
MEMORANDUM

March 28, 2007

To: Brian Cartwright
Kristine Chadwick
Conrad Hewitt
John White

From: Walter Stachnik



Re: Audit of Full Disclosure Program's Staff Interpretive Guidance
Process (Audit No. 416)

Attached is our audit report on the Full Disclosure Program's Staff Interpretive Guidance process. Your comments on the draft report have been incorporated as appropriate.

We would appreciate receiving any additional comments you have concerning this audit and the report. In particular, we would like to know whether you found the audit useful. We also welcome any suggestions from you concerning how we could improve future audits.

The courtesy and cooperation of you and your staff during this audit are appreciated.

Attachment

cc: Ed Bailey
Corey Booth
Bob Burns
Alex Cohen
Martin Dunn
Dave Frederickson
Richard Hillman
James Kroeker
Bill Lennox
Meredith Mitchell
Nancy Morris
Shelly Luisi
David Lynn
Zoe-Vonna Palmrose
Darlene Pryor
Diego Tomas Ruiz
Carol Stacey
Peter Uhlmann
Other staff who participated in the audit

FULL DISCLOSURE INTERPRETIVE GUIDANCE

EXECUTIVE SUMMARY

We reviewed the Division of Corporation Finance's and the Office of the Chief Accountant's staff interpretive guidance process (i.e., preparing, reviewing, tracking, issuing, and reporting). They are responsible for the Full Disclosure program.

We identified a number of possible improvements to the process. Our recommendations concern Staff Accounting Bulletins, disclosure of staff guidance, workload reporting, timeliness, management reports, file documentation, policies and procedures for answering requests, and speech approvals.

Commission management generally concurred with our recommendations. Written comments from management are attached in Appendix A.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objective was to determine if improvements could be made to the Full Disclosure program's staff interpretive guidance (SIG) process. We also evaluated implementation of the recommendations in the Government Accountability Office's (GAO) report (number 01-718, dated June 2001 "Reviews of Accounting Matters Related to Public Filings") regarding guidance from the Office of the Chief Accountant (OCA).

Our audit scope included several types of staff interpretive guidance, as described in the Background section. The audit emphasized guidance given to specific requestors because this is more common than guidance given to everyone (i.e., public guidance). Because informal (e.g., telephone) requests are not generally documented, we focused on formal (written) requests. Appendix B contains additional information regarding our audit scope.

To identify possible improvements involving formal requests, we reviewed internal controls and the extent of compliance with existing procedures and considered whether any additional procedures were needed.¹ However, we are not expressing an opinion on the procedures because we only reviewed a limited number of formal

¹ In this report, there is little distinction between internal controls and procedures. Therefore, the term "procedures" will include both concepts.

requests. Also, our ability to evaluate compliance with procedures was limited because:

- The files do not necessarily indicate compliance with procedures because the files are created and maintained to document the substance of the issues, the analysis followed, and the conclusion reached; and
- Some procedures are not applicable for each formal request.

Our methodology included interviews and surveys of Commission staff, review of supporting documentation (*e.g.*, the files containing the request and response), and analysis of management reports, among other procedures. Appendix C describes the audit samples we used.

The audit was performed from March 2006 to January 2007. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

Requestor Specific Guidance

The Division of Corporation Finance (CF) and OCA staff provide interpretive guidance on the Full Disclosure program upon request. Requests are typically from an issuer, an accounting firm, a law firm, a member of the public, or another Commission office.

Requests may be formal or informal. The staff requires a formal written request when the staff's answer will depend on the specific facts and circumstances involved.

The staff's response to formal requests may be either written or verbal, while informal requests receive verbal responses. OCA almost always responds orally to formal requests because of its limited staff resources. Also, it wishes limited reliance placed on the guidance. However, the requestor can submit a letter summarizing the staff's oral response. OCA will review the letter and provide comments, as appropriate.

Written responses consist of interpretive and No-Action letters.² Interpretive letters interpret a statute, rule, or regulation in the context of a specific fact pattern. No-Action letters provide assurance to the requestor that the staff will not recommend an enforcement action based on the facts described. The facts must be as represented by the requestor, and the requestor must act in accordance with the representations, if it is to rely on the assurance in the letter.

