

December 12, 2014

Division of Corporation Finance
Attn: Elizabeth Murphy, Associate Director
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-0213

RE: Second Report and Survey of Compliance with Regulation S-K, Form 10-K and Securities Exchange Act of 1934 ("Exchange Act") Rule 12b-23(b) Relating to Disclosures of Legal proceedings by Companies Filing Annual and Form 10-K Reports

Dear Ms. Murphy:

As you may recall, on March 21, 2014, we submitted to the Commission a letter and an enclosed report because we were concerned that many companies filing Form 10-Ks/Annual Reports with the Commission may not be fully complying with the Commission's above rules and regulations. Our findings in this first report were based on our review of a sample of 60 FY 2012 filings that were received through the mails by Mr. William Klein's household during 2013.

Since filing our first report, Mr. Klein has reviewed an additional 65 FY 2013 filings that were received through the mails by his household during 2014. We believe that, to the possible detriment of the investing public, many of these 65 companies also may have failed to fully comply with the Commission's above requirements. In other words, based on his review of the filings by these 65 companies, Mr. Klein found little or no improvement in the industry's level of compliance with these important disclosure requirements.

Accordingly, we have provided for your consideration the enclosed second report which sets forth our findings recommendations and conclusions regarding Mr. Klein's review of the 65 2013 filings he received in 2014.

Respectfully submitted,

William J. Klein, Esq.

Thomas J. Amy, Esq.

Enclosure: As stated

Addendum to Report and Survey of Compliance with Regulation S-K, Form 10-K and Securities Exchange Act of 1934 (“Exchange Act”) Rule 12b-23(b) Relating to Disclosures of “Legal Proceedings” by Issuers Filing Annual and Form 10-K Reports

I. Background and Introduction

Under cover of a letter dated March 21, 2014 and addressed to the Commission’s Office of Investor Education and Advocacy (“OIEA”), Messrs. William Klein and Thomas Amy forwarded to OIEA a copy of the original above-referenced report for their review and consideration. In this report, Messrs. Klein and Amy set forth their findings of possible non-compliance with the Commission’s above-referenced disclosure requirements in certain Annual and/or Form 10-K reports for 2012 filed by approximately 60 public and domestic companies (“filers”) in 2013.

In their review, Messrs. Klein and Amy found , among other things: (1) approximately 24 (40%) such reports either had no Table of Contents (“TC”), or provided a TC that made no reference to the required Legal Proceedings discussion; (2) the 24 reports also lacked adequate cross-references to other material [by particular “paragraph (or paragraphs), page numbers, citations or otherwise”] to make clear to the reader where the required Legal Proceedings discussion may be found [e.g., in a Note to the Accompanying Financial Statements (“AFS”)]. While 13 of the approximately 60 reports provided a cross-reference to a Note in the AFS for the Legal Proceedings discussion, they failed to provide the related page number where the Note could be found in the AFS. In view of the voluminous nature of these reports , Messrs. Klein and Amy believe that the above-referenced authorities require filers to make a cross-reference to both the Note and related page number in the AFS. In their view, this would avoid confusion on the part of the reader.

More recently, Mr. Klein conducted a second survey of compliance with Regulation S-K, Form 10-K, and Exchange Act Rule 12b-23(b) by filers that submitted their reports for FY 2013 in 2014 (and one, J.M. Smucker, that filed its FY 2014 report in 2014). In all, Mr. Klein selected approximately 65 such reports for his review sample. These reports included each issuer’s AFS for 2013 filed in 2014 and, in one case, the AFS for 2014 (J.M. Smucker). Mr. Klein’s findings follow.

II. Findings of Mr. Klein’s Second Survey

Mr. Klein limited the scope of his review to the content of the AFS in each of the approximately 65 reports he sampled; and how the various financial statements in the AFS cross referenced to the explanatory Notes that followed (if at all). In his review, Mr. Klein found that 35 (53.8%) of these reports failed to cross-reference, or

correlate in any other way, the explanatory Notes to their corresponding line items on the financial statements.¹ Instead of cross-referencing a given line item to a numbered Note in the AFS, the AFS typically stated, “The [N]otes to the [AFS] are an integral part of these statements” (or similar language). For example, IBM’s report stated at the bottom of each page of its financial statements, “the accompanying notes on pages 84 through 146 are an integral part of these financial statements.” Accordingly, although the IBM report had fully 63 pages of Notes that followed the financial statements, none of these Notes were cross-referenced with the corresponding line items on IBM’s financials.² The reader was thus left to his or her own devices to figure out the correlation between the individual line items on IBM’s financial statements and the explanatory Notes that followed.

