

(8) The report shall contain the market price of the issuer's common stock and related security holder matters in accordance with the provisions of Item 9 of Regulation S-K (17 CFR 229.20).

(9) The information statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person furnished a copy of the information statement, on the written request of any such person, a copy of the issuer's annual report on Form 10-K including the financial statements and the financial statement schedules required to be filed with the Commission pursuant to Rule 13a-1 under the Act for the issuer's most recent fiscal year, and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10-K provided that the copy of the annual report on Form 10-K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the issuer's reasonable expense in furnishing such exhibit. If the issuer's annual report to security holders complies with all of the disclosure requirements of Form 10-K and is filed with the Commission in satisfaction of its Form 10-K filing requirements, such issuer need not furnish a separate Form 10-K to security holders who receive a copy of such annual report.

Note.—\* \* \*

(b) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of the information statement are filed with the Commission pursuant to Rule 14c-5, whichever date is later. The report is not deemed to be "filed" with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

Note.—\* \* \*

**PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND THE GENERAL RULES AND REGULATIONS THEREUNDER**

11. Part 241 is amended by rescinding Guide 1, "Summary of Operations," of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 (Securities Exchange Act of 1934 Release No. 10961 (August 14, 1974; 39 FR 31894)).

12. Part 241 is amended by amending Guide 4, "Integrated Reports to Shareholders," of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 (Securities Exchange Act of 1934 Release No. 13639 (June 17, 1977; 42 FR 31780)) to read as follows:

Guide 4. Integrated Reports to Security Holders. Annual and quarterly reports to security holders may be combined with the required information of Form 10-K and Part I of Form 10-Q and be suitable for filing with the Commission when the following conditions are satisfied:

(a) The report contains full and complete answers to all items required by Form 10-K or Part I of Form 10-Q. When responses to a certain item of required disclosure are separated within the report, an appropriate cross-reference should be made. If the information required by Part III of Form 10-K is omitted by virtue of General Instruction C, a definitive proxy or information statement shall be filed.

(b) Any additional information or exhibits contained in the report shall meet the requirements of Rules 12b-20 (17 CFR 240.12b-20) and 12b-30 (17 CFR 240.12b-30) of the Securities Exchange Act of 1934.

(c) For purposes of Form 10-K, its cover page and the required signatures shall be included. For purposes of Form 10-Q, its cover page, appropriate responses to Part II and the required signatures shall be included. Additionally, as appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

(d) Any pictorial or graphic representations shall comply with the provisions of Guide 8 of the Guide for Preparation and Filing of Registration Statements (Securities Act Release No. 5171 (July 20, 1971)).

(e) The report should contain a disclaimer of any action on the part of this Commission to approve or disapprove the report or to pass upon its accuracy or adequacy.

(f) An annual report to security holders prepared on an integrated basis may also be submitted in satisfaction of Rule 14a-3 (17 CFR 240.14a-3) under the Securities Exchange Act of 1934. When filed as the annual report on Form 10-K, responses to the Items of that form are subject to Section 18 of the Act.

(g) A quarterly report to security holders filed in satisfaction of the requirements of Part I of Form 10-Q is not deemed to be "filed" for the purpose of Section 18 of the Act but is subject to all other provisions of the Act (Rules 13a-13(d) (17 CFR 240.13a-13(d)), 15d-13(d) (17 CFR 240.15d-13(d))).

Authority: The amendments to the forms and guides prescribed under the Securities Act of 1933 are being adopted pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of the Act. The amendments to Rule 14a-3, Rule 14c-3, and the forms and guides prescribed under the Securities Exchange Act of 1934 are being adopted pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S-K are being adopted pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1496, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77i, 77s(a), 78l, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

September 2, 1980.

[FR Doc. 80-27813 Filed 9-19-80; 10:30 am]

BILLING CODE 8010-01-M

**17 CFR Parts 201, 229, 230, 239, and 240**

[Release Nos. 33-6232; and 34-17115]

**Business Combination Transactions—New Short Form for Registration and Related Rule Amendments**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission announces the adoption of Form S-15, an optional experimental short form for registration under the Securities Act of 1933 of securities issued in certain business combination transactions. At the same time, the Commission also announces the adoption of related amendments to the proxy rules under the Securities Exchange Act of 1934, to the exhibits item of Regulation S-K (Standard instructions for filing forms under Securities Act of 1933 and Securities Act of 1934,) to the Commission's Rules of Practice, and to the rule as to incorporation by reference under the Securities Act. The adoption of Form S-15 and the related rule amendments is

part of the Commission's ongoing rulemaking effort designed to integrate the disclosure systems under the Securities Act and the Exchange Act and to streamline and make less burdensome the disclosure requirements imposed on registrants by those disclosure systems.

**EFFECTIVE DATE:** October 27, 1980. However, persons desiring to use the new Form prior to that date may do so, provided that they comply with all applicable provisions of the form.

**FOR FURTHER INFORMATION CONTACT:** Prior to the effective date, contact Catherine Collins McCoy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2589); thereafter, contact William E. Toomey or William E. Morley, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2573).

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced the adoption of new Form S-15 (17 CFR 239.29), an optional experimental form which may be used to register under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq.) securities issued in business combination transactions meeting certain specified criteria, and the adoption of related amendments to a number of Commission rules and regulations. As adopted, Form S-15 provides for an abbreviated prospectus to be delivered to security holders together with copies of the issuer's latest annual report to security holders. This Form generally will be available for Securities Act registration where the issuer meets the conditions as to the use of Form S-7 (17 CFR 239.27)<sup>1</sup> and the business combination transaction pursuant to which the registered securities are to be issued does not affect certain financial results of the issuer by more than 10%. Although the Form is not specifically limited to a maximum number of offerees, the Commission anticipates that it will be most appropriate for registration where the number of offerees is relatively small so that delivery of an annual report will not involve unusual effort or expense. In this regard, the Form presents an attractive alternative to

using Rule 146 (17 CFR 230.146), the operation of which, it is claimed, has proved difficult for some issuers.