² In this report, the term "letter" includes interpretive and No-Action letters, unless otherwise stated.

Public Guidance

Besides answering specific requests, CF and OCA staff also issue guidance to the public. Public guidance is provided when the staff receive similar requests from numerous requestors, become aware of an inconsistent industry practice, or anticipate questions arising after the issuance of a new rule. Public guidance includes Staff Accounting Bulletins (SAB), Staff Legal Bulletins (SLB), Staff Letters to Industry, speeches, and FAQ (frequently asked questions) issuances.

Legal Issues

Guidance provided by the staff is by definition not approved by the Commission. Accordingly, such guidance is not subject to the Administrative Procedure Act (APA), as it is not final agency action. The APA sets forth the basic procedural requirements for agency rulemaking.

Staff guidance interprets and explains existing rules, rather than creating new rules. Any rulemaking would require Commission action and be subject to the procedural requirements of the APA (*e.g.*, public notice and comment).

The Commission either on its own initiative or pursuant to an appeal can revoke, modify, or adopt staff interpretive guidance. While staff guidance lacks the authority of a Commission issuance, it can nonetheless have a significant impact on company practices.

Staffing

Within the Full Disclosure program, most interpretive guidance is issued by four groups that range from four to fifteen staff. Two of these groups are in CF and two are in OCA, as described below:

- Office of Chief Counsel within CF (OCC-CF). Guidance issued by this office involves the registration and reporting provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939, as well as whether companies may exclude a shareholder proposal from its annual proxy statement (17 CFR §240.14a-8). Companies seeking to exclude a shareholder proposal must provide a justification. OCC-CF issues a No-Action letter either granting or denying the company's request covering a shareholder proposal.
- Office of the Chief Accountant within CF (OCA-CF). This office provides guidance on Commission rules and regulations related to financial reporting, such as Regulation S-X (17 CFR §210), except for the sections involving auditor independence in Rule 210.2-01 (this describes auditor qualifications).
- Office of the Chief Accountant's Independence Group (OCA-IG). This group provides guidance on external auditor qualifications and independence (Rule 210.2-01 of 17 CFR §210).
- Office of the Chief Accountant's Accounting Group (OCA-AG). This group provides guidance on Generally Accepted Accounting Principles (GAAP)

issued by authoritative private sector organizations, such as the Financial Accounting Standards Board (FASB) and its Emerging Issues Task Force.

In addition to its permanent interpretive guidance staff, CF annually establishes a task force of approximately seventeen CF staff to process the peak season (December to February) of shareholder proposal requests. This peak season occurs during the period when most companies file their annual reports on Form 10-K and related proxy statements. Based on CF data, approximately eighty-one percent of shareholder proposals were submitted during the peak seasons in fiscal years 2004 and 2005.

Workload

The Commission's fiscal year 2007 budget request indicated that in fiscal year 2005, CF answered 1,310 formal requests for interpretive guidance, of which 450 were shareholder proposals. CF also answered 32,500 informal requests (*e.g.*, telephone calls). OCA answered 360 formal and 3,500 informal requests. OCA also provided advice to Enforcement staff on 340 enforcement matters.

In the Audit Results section, we discuss the timeliness of the staff's interpretive guidance.

AUDIT RESULTS

We found that the process for issuing staff interpretive guidance in the Full Disclosure program can be improved. Our specific findings and recommendations are described below.

STAFF ACCOUNTING BULLETINS

OCA and CF began issuing SABs in 1975 to improve dissemination of its accounting interpretations. They have issued 108 SABs (not including amendments); fifteen SABs have been issued since April 1995.

They send draft SABs throughout the Commission for comment, including the Commissioners' legal assistants. The legal assistants receive the copies (as opposed to the Commissioners directly).

17 CFR §202.1(d) states that the staff "will generally present questions to the Commission which involve matters of substantial importance and where the issues are novel or highly complex..." However, because of the involvement (*i.e.*, providing comments) of the Commissioners in developing the SABs (albeit through their assistants), in some circumstances the current process potentially could lead to concerns that SABs represent final agency actions. In one instance, a SAB was not issued for several months because of substantive concerns raised by one Commissioner.

