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In-House News:

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By Amy E. Wong

July 14 - *Corporate Counsel* released its annual report, documenting the 100 highest-paid general counsel at Fortune 500 companies.

The list gathers information from the annual proxy statements that Fortune 500 companies file with the Securities and Exchange Commission. These proxies, which force top public companies to disclose the compensation of their five highest-paid executives, reveal that 196 general counsel ranked among the top-five earners in their respective companies in 2005.

The report shows two marked trends in compensation packages. First, instead of relying on stock options, more companies are leaning towards restricted stock grants. Second, more companies prefer to award huge bonuses instead of increasing salaries.

In their efforts to retain talent, 35 percent more Fortune 500 companies are now offering restricted stock grants. In 2005, 61 of the 100 top-paid general counsel received restricted stock grants, which, on average, were worth $987,269. This is more than $250,000 higher than the amount received in 2004.

Jannice Koors, managing director of compensation consulting firm Pearl Meyers & Partners, commented in a *Corporate Counsel* article, "It is the echo of a trend that started last year." Along with other compensation experts, Koors predicted that restricted stock grants will continue to be a major factor in executive compensation.

This is due, in part, to the fact that restricted stock grants are attached to certain conditions. In order to reap the benefits, the grant has to be vested for a specified number of years, allowing companies to simultaneously compensate and retain their top talent. Koors continued, "Restricted stock has more guarantees for long-term employees."

Concurrently, stock options have taken a slight dive. As a result of the new regulations implemented by the Financial Accounting Standards Board (FASB), options are now charged as expenses.

Although companies have the choice to expense options in one huge or many staggered payments, options are now an undesirable and costly form of compensation. Only 73 of the 100 general counsel received options, six fewer than last year.

Additionally, the FASB requires companies to use the complicated Black-Scholes method to compute the value of options. Unlike the old formula, which calculated an option's value by its annual fixed-percentage increase, the new formula requires companies to take a company's performance and stock value into account. In most cases, the Black-Scholes method costs companies more money.

Another reason why companies may be making the switch from stock options to restricted stocks is that they value the differences on how each works. Stock options influence executives to take actions that will increase stock prices so that they can cash out and collect profits. If, however, the stock value decreases, options are worthless.

On the other hand, if the stock value plummets, restricted stocks still retain their intrinsic value. Furthermore, executives become part-owners of the company when restricted stocks are vested long enough. As part-owner of the company, restricted stocks encourage employees to make decisions that will benefit the company in the long run, rather than concentrating on personal short-term gains.

As shown in *Corporate Counsel*'s report, 55 of the top general counsel did indeed take advantage of the S&P 500's healthy year by cashing out their stock options, gaining an average of $3.1 million—$600,000 more than the average gain in 2004. In total, they cashed out $171,109,966 in 2005, a figure that is about $49 million more than the amount cashed out in 2004.

Another major trend is a shift away from salary increases to cash bonuses. In 2005, the size of bonuses has increased by 16 percent to an average of $906,820. It should be noted, however, that this increase has dropped significantly when compared to last year's 30-percent hike.

While bonuses have been steadily increasing, salaries have made minimal growth, increasing by only 1 percent since 2004 to an average of $564,612. Instead of guaranteeing a set amount upfront, many companies find it a more desirable option to evaluate and reward good performance through bonuses.

When determining the size of their bonuses, companies also consider the company's overall economic vigor. Investment bank Lehman Brothers Holdings, Inc., experienced extreme prosperity during the 2005 fiscal year, as evidenced by a 26-percent increase in revenue. As a result, Lehman's Thomas Russo received a fat $4,550,000 bonus. Despite his $450,000 salary, this bonus effectively made Russo the second-highest-paid general counsel, with a gross income of $5 million in 2005.

In stark comparison, Thomas Gottschalk of General Motors Corp. experienced the biggest drop in rank of 2005, falling from 17 to 71. With the groundbreaking innovation and skyrocketing sales of Japanese automakers like Toyota, the Detroit-based automobile manufacturing company has undergone extreme financial duress. As a result, Gottschalk received no bonus at all. Even his $1 million salary couldn't break his fall.

Similarly, general counsel working in lucrative industries are being generously compensated. Those working in the entertainment sector earned more than any other industry, drawing an average of $2.85 million. Trailing closely behind are general counsel working in the oil and gas industry, who represent the highest number of general counsel on *Corporate Counsel*'s top 100 list.

For a more in-depth look on general counsel's compensation packages, please go to http://www.law.com/jsp/ihc/PubArticleIHC.jsp?id=1152781530129.