The amendments to Rule 24 of the Commission's Rules of Practice (17 CFR 201.24) and to Rule 411 under the Securities Act (17 CFR 230.411) permit incorporation by reference into a Securities Act registration statement of material contained in annual reports to security holders furnished to the Commission pursuant to Rule 14a-3 (17 CFR 240.14a-3) or Rule 14c-3 (17 CFR 240.14c-3) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976 and Supp. I 1977)). The amendment to Item 7 (Exhibits) of Regulation S-K (17 CFR 229.20) adds Form S-15 to that Item's provisions. Finally, the amendments to Rules 14a-3 (17 CFR 240.14a-3), 14a-6 (17 CFR 240.14a-6) and 14a-12 (17 CFR 240.14a-12) of Regulation 14A (17 CFR 240.14a-1 et seq.) and to Rules 14c-2 (17 CFR 240.14c-2) and 14c-5 (17 CFR 240.14c-5) of Regulation 14C (17 CFR 240.14c-1 et seq.) provide that the informational and filing requirements of those Regulations, where applicable to the business combination transaction, would be satisfied when Form S-15 is used to register the issued securities under the Securities Act. The specific provisions of Form S-15 and the related amendments adopted today are discussed in greater detail below under "Synopsis of Form S-15 and Related Amendments."

#### Background

Proposed Form S-15 and related rule amendments were published for public comment on January 15, 1980,<sup>2</sup> simultaneously with three other releases which, taken together, constituted a major effort to achieve a simplified and integrated disclosure system. Those other actions were (1) proposed amendments to Form 10-K (17 CFR 249.310), Regulation S-K (17 CFR 229.20), and Rule 14a-3;<sup>3</sup> (2) proposed amendments to Regulation S-X (17 CFR Part 210) which would establish uniform financial statement instructions for certain forms and reports required to be filed pursuant to the Securities Act and the Exchange Act and for annual reports to security holders;<sup>4</sup> and (3) proposed amendments to Regulation S-X which would require certain additional accounting disclosures in annual reports to security holders and would eliminate, to the extent possible, the differences

between the requirements of that regulation and the requirements of Generally Accepted Accounting Principles ("GAAP").<sup>5</sup> The Commission today also announced final rulemaking action on each of these three matters; in this regard, attention is directed to Securities Act Release No. 6231, September 2, 1980 (Form 10-K, Rule 14a-3 and Regulation S-K); Securities Act Release No. 6234, September 2, 1980 (Uniform Financial Statement Instructions); and Securities Act Release No. 6233, September 2, 1980 (General Revision of Regulation S-X).

As was indicated in the January release proposing amendments to Form 10-K, Rule 14a-3 and Regulation S-K,<sup>6</sup> the Commission considered the four proposals published together in January to be the first of a number of steps anticipated to be taken in order to achieve integration and simplification of existing disclosure requirements. At that time, the Commission broadly outlined the design of a simplified Securities Act disclosure system integrated with the Exchange Act system by relying to varying degrees upon both formal and informal, *i.e.*, filed and unfiled, documents prepared pursuant to Exchange Act requirements. Specifically, the Commission anticipated delineating three general categories or levels of companies, with the degree of required disclosure and of document dissemination differing with each level. The Commission has now developed three new proposed Securities Act registration statement forms to be used by companies in the three levels and is publishing those proposed forms for comment<sup>7</sup> concurrently with the adoption of Form S-15 and of the other final rule amendments announced today, and the proposal for comment of amendments to Form 10-Q (17 CFR 249.308a) which will make that Form consistent with the new Form 10-K.<sup>8</sup>

The proposed forms (denominated Forms A, B and C for purposes of proposal discussion), particularly proposed Form B, raise a number of issues which also arose in the context of Form S-15 and which are not yet resolved. These issues include (1) whether delivery of the annual report to security holders with the prospectus should be mandatory or optional, (2) which documents should be incorporated by reference into prospectuses, (3) for what transactions

<sup>1</sup> These conditions include a minimum earnings test and a requirement that the registrant has provided continuous disclosure to investors pursuant to the reporting requirements of Sections 13(a), 14 and 15(d) of the Exchange Act. See Note 13 infra.

<sup>2</sup> Securities Act Release No. 6177 (January 15, 1980) (45 FR 5934).

<sup>3</sup> Securities Act Release No. 6176 (January 15, 1980) (45 FR 5972).

<sup>4</sup> Securities Act Release No. 6179 (January 15, 1980) (45 FR 5963).

<sup>5</sup> Securities Act Release No. 6178 (January 15, 1980) (45 FR 5943).

<sup>6</sup> Securities Act Release No. 6176.

<sup>7</sup> Securities Act Release No. 6235 (September 2, 1980).