The remaining 30 reports (46.2% of the 65) provided at least some cross-references between the Notes and line items on the financials. Fully 13 of these 30 reports made only one cross-reference between the financials and the Notes, and then only to a title (“Commitments and Contingencies”) above a group of numbered Notes where the relevant note could be found.³ However, the remaining 17 (the majority) of the 30 reports made more cross references between the financials and the Notes [i.e., from two to as many as 18 (or more)]. Three of these 17 filers cross-referenced specific line items on their financial statements to as many as 18 (or more) of the corresponding Notes.⁴ Another four of the 13 filers not only made

¹ See reports for 2013 filed in 2014 by: Hanover Insurance Group; Amazon; Boulder Brands; Coca Cola; Microsoft; Apple; General Mills; Sysco; Illinois Tool Works (“ITW”) [ITW failed to number any of the Notes in both its 2012 and 2013 reports]; J. M. Smucker (2014 report filed in 2014); Target; IBM; Republic Services; Traveler’s Insurance Company; Chevron; Conoco Phillips; Phillips 66; Tiffany; Plum Creek; Emerson Electric; Accenture; Hershey; Weis Markets; Idacorp.; Nordstrom; Xcel Energy; California Water Service; Honeywell; AT&T; Dupont; Health Care REIT; Pepsico; Kimberly Clark; Procter & Gamble; and Cerner.

² It should be noted that the Notes to the AFS for J.P. Morgan’s 2013 report consisted of 150 pages, again with no cross references between the individual Notes and the corresponding line items on the financials.

³ The 13 filers were: Express Scripts; Mattel; Pepco Holdings; Mondelez; Disney; Walgreens; John Deere; Kraft Foods; Snap-On Tools; Laclede Group; Allstate; Bank of Hawaii; and American Water Works. It is interesting to note that these 13 reports (20% of the 65 total reports) only made broad cross references to titles appearing above the corresponding Note (or Notes) rather than to the individual numbered Note or Notes themselves. In our opinion, this represents an improvement over the practice of other filers who made no cross references at all. However, we still maintain that specific cross references are the better way to go (see our Recommendation No. 5 on page 11 of our March 21, 2004 report).

numerous cross-references between line items and corresponding notes, but also provided a separate TC describing or categorizing all the Notes.⁵

III. Recommendations

Based on the foregoing, Messrs. Klein and Amy recommend that the Commission consider requiring that filers: (1) make specific cross-references between the line items on their financial statements to the related explanatory Notes that follow the presentation of financial data [e.g., by cross referencing the line item to the related Note (or Notes) and the page (or pages) in the AFS where the Note (or Notes) may be found]; and (2) include a detailed TC (or Index) for these Notes. In their view, this would significantly increase the transparency of financial information in these reports. Investors or prospective investors would find it much easier to read and understand the critical financial information presented in the AFS. Messrs. Amy and Klein strongly believe that such increased transparency is a goal well worth pursuing.

The Commission could promulgate these requirements in a number of ways, such as: (1) amending Exchange Act Rule 12b-23 itself and/or the Instructions to Form 10-K; or (2) issuing a clarifying release [i.e., that would make clear that Regulation S-K, Exchange Act Rule 12b-23 and the Instructions to Form 10-K already require specific cross referencing between line items and their related Notes in the AFS; and prescribe a TC (or Index) to these Notes].

⁴ The three reports were filed by Johnson & Johnson; General Electric; and Exxon-Mobil. Exxon-Mobil even inserted a separate column on each page of its financial statements to list the number of a corresponding Note, if any, to a line item on the statements. Mr. Klein believes that the insertion of a column to list a related Note (or Notes) should be promulgated as a “Best Practice” for filers.

⁵ These four filers are: 3M; Laclede Group; Duke Energy; and General Electric.