon the circumstances. The current principal five committees are Audit, Compensation, Corporate Governance and Nominating, Risk and Executive. All committee charters are available on the Company's website. Except for the Executive Committee, committee membership will consist of only independent directors. The Executive Committee will be comprised of (1) Chairpersons of the principal standing committees of the Board of Directors and the Board of Directors of Synovus Bank, (2) the Chief Executive Officer of the Company, (3) the Chairman of the Board, if different from the Chief Executive Officer, and (4) the Lead Director. The Chief Executive Officer shall serve as Committee Chair.

14) Assignment and Removal of Committee Members; Operation of Committees

The Board is responsible, after taking into consideration the recommendation of the Corporate Governance and Nominating Committee and with consideration of the desires of individual Board members, for the assignment of Board members to various committees and removing Board members from committees.

Generally, the Audit, Compensation and Corporate Governance and Nominating Committees meet quarterly in conjunction with the regular meetings of the full Board. The Executive Committee meets on an as-needed basis. Additional meetings of the Audit Committee are held in conjunction with the filing of the Company's periodic reports with the Securities and Exchange Commission. Additional meetings of all committees are held if circumstances create the need for a special meeting. The Committee Chairs report the highlights of their meetings to the full Board following each meeting of the respective committees.

15) Management and Director Responsibilities

The Company's business is conducted by its employees and officers, under the direction of the Chief Executive Officer and the oversight of the Board, to enhance the long-term value of the Company for its shareholders. The Board of Directors is elected by the shareholders to oversee management and to assure that the long-term interests of the shareholders are being served. In addition to its general oversight of management, the Board also performs a number of specific functions, including, but not limited to:

- Providing counsel and oversight on the selection, evaluation, development and compensation of the Chief Executive Officer and executive management and overseeing Chief Executive Officer succession planning;
- Reviewing, approving and monitoring fundamental financial and business strategies and major corporate actions;
- Providing oversight of the Company's risk management processes, including receipt of reports from the Chief Risk Officer and the assessment of major risks facing the Company and reviewing options for their mitigation; and
- Providing oversight to ensure that processes are in place for maintaining the integrity of the Company, including the integrity of the financial statements, the integrity of compliance with law and ethics and the integrity of relationships with customers and shareholders.

16) Board Meetings

The Board has eight scheduled Board meetings a year. Additional meetings are held if circumstances create the need for a special meeting. Directors are expected to attend all scheduled Board and Committee meetings. The Chairman of the Board will establish the agenda for each Board meeting after consultation with the Chief Executive Officer and the Lead Director. Each Board member is free to suggest the inclusion of item(s) on the agenda.

17) Board Materials Distribution and Review

The Board is provided with materials in advance of each meeting that Board members are expected to review and study. Members of management, depending upon items to be considered at the meeting, compile most material. Additional information from other sources can be requested at the discretion of management or the Board. Sensitive subject matters may be discussed at the meeting without written materials being distributed in advance or at the meeting.

18) Board Access to Management

Directors shall have access to members of the Company's management. Selected members of management of the Company may attend all or a portion of each Board meeting at the invitation of the Board.

19) Director Compensation

The Corporate Governance and Nominating Committee will be responsible for recommending to the Board compensation and benefit programs for directors and for periodically reviewing the appropriateness of such programs. In making this recommendation, the Committee will take into consideration compensation paid to directors at corporations that are comparable to the Company. In addition to fees paid for attendance at Board and Committee meetings, a portion of the director's compensation may be in the form of cash retainers and a portion may be in the form of equity. Directors will be permitted to defer the receipt of their cash compensation. The structure of the compensation of directors should be transparent and easy for shareholders to understand.

20) Assessing Board Performance

The Corporate Governance and Nominating Committee is responsible for overseeing the process of conducting an annual evaluation of the performance of the Board, including an evaluation of the Audit Committee, Compensation Committee and Corporate Governance and Nominating Committee. Each Committee will conduct its own evaluation and each Committee Chair will report the performance evaluation results to the Board. The Chair of the Corporate Governance and Nominating Committee will report the performance evaluation results of the Board to the Board.

21) CEO Performance Review

The Corporate Governance and Nominating Committee has the responsibility of ensuring that the Compensation Committee has in place performance measures and objectives to be used to evaluate Chief Executive Officer performance. The Compensation Committee has the responsibility of performing the annual evaluation of Chief Executive Officer performance and reporting it to an executive session of non-management directors. The Compensation Committee uses its evaluation results in the course of its deliberations when considering the compensation of the Chief Executive Officer.

22) Succession Planning and Management Development

The Chief Executive Officer will discuss with the non-management directors in executive session, no less frequently than on an annual basis, the Company's management development and executive succession activities. There should be available to the Lead Director, or in the event the Chairman of the Board is independent, to the Chairman of

the Board, the Chief Executive Officer's recommendation as a successor in the event of an emergency or his or her disability.

23) Access to Outside Advisors

The Board and its Committees shall have the right to retain independent outside financial, legal or other advisors at the expense of the Company.

24) Stock Ownership Guidelines

Each director should have a substantial investment in the Company. A holding of a number of shares of Company stock equal in value to three times the amount of a director's annual retainer is recommended for each director. Directors will have five years to attain their total share ownership threshold and should attain a share ownership threshold of one times the amount of a director's annual retainer within three years.

25) Director Orientation and Continuing Education

All new directors will be provided with an orientation process to enable them to become familiar with the Company's vision, strategic direction, core values, financial matters, corporate governance practices and other key policies and practices through a review of background material, meetings with senior management and visits to the Company's facilities. The Board also recognizes the importance of continuing education for its directors and is committed to providing such education through continuing educational programs including reviewing the Company's strategic plans, its key policies and practices, its financial statements and other materials on subjects that would assist directors in discharging their duties. The Company will reimburse each director for up to \$5,000 per year for tuition and reasonable travel expenses incurred in connection with attendance at a director education seminar provided by a third-party vendor.

26) Ethics and Conflicts of Interest

The Board expects the Company's directors as well as officers and employees to act ethically at all times and to adhere to the Company's Code of Business Conduct and Ethics. If an actual or potential conflict of interest arises for a director, the director shall promptly notify the General Counsel's Office. If a significant conflict exists and cannot be resolved the director should resign. All directors shall recuse themselves from discussion or decisions affecting their business or personal interests.

27) Reporting of Concerns to Non-Management Directors or the Audit Committee

Anyone who has a concern about the Company's conduct, or about the Company's accounting, internal accounting controls or auditing matters, may communicate that concern to the non-management directors through the Lead Director, or in the event the Chairman of the Board is independent, through the Chairman of the Board, or to the Audit Committee through the Committee Chair. Such communications may be confidential or anonymous, and may be submitted in writing or reported by phone to a special address and a toll-free phone number that are published on the Company's website. Concerns relating to accounting, internal accounting controls or auditing matters will be forwarded to the Chair of the Audit Committee. Other concerns will be forwarded to the Lead Director, or in the event the Chairman of the Board is independent, to the Chairman of the Board. The Company's Code of Business Conduct and Ethics prohibits the Company and any of its employees from retaliating against employees and officers for raising a concern.