<sup>8</sup> Securities Act Release No. 6236 (September 2, 1980).

abbreviated prospectuses are appropriate, and (4) how to ensure equivalent disclosure when issuers have the option of prospectus presentation or annual report delivery. Rather than delay adoption of Form S-15 until such time as all issues associated with the Commission's integration program have been resolved, however, the Commission has determined to adopt Form S-15 at this time as an experiment. A number of commentators on proposed Form S-15 specifically urged that the Commission consider and adopt Form S-15 independently of the other parts of its integration program so that the benefit of its savings would be made available as soon as possible, regardless of any delaying problems encountered in implementing the other proposals. Form S-15's prompt adoption, on an experimental basis,<sup>9</sup> is responsive to those commentators' views. More importantly, however, the Commission believes that experience with Form S-15 and its mandatory use of the issuer's annual report to security holders will provide empirical data as to its operation and usage which will be a valuable aid in evaluating proposed Form B, which as proposed would provide issuers with the option of either delivering the annual report or providing equivalent disclosure in the prospectus.

Proposed Form S-15 generated substantial public commentary. The commentators were overwhelmingly in favor of the Commission's goals of simplifying the disclosure provided to investors, reducing the burdens and costs which Securities Act registration imposes on issuers and integrating further the disclosure requirements of the Securities Act and Exchange Act. The majority of commentators believed proposed Form S-15 to be a significant step toward accomplishing those goals and urged that the Commission promptly adopt the new Form. A substantial number of helpful specific comments and suggestions were offered in connection with proposed Form S-15, quite a few of which are reflected in changes made from Form S-15 as proposed to Form S-15 as adopted. These specific comments, as well as others not directly reflected in the text of the form and rule amendments as adopted, are discussed below in the "Synopsis" portion of the release.

<sup>9</sup> Securities Act Release No. 6177 stated that proposed Form S-15, if adopted, would be in the nature of an experiment and that its use and effects would be carefully watched so that the Commission could consider the advisability of either expanding or limiting its availability.

### Synopsis of Form S-15 and Related Amendments

The following brief synopsis is intended to assist interested parties in their understanding of the new Form and related rule amendments. Respects in which the Form and rule amendments differ from those as proposed are included in this discussion. Attention is directed to the text of the proposals for a more complete understanding.

#### I. Form S-15

**A. Availability.** General Instruction A to Form S-15 provides that the form is available only for registration of securities issued (a) in transactions of the character specified in Rule 145(a) (17 CFR 230.145),<sup>10</sup> (b) in a merger where applicable State law does not require a vote of the security holders of the company being acquired ("short form mergers") or (c) in an exchange offer for securities of another person where the amount of securities already held and the amount of securities to be sought in the exchange offer aggregate at the time of filing will exceed 50% of that class of securities of the other person. As proposed, the transactions for which Form S-15 would have been available were limited to transactions of the character specified in Rule 145 (a)(2) and (a)(3) and exchange offers resulting in the issuer's acquisition of 80% of the voting power of the other person. A substantial number of the public commentators on proposed Form S-15 recommended that the Form's use be greatly expanded. While the Commission believes that the experimental value of Form S-15 might be impaired were its use expanded significantly beyond that proposed, it has determined that inclusion of Rule 145(a)(1) transactions,<sup>11</sup> short form mergers, and exchange offers to acquire a majority but not 80% is consistent with and compatible with the limited purpose for which Form S-15 is adopted.

A Form S-15 transaction must also meet the five conditions set forth in General Instruction A. The first condition restricts the Form's use to transactions where relatively small companies are acquired by substantially larger companies.<sup>12</sup> Under this

<sup>10</sup> Where the transaction pursuant to which securities are to be registered on Form S-15 is of the character specified in Rule 145 (a)(1), (a)(2) or (a)(3), the provisions of Rule 145 (c) and (d) will be applicable to persons and parties deemed underwriters with respect to those securities.

<sup>11</sup> Rule 145(a)(1) transactions are reclassifications of securities, other than stock splits, reverse stock splits, or changes in par value, which involve the substitution of a security for another security.

<sup>12</sup> The test for the effect of the transaction used in General Instruction A to proposed Form S-15 is

condition, the effect of the transaction must not be a change of more than 10% between the items listed in General Instruction A.1(a) (gross sales and operating revenues, net income, total assets, and total shareholders' equity) for the issuer on a pro forma combined consolidated basis giving effect to the transaction in question. In addition, the total purchase price must not exceed 10% of the issuer's total assets. This provision differs from proposed General Instruction A.1(b), which would have provided instead that the total purchase price must not exceed 10% of the aggregate market value of voting stock held by nonaffiliates. A number of commentators believed the condition proposed was too restrictive and too difficult to apply as a practical matter. The condition as adopted addresses these concerns while still ensuring that the Form will not be used for transactions which have a substantial effect on the issuer. In this regard, a Note was added to condition A.1 to indicate that, while the Form may be used for multiple simultaneous acquisitions, it may only be so used if the condition is met on both an individual and an aggregate basis.

The second condition requires the issuer of the securities being registered to meet the requirements for the use of Form S-7 (17 CFR 239.26)<sup>13</sup> and to have furnished its latest annual report to security holders pursuant to Rule 14a-3 or 14c-3. The fact that the issuer will have been filing Exchange Act reports for at least three years, and that certain information about the issuer is thus already publicly available and disseminated, enables the Commission to reduce the actual prospectus disclosure requirements with respect to the issuer. The eligibility criteria of

similar to the tests set forth in Securities Act Release No. 4950 (February 20, 1980) for determining whether relief should be granted from the requirement for 3-year certified financial statements of companies acquired or to be acquired. It should be noted, however, that the test in General Instruction A to proposed Form S-15 is to be used only for purposes of determining the availability of such Form, and that, for all purposes other than Form S-15 availability and disclosure requirements, the standards and positions expressed in Release No. 4950 remain unchanged.