Final actions trigger the requirements of the APA and generally occur when an agency has consummated all action necessary to complete an action that determines

legal consequences. The APA requirements could also be triggered if the SABs were to be viewed as rule-making, rather than as an interpretation of existing rules.

According to the Office of the General Counsel (OGC), it is desirable for the Commissioners to have the opportunity to review a SAB to make sure that the staff is not engaging in de facto rulemaking and to evaluate whether the Commission wants to take up the matter and instead issue a Commission final action in the area.

Recommendation A

OCA should obtain advice from OGC on ensuring that the SAB process is properly structured under the APA. Depending on the results of OGC's advice, OCA in consultation with the applicable divisions and offices, should modify the process accordingly.

Recommendation B

OGC, depending on the results of the advice (see Recommendation A), should review the processes for other types of non-requestor specific interpretive guidance (e.g., SLB) issued throughout the Commission. If OGC has compliance concerns, it should notify the affected divisions and offices so that the processes are modified accordingly.

DISCLOSURE OF SHAREHOLDER PROPOSAL GUIDANCE

As described in the Background section, a company seeking to exclude a shareholder proposal from its annual proxy statement receives a No-Action letter either granting or denying the company's request.

After CF issues a No-Action letter, it sends the request package (i.e., the request and the staff letter) to the Public Reference Office. These documents are also available from research services (e.g., LexisNexis).

The Commission's website indicates that letters issued after January 2002 will be posted on the Commission's website.³ However, the posting is not being done currently for shareholder proposals. Posting of the letters would enhance public dissemination of information and the E-Government Act of 2002 (Public Law 107-347).

Recommendation C

CF, in consultation with the Office of the Secretary (OS), should consider posting shareholder proposal No-Action letters on the Commission's website.

According to CF, posting these letters in a timely manner would require additional staffing.

³ <http://www.sec.gov/divisions/corpfin/cf-noaction.shtml>.

WORKLOAD REPORTING

The Commission's annual Congressional budget requests include workload data from CF and OCA. However, as described below, we identified several issues involving the reporting of the workload data.

CF

We were unable to readily reconcile CF's interpretive guidance workload data for non-shareholder proposals between its management reports and the information provided in the Commission's annual budget request. Based on discussions with CF, the problem is due to some human errors and other possible reasons. The passage of time and the number of individuals involved in compiling the data make this reconciliation more difficult and time consuming.

Recommendation D

CF should review its process for reporting workload data for non-shareholder proposals in budget requests. The process should be documented and auditable.

OCA

OCA reports the number of formal requests for guidance answered by its Independence and Accounting Groups. This number includes requests answered from accounting firms and issuers, as well as an estimate of requests answered from Commission staff not assigned to the Enforcement program. Also reported is an estimate of the number of informal requests answered. OCA does not have adequate documentation to support the estimated portion of the reported workload data.

Recommendation E

OCA should consider improving its workload reporting in budget requests (e.g., disclosing that its workload data contain estimates, not including the estimates in its workload data, or improving its documentation regarding the estimated work).

TIMELINESS

Meeting Goals

As described below, CF has time goals for issuing interpretive guidance. Where possible, we evaluated its workload data (see Appendix C, Section I):

- As described in the Background section, companies seeking to exclude a shareholder proposal must provide a justification. OCC-CF issues a No-Action letter either granting or denying the company's request covering a shareholder proposal.

OCC-CF has a goal of acting on company requests to exclude shareholder proposals sufficiently in advance of the time a company is required to file its definitive proxy statement materials and the printing and distribution of the proxy statement to investors. CF believes that it is meeting this requirement. We were unable to readily evaluate this assertion because companies are not required to inform the Commission when they intend to print the proxy statement.

- OCC-CF's goal for other requests is to issue initial comments within thirty days of receipt of the letter. It is meeting this goal about fifty percent of the time, due to novel and complex requests and workload issues (*e.g.*, the shareholder proposal peak season). We found OCC-CF's explanation to be reasonable. Therefore, we are not making any recommendations related to this issue.
- OCA-CF has a goal of answering formal requests within ten days. It is meeting this goal about seventy-one percent of the time.

