

SEC Charges Company for Undisclosed Perquisites

Alert

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In a [settled enforcement action](#), the SEC charged Argo Group International Holdings, Ltd. with failure to disclose perquisites provided to its CEO and board member, Mark E. Watson III. In an interesting twist, the SEC charged Argo with violating the books and records provision of the Foreign Corrupt Practices Act because Argo recorded the perquisites as a business expense and not compensation.

According to the SEC, in definitive proxy statements disclosing executive compensation paid for 2014 through 2018, which were filed in 2015 through 2019, Argo disclosed a total of approximately \$1.22 million worth of perquisites and personal benefits provided to Watson, with an annual average of approximately \$244,000. The disclosed perquisites and personal benefits consisted predominately of 401(k) and retirement contributions, the imputed value of insurance coverage, supplemental executive retirement plan benefits, housing and home leave allowances, medical premiums and financial planning services.

The SEC alleged that what these same definitive proxy statements failed to disclose were over \$5.3 million worth of additional perquisites and personal benefits provided to Watson, thereby understating that portion of Watson's compensation by an annual average of over \$1 million, or 400%. Items that Argo paid for on Watson's behalf, but did not disclose, included, but were not limited to, expenses associated with personal use of corporate aircraft, rent and other housing costs, personal use of corporate automobiles, helicopter trips, other personal travel costs, use of a car service by family members, club and concierge service memberships, tickets and transportation to sporting, fashion or other entertainment events, personal services provided by Argo employees, and watercraft-related costs.

In February 2019, an Argo shareholder issued a press release in which it alleged, among other things, the misuse of Argo assets by Watson, including undisclosed personal usage of corporate aircraft. On April 12, 2019, during a proxy contest with this shareholder in connection with Argo's May 2019 annual shareholders meeting, Argo filed a definitive proxy statement that failed to disclose over \$1 million worth of perquisites, including over \$230,000 related to Watson's use of corporate aircraft.

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Argo conducted an internal investigation, which was launched in June 2019 after receipt of a subpoena from the Commission staff. Thereafter, Watson resigned and agreed to reimburse Argo for certain perquisites and/or personal expenses, subject to an arbitration process as to any items Watson disputes.

The SEC order states that from 2014 through 2018, Argo incorrectly recorded payments for the benefit of, and reimbursements to, Watson as business expenses, and not compensation. As a result, the SEC concluded its books, records, and accounts did not, in reasonable detail, accurately and fairly reflect its disposition of assets. As a result of the conduct described, the SEC alleged Argo violated Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets. The Foreign Corrupt Practices Act added Section 13(b)(2)(A) to the Exchange Act and is commonly referred to as the “books and records” provision.

The SEC also charged Argo with other violations, including violations of Section 13(b)(2)(B) of the Exchange Act, which requires reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to maintain accountability for assets.

Argo did not admit or deny the findings in the SEC order. The SEC did not charge Watson.

For more information on this enforcement action, please contact [Steve Quinlivan](#), Ashlee Germany, Timothy Joyce, [Jennifer Cooke-Yin](#), Jennifer Moyer, [Jack Bowling](#), [Scott Gootee](#), [Patrick Respeliers](#), Bryan Pitko or the Stinson LLP contact with whom you regularly work.

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