<sup>13</sup> Generally, an issuer may use Form S-7 if it (a) has a class of securities registered under Section 12 (15 U.S.C. 77b) or is required to file reports pursuant to Section 15(d) (15 U.S.C. 77o(d)) of the Exchange Act; (b) has been subject to the requirements of Section 12 or 15(d), and has filed all applicable reports, for 36 calendar months prior to the filing of the registration statement and has timely filed all required reports for the past twelve calendar months; (c) has not defaulted in payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) has had consolidated net income of at least \$250,000 for three of the last four fiscal years, including the most recent fiscal year.

proposed Form B<sup>14</sup> which would, if adopted, replace Form S-7, are not as strict as those of Form S-7.<sup>15</sup> Should Form B be adopted as proposed, Form S-15 would be amended accordingly so that General Instruction A.2 would be met if the issuer qualifies for the use of Form B.

This second condition, as adopted, reflects a change made in response to a point raised by a number of commentators. Proposed General Instruction A.2 required the issuer to have furnished an annual report to security holders for its latest fiscal year. This provision would have had the effect of precluding the Form's use for the period between the end of the issuer's fiscal year and the time an annual report is prepared and disseminated to security holders. The Commission does not believe such preclusion is necessary or appropriate. Therefore, the requirement of General Instruction A.2 as adopted is that the issuer have furnished its latest annual report to security holders.

Corresponding changes were also made to Items 6 and 9 of Form S-15.

The third condition to the use of Form S-15 is that the transaction pursuant to which the registered securities are being issued has been approved or recommended by the boards of directors of both parties to the transaction. A clarifying phrase has been added to the condition which specifies the Commission's intent that this condition must be met as of the date of effectiveness of the registration statement. While not all the commentators who addressed this condition agreed that it is necessary, the Commission believes that it is a useful means to ensure that the abbreviated Form S-15 format is not used for transactions where fuller disclosure may be appropriate.

The fourth condition provides that the prospectus must be delivered to security holders at least 20 days prior to the meeting date or the date of vote, consent or authorization or the date the transaction is consummated. Changes were made from the language as proposed to clarify that the solicitation is to be made in accordance with applicable state or federal law, but in no event later than 20 days prior, and to

clarify that 20-day prior delivery is required even where no meeting is held and no vote, consent or authorization is solicited.

As proposed, Form S-15 would have been unavailable for transactions where either the issuer or the company being acquired engages in significant oil and gas related operations. The Commission believed this exclusion, which was similar to the exclusion of such companies from use of Form S-18 (17 CFR 239.28) and Rule 242 (17 CFR 230.242), was appropriate because of the staff's current study of oil and gas disclosure requirements. The public commentators who addressed this condition, however, unanimously urged that companies engaged in oil and gas related operations not be excluded from using Form S-15. The Commission now requires such companies' annual reports to security holders prepared pursuant to Rule 14a-3 to contain the same financial information about oil and gas operations as is called for by Regulation S-X.<sup>16</sup> Accordingly, because of the unique and limited circumstances of Form S-15, and its experimental nature, the Form as adopted is available where the issuer or the company being acquired engages in significant oil and gas operations. Should the staff's on-going study of oil and gas disclosure requirements culminate in further amendments to existing requirements, those amendments would automatically be reflected in Form S-15 through its use of the annual report to security holders and its reference to Regulations S-K and S-X.

Finally, Form S-15 is available only when neither the issuer nor the company being acquired is a registered investment company. This provision is the same as that contained in proposed Form S-15, in connection with which the Commission invited comment as to whether the Form should be available to registered investment companies and, if so, what, if any, conditions and modifications to Form S-15 would be appropriate. Five commentators responded to this invitation for comment, all recommending that investment companies be able to use either Form S-15 or a similarly abbreviated form. A number of helpful detailed suggestions were submitted as to appropriate conditions to such a form's use and approaches to prospectus content and document delivery requirements. These comments also reinforce the Commission's belief that Form S-15 would require at least some modifications before it would be

feasible for investment companies to use the Form. While the Commission has determined not to make Form S-15 available for investment company use at this time, it is considering the comments received in this regard in connection with its ongoing overall review of disclosure requirements for investment companies.

With the limited exception of the addition of the few types of business combination transactions noted above, and the deletion of the prohibitions for resales and for companies engaged in oil and gas operations, the availability of Form S-15 as adopted is not expanded from that of proposed Form S-15. The Commission is conscious of the public commentators' overwhelming encouragement to expand the number and types of companies and transactions for which Form S-15 could be used. Nevertheless, the Commission has decided to adopt Form S-15 at this time with its availability provisions essentially as proposed in the important respects of relative transaction size and issuer qualification to use Form S-7 so that it may gain experience with the form's use and effects. Based upon that experience, the Commission may subsequently ease some of the restrictions on Form S-15 availability, particularly at such time as the staff has had the opportunity to develop an appropriate disclosure requirement with respect to pro forma financial information.

**B. Other General Instructions.** General Instructions B and C are similar to instructions to all Securities Act forms, indicating the application of the rules and regulations under the Securities Act and specifying what documents comprise the registration statement. These instructions are adopted as proposed. The instruction requesting issuers to advise the staff of their intention to file a registration statement of Form S-15 has been deleted because experience with the instruction in existing forms has proved it to be ineffective.

Securities Act Release No. 6177, publishing proposed Form S-15 for comment, did not specifically address the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 (the "Guides")<sup>17</sup> or their applicability to registration statements on proposed Form S-15. The Guides represent policies and practices followed by the Division of Corporation Finance in administering the various disclosure requirements of the Securities Act and the forms adopted thereunder.

<sup>14</sup> Securities Act Release No. 6235 (September 2, 1980).