OCA has established an internal goal of providing non-Commission staff with an oral response within two to three weeks. We were unable to readily evaluate whether this goal is being achieved because of missing data and the lack of management reports (these issues are discussed below). According to recent OCA data (which was not audited) and discussions with senior management, OCA currently appears to be generally meeting this goal.

Reporting Goals

The Commission's annual Performance and Accountability Report (PAR),⁴ uses different time goals for measuring CF's performance than CF uses internally (see section above "Meeting Goals"). The PAR uses six months as the time goal and it combines data from CF and other Commission divisions. In addition, the PAR does not include CF requests which are answered orally. OCA's SIG work is excluded from the PAR.

In addition, the Commission's internal management report (Dashboard) contains different timeliness goals for CF than the goals that are cited by the PAR or used internally by CF.

Recommendation F

The Office of Financial Management, in consultation with CF and OCA, should consider revising the PAR with respect to interpretive guidance data (*e.g.*, setting consistent CF time goals, including oral responses given by CF, and including OCA's work) in the PAR.

⁴ Exhibit 2.6 (of the 2006 PAR) discusses the Commission's time goals for issuing letters and contains language related to public disclosure.

Recommendation G

CF, in consultation with the Office of the Executive Director, should consider revising the timeliness measures in its Dashboard report to make them consistent with its internal time goals.

MANAGEMENT REPORTS

CF and OCA manage their interpretive guidance workload using management reports from Access databases or Word files. As discussed below, we identified several issues.

OCC-CF Database for Non-Shareholder Proposals

Many times, the requestor's initial request is denied. OCC-CF opens a new matter in its database if a revised request is submitted. According to OCC-CF data, OCC-CF answered 235 requests in fiscal year 2005. We estimate that at least twenty percent of these requests were resubmissions.

OCC-CF attempts to link the original and revised requests in its database and workload reports. However, it believes the database needs improvement linking resubmissions to the original requests. The Office of Information Technology (OIT), through its Walk-In Development Center (WIDC), may be able to help OCC-CF improve the database.

Recommendation H

CF, in consultation with OIT and the WIDC, should consider possible improvements to its database regarding linking resubmissions to the original request. Depending on whether (and what) improvements are made, CF should consider disclosing its reporting methodology when reporting workload data in future budget requests.

OCA-AG Computer System

OCA-AG does not use management reports with detailed information on formal requests because these reports have not been needed to manage its workload. However, OCA-AG tracks overall trends (including response timeliness, whether the requestor was a registrant, and request topics), and monitors pending requests.

In consultation with OIT, OCA is obtaining a new web-based computer system. The system is expected to improve monitoring of work assignments and may allow direct electronic submission of requests. It will also allow the staff's conclusion memoranda regarding the request and other documents to be downloaded, thus aiding staff research.

OCA- IG Request Numbers

OCA assigns a request number to each formal request for interpretive guidance. However, this number does not appear in its management report. As a result, specific requests are difficult to locate in the report.

We also found requests which were not recorded in the report. OCA-IG indicated that when it created the report on about May 2005, it tried to include prior requests. Apparently, some requests were missed. Including the request number in the report could help identify unrecorded requests.

Recommendation I

OCA should add the interpretive request number to its management report.

Tracking OCA Conclusion Memoranda

OCA staff are expected to prepare a conclusion memorandum⁵ within ten business days of providing the oral response. OCA-AG indicated that it is not achieving this goal because of insufficient staff. As a result of many staff departures (and the inability until recently to replace staff because of budgetary reasons), it has had limited time available to draft these memoranda.

OCA-IG does not track the goal in its management report. It believes that it is generally preparing conclusion memoranda timely. However, we were not able to evaluate its compliance with the goal, based on the information in its files.

Recommendation J

OCA should include the elapsed time to prepare and approve the conclusion memorandum in OCA-IG's report.⁶

Missing Data for CF and OCA

CF and OCA-IG provided us with management reports generated from their Access databases and Word files. The reports contained several instances of missing data. It appears that the missing data were mainly caused by human error, the creation of the report for OCA-IG (as discussed above), and certain data fields that were no longer relevant.