<sup>15</sup> Proposed Form B eligibility differs from existing Form S-7 in that (1) the issuer must have had positive net income for two out of the three last fiscal years (rather than net income of \$250,000 for three out of the last four years), including the most recent year and (2) the prohibition on defaults in payments on preferred stock, indebtedness and long-term leases has been somewhat modified.

<sup>16</sup> See Securities Act Release No. 6231 (September 2, 1980).

<sup>17</sup> Securities Act Release No. 4936 (December 9, 1968) (33 FR 18671), as amended.

As such, they are able to be applied flexibly, when and where appropriate. Some Guides specifically indicate that they are applicable only to registration statements filed on certain forms, e.g., Guide 11 applies to Form S-1 (17 CFR 239.11), Guide 28 applies to Forms S-1 and S-7 (17 CFR 239.26), Guide 30 applies to Forms S-1 and S-7, and Guide 59 applies to Forms S-1 and S-2 (17 CFR 239.12).

A number of public commentators questioned the applicability of the Guides, and in particular Guide 61, Statistical Disclosure by Bank Holding Companies, to proposed Form S-15. At the time proposed Form S-15 was published, Guide 61 by its terms specifically applied only to registration statements filed on Forms S-1, S-7 and S-14. The Commission did not believe Guide 61 disclosure would be necessary or appropriate in an abbreviated prospectus like that of Form S-15 and, therefore, did not propose to amend Guide 61 to include Form S-15. The Commission still believes that Guide 61 disclosure is unnecessary in Form S-15. In light of recent amendments to Guide 61, however, which, among other things, broadened its applicability to registration statements for which financial statements are required,<sup>18</sup> the Commission also believes it is appropriate at this time to state explicitly that it does not intend Guide 61 to be applicable to Form S-15 registration statements.

All other existing Guides, rules and regulations under the Securities Act are equally as applicable to Form S-15, where appropriate, as to any other Securities Act form for the registration of securities. In this regard, the Commission notes that it is engaged in an ongoing program of reviewing and reevaluating the rules, forms and Guides under the Securities Act and the Exchange Act. The first step in this program is the overall review of all of the Guides, a major project which was begun in December, 1979,<sup>19</sup> and which should result in the promulgation of proposed changes in the future.<sup>20</sup>

General Instruction D sets forth the relationship of Form S-15 to the proxy or information rules under the Exchange Act, where such are applicable to the

transaction. The Form S-15 prospectus may be in the form of and may serve as the proxy or information statement used in connection with the transaction. It would be deemed to meet the informational and filing requirements of the proxy or informational rules under Section 14 of the Exchange Act, and Regulations 14A and 14C thereunder. All other provisions of those Regulations would still apply. A new paragraph (c) has been added to General Instruction D to make it clear that, where Sections 13(e), 14(d) or 14(e) of the Exchange Act apply to the transaction, the rules and regulations thereunder are still applicable to the transaction regardless of the provisions of Form S-15.

General Instruction E, Availability of the Prospectus for Reoffers or Resales, represents a change from the provision of Form S-15 as proposed, which would have prohibited use of the Form S-15 prospectus for reoffers or resales of securities acquired pursuant to that registration statement by affiliates of the issuer or by any other persons who may be deemed underwriters of such securities. As adopted, the Form S-15 prospectus will be available for such reoffers or resales, if (1) the additional information called for is provided in the prospectus, (2) the selling shareholders have an intent to make such offers and sales within sixteen months, and (3) the prospectus so used is updated in accordance with Section 10(a)(3) of the Securities Act. Most of the public commentators who addressed the proposed Form's resale prohibition believed the Form should be able to be used for that purpose, and the Commission believes that such use may be allowed without sacrificing the disclosure provided to investors. Indeed, because the Form S-15 issuer must meet the conditions to the use of Form S-7, the resale prospectus which generally would otherwise be available to be used would be that of Form S-16, which requires delivery of less information about the issuer than does Form S-15.<sup>21</sup>

A new General Instruction F has been added to make explicit the Commission's intention that, while Form S-15 relies heavily upon the concurrently adopted amendments to Form 10-K, Rule 14a-3, and Regulation S-K,<sup>22</sup> the delayed implementation requirements of these amendments nevertheless will not operate to delay the availability of Form S-15. Therefore,

<sup>21</sup> Form S-16 (17 CFR 239.27) is available for secondary offerings if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association.

<sup>22</sup> Securities Act Release No. 6231 (September 2, 1980).

annual reports to security holders prepared with respect to fiscal years ending prior to December 15, 1980, may be used in connection with Form S-15 registration even though such annual reports are not required to contain the disclosure required to be presented in annual reports for fiscal years ending after that date. The Commission recognizes the differences in the levels of required disclosure. As a practical matter, however, requiring full implementation of the amended annual report disclosure items could delay by more than a year the availability of Form S-15 to issuers who might otherwise qualify to use and choose to use the new form. Additionally, a long delay to await full implementation of the annual report amendments would also delay the experimental use of annual reports to security holders in a Securities Act context. Accordingly, the Commission has determined to make Form S-15 available immediately.

*C. Information Required in the Prospectus.* Form S-15 provides for a short prospectus which will provide investors with the information necessary to make an investment decision presented in a comprehensible style and format. This is accomplished by requiring the issuer's latest annual report to security holders to be delivered with the prospectus. The issuer's business description, financial statements, industry segment information, market information with respect to its common stock, selected financial data, and management's discussion and analysis will be incorporated by reference from the annual report rather than presented in the prospectus itself. The prospectus, then, will contain only disclosure with respect to (1) the transaction pursuant to which the registered securities are being issued, (2) the company being acquired, and (3) any additional information about the issuer which needs to be disclosed to update that presented in the annual report delivered with the prospectus.

*1. Multiple Document Delivery.* The Form S-15 multiple document delivery approach takes advantage of one of the most useful and readable disclosure documents produced under the existing disclosure systems, the annual report to security holders prepared pursuant to Rule 14a-3 or 14c-3, both to ensure that the disclosure provided concerning the issuer is comprehensible and to reduce expenses and duplication by making use of an existing document.<sup>23</sup> In order that

<sup>23</sup> The Commission has long recognized the annual report to security holders to be one of the most effective means of communication between management and security holders. See the Footnotes continued on next page

<sup>18</sup> Securities Act Release No. 6221 (July 8, 1980).

<sup>19</sup> Securities Act Release No. 6163 (December 5, 1979).

<sup>20</sup> Future changes in the Guides would, of course, be in addition to those made by rescinding a number of Guides (Securities Act Guides 22, Summary of Earnings, and 26, Statement of Dividend Policy, and Exchange Act Guide 1, Summary of Operations) as part of the final rulemaking amending Form 10-K, Rule 14a-3, and Regulation S-K. Securities Act Release No. 6231 (September 2, 1980).

the prospectus which the annual report accompanies be equally comprehensible, issuers are urged to present information therein in as clear and concise a style as possible.

It should be noted that Form S-15 is an optional form; Forms S-1 (17 CFR 239.11) and S-14 (17 CFR 239.23) are still available should an issuer who qualifies to use Form S-15 nevertheless prefer not to deliver its annual report. A number of commentators argued: (1) That Form 10-K, rather than the annual report to security holders, should be used as the integrating document accompanying the prospectus; and (2) that issuers should be given the option of annual report delivery or presentation in the prospectus of information equivalent to that in the annual report. The Commission believes that the annual report is the preferable document and that issuers are provided sufficient opportunity to update and supplement their annual reports in the prospectus and, accordingly, need not be granted the option of presenting the annual report information in the prospectus.

While Form S-15 as adopted requires delivery of an annual report, the issue of presentation within the prospectus remains under consideration. Pending resolution of this issue, it is anticipated that S-15 as adopted will be used primarily to register those offerings not made to such a great number of offerees that mandatory annual report delivery would involve significant reproduction costs. Adopted on an experimental basis, it is believed that Form S-15 will produce meaningful data on the use of annual reports, in conjunction with shortened prospectuses, for Securities Act purposes. When the Commission considers proposed Form B, which as proposed would make annual report delivery optional, it thus will be able to add empirical data to the views expressed by the public commentators on proposed Form B. Experience with Form S-15 and the comments received on proposed Form B may also lead the Commission to amend Form S-15 appropriately.

If the company being acquired has a class of securities registered pursuant to Section 12 of the Exchange Act and has furnished an annual report to security holders pursuant to Rule 14a-3 or Rule 14c-3 for its latest fiscal year, then the

issuer has the option of delivering such annual report with the prospectus and the issuer's annual report. If that option is elected, the prospectus will contain the same disclosure with respect to the company being acquired as with respect to the issuer, *i.e.*, only disclosure with respect to subsequent events and interim periods. Unlike the case for the issuer, the annual report which could be so used is that for the latest fiscal year, not the latest report furnished. The Commission believes it is appropriate that disclosure needs with respect to the company being acquired only be satisfied by annual report delivery if that report is for the latest full fiscal year.

2. *Disclosure Items.* The Form S-15 prospectus itself is required to contain the following information: Item 1, summarized information about the two companies' businesses, the transaction at hand, and comparative per share data; Item 2, terms of the transaction; Item 3, a description of the company being acquired which is of the same nature as would have been called for in a report prepared pursuant to Rule 14a-3; Item 4, certain proxy information; Item 5, information about the interests of affiliates in the transaction; Item 6, additional information about the issuer as to interim financial information, subsequent material changes and availability of reports and other information; Item 7, additional information about the company being acquired as to interim financial information, subsequent material changes, changes in control and availability of reports and other information; Item 8, additional information required if the prospectus is to be used for reoffers or resales; and Item 9, statements as to material incorporated by reference.

The Form S-15 prospectus disclosure requirements reflect a number of changes from the provisions of proposed Form S-15. First, an instruction has been added to Item 2(c), which calls for an outline of the material features of the proposed transaction, in order to emphasize that only a brief summary of the acquisition agreement terms is to be included in the prospectus. The agreement itself need not be included in the prospectus. The second sentence of Item 2(d), concerning dividends in arrears and defaults, was deleted because it was unnecessary; an issuer with defaults would not qualify to use Form S-7 and therefore could not use Form S-15.

The provision in proposed Item 2(c) calling for disclosure of the reasons management of the company being

acquired has for engaging in the transaction is adopted as proposed. A number of commentators objected that this provision is unnecessary and undesirable; the Commission believes, however, that this disclosure is appropriate. Like Form S-14, Form S-15 may serve the dual purpose of securities registration and proxy solicitation, where Regulation 14A or 14C is applicable to the transaction. In that event, the Form S-15 prospectus is also the proxy or information statement of the company being acquired. Item 2(e), which called for a brief description by the company being acquired of any other matters material to the fairness of the transaction to unaffiliated security holders, has been deleted. It is important for documents prepared pursuant to the federal securities laws to contain disclosure with respect to matters bearing on fairness in order for unaffiliated security holders to determine whether their rights under state law have been protected.<sup>24</sup> The Commission believes, however, that the provisions of Items 2 and 5 of Form S-15 as adopted adequately address this concern and that, accordingly, an explicit item in Form S-15 is not necessary. Moreover, the Commission plans to consider existing registration forms for all business combinations in the next phase of its review of Securities Act and Exchange Act rules and forms, and the issue of an explicit fairness disclosure item will be revisited at that time.