Recommendation K

CF should remind its staff to record all required data in its Access databases containing guidance request information. It should delete any unnecessary data fields.

⁵ OCA-IG primarily relies on a separate document (*i.e.*, the Standard Consultation form) to summarize the guidance request.

⁶ We are not making a recommendation regarding OCA-AG because it does not have a similar report (as previously discussed). In addition, it recently received approval to hire new staff, which should improve the timeliness of its conclusion memoranda.

Recommendation L

OCA should remind its staff to record all required data in its Access databases and Word files containing guidance request information.

FILE DOCUMENTATION

We reviewed a sample of formal requests processed by CF and OCA (see Appendix C, Section II). The files are created and maintained to document the substance of the issue, the analysis followed, and the conclusion reached, but do not necessarily indicate whether the required processing steps were performed.

The files generally documented the substance of the issue, the analysis followed, and the conclusion reached, but they occasionally lacked relevant documents (*e.g.*, CF screening sheets or correspondence).

OCA has developed a checklist to document compliance with some of its procedures. OCA-IG also uses the Standard Consultation form to help ensure that key steps are addressed. The checklist can also be used to help ensure that the files contain appropriate documentation. CF does not use a checklist.

Recommendation M

CF should create a process (*e.g.*, a checklist) for formal guidance requests to help ensure that all significant procedures are followed and appropriate documentation is obtained.

Recommendation N

OCA should consider expanding the checklist for OCA-AG to help ensure that all significant procedures are followed and appropriate documentation is obtained.

POLICIES AND PROCEDURES FOR ANSWERING REQUESTS

GAO Recommendations

In June 2001, GAO recommended that OCA provide the public with additional information regarding OCA's policies and procedures for handling registrant matters (GAO report number 01-718). In addition, it recommended that OCA should discuss several issues with the representatives of the accounting profession and registrants. We found that OCA generally implemented GAO's recommendations.

CF Guidance

CF has provided information (*i.e.*, SLB 14 and the subsequent amendments) on the Commission's website⁷ regarding shareholder proposal requests. Releases (*i.e.*, Nos. 33-6253 and 33-6269) regarding non-shareholder proposals are not posted on the Commission's website. Also, the releases may be outdated, since they were issued in 1980.

Several CF staff stated that providing guidance information on the website would be beneficial. The guidance should cover the format of the request, the information required, EDGAR filing requirements, time frames for responding, the research that requestors should perform, and the topics appropriate for guidance.

Recommendation O

CF, in consultation with OS, should determine whether the interpretive guidance releases (discussed above) need updating, and post the releases on the Commission's website.

EDGAR Uploads

According to OCA-CF's procedures,⁸ OCA-CF's letter to the requestor should be uploaded to the non-public section of EDGAR,⁹ unless the request involves an Initial Public Offering. Uploading helps provide a complete history of issues involving the company.

During our review of the files, we identified a few instances where the uploading was not performed because of an apparent oversight. According to CF, this issue is mitigated because CF staff have access to OCA-CF's database which can identify requests, and OCA-CF maintains paper files regarding the request.

Recommendation P

CF should remind its OCA staff to upload guidance response letters to the non-public section of EDGAR, and periodically verify that the uploading has occurred.

Modify Procedures

We identified several procedures for interpretive guidance that CF and OCA should consider formalizing, as discussed below:

- CF's and OCA's procedures do not mention checking whether a preliminary inquiry or investigation involving the requestor is ongoing, although OCA-IG's Standard Consultation form includes this step. Based on our review of

⁷ <http://www.sec.gov/interps/legal.shtml>.

⁸ Prior to our audit, OCA-CF did not have written procedures because its process is relatively simple and straightforward. OCA-CF documented its procedures during our audit.

⁹ EDGAR is used by public companies to submit their filings. The non-public section of EDGAR contains documents involving filing reviews.

the files, we were unable in many instances to determine whether this step was performed (see Recommendations M & N). CF and OCA believe that its staff do check the appropriate Commission database (known as NRSI).

- OCC-CF's procedures for both shareholder and non-shareholder proposals do not indicate whether the request package should be uploaded to the non-public section of EDGAR. OCC-CF believes that uploading the request package would be useful.