An instruction has been added to Item 3(b) to point out that the Commission may waive any of the financial information requirements of Item 3 (b)(vi), (vi), and (vii) which it deems appropriate. This instruction is similar to that contained in Item 15(c) of Schedule 14A (17 CFR 240.14a-101) and indicates that the existing financial statement waiver procedures used in the Form S-14 context will be operative in the Form S-15 context as well. In addition, part of the five-year period for which selected financial data is required by Regulation S-K may be waived if unduly burdensome.

The Commission made a specific inquiry of commentators as to what beneficial ownership disclosure was thought appropriate in Form S-15, voting power alone or Regulation S-K, Item 6 disclosure. The majority of the

<sup>24</sup> See *Sante Fe Industries, Inc. v. Green*, 430 U.S. 462, 474 n.14 (1977); *Wright v. Heizer Corp.*, 560 F.2d 236, 250 (7th Cir. 1977), cert. denied, 434 U.S. 1066 (1978); and *SEC v. Parklane Hosiery Co.*, 588 F.2d 1083, 1088-9 (2d Cir. 1977), with respect to the materiality of information which would be useful to security holders in challenging a transaction under state law.

Footnotes continued from last page discussion in two of the other releases published today, Securities Act Release Nos. 6231 and 6235 (September 2, 1980), of the Commission's reasons for including the annual report to security holders in its integration program. See also Securities Exchange Act Release No. 11079 (October 31, 1974) and Securities Exchange Act Release No. 10591 (January 18, 1974).

commentators who responded to this inquiry favored consistency of beneficial ownership disclosure and, therefore, preferred Item 6 disclosure in Form S-15. Accordingly, Item 4 as adopted is unchanged from the proposal and refers to the requirements of Items 6(a) and 6(b) of Regulation S-K.

The public commentators who discussed the problem of updating the issuer's latest annual report overwhelmingly favored an approach which would grant issuers the greatest amount of flexibility in determining how best to update that report. Accordingly, Item 6 of Form S-15 has been changed to add a new paragraph (a) which calls for financial and other information as of the end of the most recent fiscal quarter for which a Form 10-Q has been filed. The information is to be in the form required by Part I of Form 10-Q (17 CFR 249.308a) but may be provided by any one of three means: (1) Inclusion in the prospectus; (2) delivery of the Form 10-Q with the prospectus and annual report; or (3) delivery with the prospectus and annual report of the issuer's latest quarterly report to security holders if that report contains the required information. The other change to Item 6 is to add an undertaking, where the Form 10-Q delivery option is not chosen, to provide the issuer's latest Form 10-Q without charge upon request. Similar provisions with respect to the company being acquired have been added to Item 7 of Form S-15. This Item is applicable if the acquired company has a class of securities registered under Section 12 of the Exchange Act, has furnished an annual report to security holders pursuant to Rule 14a-3 or Rule 14c-3 for its latest fiscal year, and such annual report is being used in place of prospectus disclosure.

Both Items 6 and 7 have also been changed to add significant business combinations accounted for as purchases to those matters for which financial information may be required in the prospectus if not reflected in the financial statements in the annual report(s) delivered with the prospectus. This change was made in response to the suggestion of the commentators, as was the addition to Item 7(b) of the term "material" to identify what changes must be described thereunder. The latter change was necessitated by the inadvertent omission of the term in the proposal.

New Item 8, to be complied with if the Form S-15 prospectus is to be used for reoffers and resales, calls for (1) information in regard to the persons on whose behalf the securities are offered; (2) information with respect to the

consummation of the proposed transaction and (3) information, including financial statements, necessary to make the prospectus current. This Item was modeled after Item 2 of Form S-14.

Item 9, which requires certain statements to be made as to information delivered with the prospectus and incorporated by reference therein, reflects a change from the Item as proposed. The Commission, concerned about ensuring prospectus readability, specifically inquired of commentators whether the detailed description of material incorporated by reference into the Form S-15 registration statement should (1) be required in the prospectus, (2) be allowed only in Part II of the Form, or (3) be placed in either location, or both, at the issuer's option. Because there may be equally valid reasons for choosing to include the detailed description in either part of the registration statement, the Commission has decided to adopt the third alternative and thus afford issuers maximum flexibility. At the same time, however, issuers are cautioned to avoid legalistic descriptions which would impair the readability of the prospectus.

*D. Information Not Required in the Prospectus.* Part II of Form S-15 is similar to that part of other forms adopted for Securities Act registration of securities. It is a part of the registration statement filed with the Commission but is not delivered to security holders.

The provisions of Part II of Form S-15 are as follows. First, Item 10 requires an undertaking by the issuer to deliver with each prospectus a copy of its latest annual report to security holders, as well as a copy of the annual report of the company being acquired if that report has been used to satisfy prospectus disclosure requirements with respect to business, financial and other information about the company being acquired.

Item 10 as adopted deletes the requirement in this Item of proposed Form S-15 that the issuer's undertaking to transmit certain material with the prospectus be dated as of a date not more than twenty days prior to the effective date of the registration statement. A number of commentators questioned the necessity for such a dating requirement and pointed to the practical problems it could raise, such as creating the necessity for filing a pre-effective amendment merely because the undertaking has become stale. Because the Commission does not wish to impose any unnecessary burdens upon issuers, the proposed undertaking

dating provision is not included in the Form as adopted.