Recommendation Q

CF should modify its formal request procedures as discussed above.

Recommendation R

OCA should modify OCA-AG's formal request procedures as discussed above.

SPEECH APPROVALS

Commission staff (including senior management) provide interpretive guidance through speeches at Commission or industry conferences, training sessions, and other venues. Speeches (and articles for publication, etc.) must be approved (*i.e.*, cleared) by OGC before being given or published.

Under Commission procedures, the draft speech is sent to the Ethics Office within OGC. The Ethics Office records information about the speech into a database, and then forwards it to OGC's Legal Policy section.

Staff in Legal Policy review the speech, advise the speaker of any necessary changes, and then approve the speech. Legal Policy sends a clearance memorandum and other documentation to the Ethics Office, which maintains a file for each speech.

We reviewed a sample of ten speeches (see Appendix C, Section III) and found several instances of non-compliance with required procedures:

- Three speeches were submitted late to the Ethics Office (less than thirty days before the event), without adequate justification.
- Six speeches were not recorded by the Ethics Office in its database at the beginning of the clearance process.¹⁰ Four of these six speeches were not received by Ethics, and thus were not recorded; the speech givers contacted Legal Policy directly or did not have the speech cleared until after it was given (see next bullet). Two of these six speeches were also not recorded by Ethics, through apparent oversight.
- Three speeches were apparently not properly reviewed in accordance with the required process procedures because the formal Legal Policy review occurred after the speech was given (as explained in OGC's response below).

¹⁰ In two instances, Ethics subsequently learned about the speech and recorded the information in their database. This occurred prior to our audit.

- The file or relevant documentation maintained by Ethics was missing for five speeches.

In March 2006, Ethics sent a reminder to all Commission staff regarding the speech clearance process. However, additional steps to improve the clearance process appear appropriate.

Recommendation S

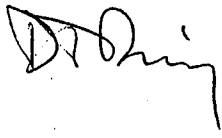
OGC should review its existing clearance process procedures to determine whether any changes should be made. In addition, it should take steps to help ensure compliance with the procedures. For instance, the Ethics Office could periodically check its database and file documentation for completeness.

Overall, OGC concurred with our assessment. It stated that its ability to comply with the existing procedures is dependent on non-OGC staff complying with the requirements. For instance, a possible reason why the three speeches described above were not formally reviewed, is that Legal Policy sometimes does not have the time (*e.g.*, because the speech is not submitted timely) to conduct a formal review; instead it provides an informal review before the speech is given. OGC believes that an informal review is preferable to not reviewing the speech at all before it is given.

We believe that OGC's explanation is reasonable. As a result, we have modified our original recommendation accordingly.

APPENDIX A

MEMORANDUM

TO: Walt Stachnik, Inspector General
FROM: Diego T. Ruiz, Executive Director 
DATE: March 23, 2007
RE: Draft Audit Entitled "Full Disclosure Interpretive Guidance"

Thank you for the opportunity to comment upon your Office's draft audit entitled "Full Disclosure Interpretive Guidance." In particular, I was pleased that you focused on the performance metrics used to gauge the timeliness of these important activities.

The draft report recommends that the Office of Financial Management, in consultation with the Division of Corporation Finance (CF) and the Office of the Chief Accountant, should consider revising the Performance and Accountability Report with respect to interpretive guidance data. In addition, the report recommends that CF, in consultation with the Office of the Executive Director, should consider revising the timeliness measures in the dashboard report to make them consistent with the Division's internal time goals.

I concur with these recommendations and will implement them as we continue to improve the quality of the agency's performance metrics in the Commission's PAR and other reports. The SEC is currently working to revise its performance metrics as part of the process of updating its long-range strategic plan. Any changes then would be reflected in the agency's annual performance documents and internal dashboard reports. The draft audit recommendations discussed above will be addressed as part of this process.

Thank you for your attention to this important topic.

APPENDIX B

Audit Scope

Besides the explanation in the text of the report, our audit scope was limited as follows:

- The accuracy or policy implications of the guidance provided was not reviewed.
- Guidance provided by the Investor Education and Assistance program (*i.e.*, by the Office of Investor Education and Assistance and the investor specialists in the field offices) on routine matters was not reviewed.
- The processing of Confidential Treatment Requests (CTR) was not reviewed. Sometimes, requestors file a CTR to delay the disclosure of sensitive information. This topic will be considered for future audit planning.
- We did not review staff Congressional testimony because such testimony occurs infrequently.
- Our review of the speech clearance process was limited to assessing compliance with procedures. We did not review the effectiveness or efficiency of the process.
- Limited audit work was performed on guidance provided by the CF Offices of International Corporate Finance, Mergers and Acquisitions, and Small Business. They routinely answer informal requests, but answer relatively few formal requests annually.
- Limited audit work was performed on OCA's process for providing guidance to the Enforcement program (*i.e.*, the Division of Enforcement and the Enforcement staff in the field offices) on issues that arise during preliminary inquiries and investigations.
- Limited audit work was performed on OCA's process for providing guidance to the Division of Investment Management. These situations are typically requestor specific involving filing submissions and reviews.
- We did not review OCA's role in providing input to the accounting and auditing standard setters (*e.g.*, the Financial Accounting Standards Board, the Public Company Accounting Oversight Board, and Emerging Issues Task Force). This topic will be considered for future audit planning.

APPENDIX C

I. Sample Used for Timeliness of CF Staff Interpretive Guidance

- OCC-CF non-shareholder proposals: We reviewed requests answered during fiscal year 2005. We selected this fiscal year because we believe it is representative of CF's work. We obtained the list of answered non-shareholder requests from a report created from OCC-CF's Access database. According to the report, OCC-CF answered 235 requests. We excluded two responses because of data issues.
- OCA-CF: We reviewed requests answered during fiscal years 2004 and 2005. We selected these fiscal years because we believe they are representative of CF's work. We obtained the list of requests answered from a report created from OCA-CF's Access database. According to the report, OCA-CF answered approximately 1,103 requests. We excluded 170 responses because of missing data, and twelve responses for data reliability issues. As a result, our analysis was based on 921 responses.

II. Sample Used for the Selection of Files

Given the limited number of files we reviewed and our judgmental selection process, we did not intend the results of our audit samples to be projected to the universe of formal requests answered.

- OCC-CF shareholder proposals: We judgmentally selected ten requests that were answered during fiscal years 2004 and 2005. We selected these fiscal years because we believe they are representative of CF's work. The list of answered shareholder proposals was obtained from a report created from OCC-CF's Access database. We excluded requests which:
 - were withdrawn prior to the staff issuing a decision (ninety-one instances); or
 - sought reconsideration and/or an appeal of a previously issued decision (ninety-five instances).

We selected ten responses from a total of 725 responses.

- OCC-CF non-shareholder proposals: We judgmentally selected ten requests that were answered during fiscal year 2005. See Section I above for additional sampling information.
- OCA-CF: We judgmentally selected ten requests that were answered in writing during fiscal years 2004 and 2005. We selected these fiscal years because we believe they are

representative of CF's work. We obtained the list of written responses from a report created from OCA-CF's Access database. According to the report, OCA-CF answered 649 requests in writing.

- OCA-IG: We judgmentally selected ten requests that were answered during fiscal years 2004 and 2005. We selected these fiscal years because we believe they are representative of OCA-IG's work. We obtained the report from a Word file. Based on the report, we estimated that sixty-four requests were answered. As previously discussed, the Word file contained data issues.
- OCA-AG: As previously discussed; OCA-AG did not have a management report. As a result, OCA-AG created a list of some recently answered requests from non-Commission staff. According to OCA-AG, in fiscal year 2005 it received approximately 115 requests from non-Commission staff. We judgmentally selected ten requests from the list.

III. Sample Used for Approving Speeches

We judgmentally selected ten speeches given by CF and OCA staff during fiscal years 2004, 2005, and 2006. We selected this time period because we believe it is representative. We selected the speeches from the Commission's website. Approximately seventy speeches from Full Disclosure staff were on the website for these fiscal years. Given the limited number of speeches reviewed and the judgmental selection process, we did not intend the results of this audit sample to be projected upon the universe of speeches.