Next, Item 11 requires a statement specifically incorporating by reference into the registration statement (a) certain portions of the annual report(s) to security holders and (b) any reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act by the issuer, as well as by the company being acquired if the latter is subject to those reporting requirements, for periods subsequent to that covered by the annual report(s) delivered with the prospectus. A new Item 12 requires undertakings similar to those required by Form S-8 (17 CFR 239.16b) and Form S-14 dealing with appropriately updating prospectuses. This new Item was necessitated by the expansion of Form S-15 to resales and reoffers by persons deemed underwriters. The remaining provisions deal with the interests of experts named in the registration statement (Item 13) and with exhibits to the registration statement as required by Item 8 of Regulation S-K (Item 14).

Form S-15 does not require that the issuer's latest proxy statement must be delivered along with the annual report to security holders and the prospectus. Item 4 of Form S-15 calls for the same disclosure as to directors and executive officers and beneficial ownership of securities which is contained in the proxy statement. Disclosure as to management remuneration (Item 4 of Regulation S-K) would not be contained in the documents actually delivered to security holders. This information is incorporated by reference into the registration statement, however, because it is either contained in the issuer's latest Form 10-K report or is incorporated by reference therein from the issuer's latest proxy statement. Most commentators who responded to the Commission's specific invitation to comment on this point agreed that there should not be a requirement to deliver the proxy statement with the Form S-15 prospectus.

## II. Related Amendments

*A. Rules on Incorporation by Reference.* Form S-15 requires incorporation by reference into the registration statement of certain information contained in the annual report to security holders. That report, prepared pursuant to Regulation 14A or 14C, particularly Rule 14a-3 or 14c-3 thereof, is furnished to the Commission for its information, but is not deemed "filed" with the Commission.<sup>25</sup> The

<sup>25</sup> Rule 14a-3(c) (17 CFR 240.14a-3(c)) provides: "Seven copies of the report sent to security holders  
Footnotes continued on next page

Commission is amending Rule 24 of its Rules of Practice (17 CFR 201.24) and Rule 411 (17 CFR 230.411) which make clear that information contained in such reports, though the reports are not deemed filed with the Commission, nevertheless may be incorporated by reference into a registration statement filed pursuant to the Securities Act. The company is still responsible for the information incorporated as if it had been set forth in the prospectus. These amendments are adopted as proposed.

B. *Rules 14a-3, 14a-6, 14a-12, 14c-2, 14c-5.* Exchange Act Rule 14a-3(a) (17 CFR 240.14a-3(a)) provides that no solicitation subject to the proxy rules shall be made unless each person solicited is concurrently furnished or has previously been furnished a written proxy statement containing the information specified in Schedule 14A (17 CFR 240.14a-101) under that Act. The Commission is amending Rule 14a-3 to provide that material filed in a Form S-15 registration statement under the Securities Act containing the information required by that Form satisfies the requirements of the Rule.

The Commission is amending Exchange Act Rule 14a-6(j) (17 CFR 240.14a-6(j)) to provide that material filed in an S-15 registration statement under the Securities Act satisfies the filing requirements of the proxy rules under the Exchange Act. This amendment enables registrants to avoid filing copies of the registration statement as a proxy statement under the Exchange Act and paying a proxy filing fee.

Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12) provides that solicitations in opposition to prior solicitations may be made before furnishing security holders a written proxy statement containing the information specified in Schedule 14A if certain conditions are met, including that no form of proxy be furnished to security holders prior to the time the written proxy statement required by Rule 14a-3(a) is furnished. Where a proxy statement then meeting the requirements of Schedule 14A has already been furnished to security holders, however, this latter condition is inapplicable.

Footnotes continued from last page pursuant to this rule shall be mailed to the Commission, solely for its information. \* \* \* The report is not deemed \* \* \* to be 'filed' with the Commission or subject to this regulation otherwise than as provided in this rule or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement by reference." Rule 14c-3(b) (17 CFR 240.14c-3(b)) contains a similar provision.

Since the amendment to Rule 14a-3(a) provides that a proxy statement included in a registration statement filed under the Securities Act on Form S-15 may contain the information specified in that Form in lieu of the information specified in Schedule 14A, the Commission is amending Exchange Act Rule 14a-12(a) to refer to Rule 14a-3(a) and to delete the reference to Schedule 14A.

Rule 14c-2(a) under the Exchange Act (17 CFR 240.14c-2(a)) requires an issuer subject to the information rules to transmit to its security holders a written information statement containing the information specified in Schedule 14C. To provide similar treatment for proxy material and information statements, the Commission is amending Rule 14c-2 to provide that material filed in a Form S-15 registration statement satisfies the requirements of the Rule.

Also in order to provide similar treatment for proxy material and information statements, the Commission is amending Exchange Act Rule 14c-5(e) (17 CFR 240.14c-5(e)) to provide that material filed in a Form S-15 registration statement under the Securities Act satisfies the filing requirements of Regulation 14C under the Exchange Act. In such instances, no information statement filing fee is required. The foregoing amendments to Regulations 14A and 14C are adopted exactly as proposed.

C. *Item 7 (Exhibits) of Regulation S-K.* As was indicated in Securities Act Release No. 6177, which published proposed Form S-15 for comment, the proposed Form assumed that the Commission's then outstanding proposal to incorporate uniform exhibit requirements into Item 7 of Regulation S-K would be adopted. It was therefore contemplated that at such time as the Commission decided to adopt Form S-15, new Item 7 of Regulation S-K would be amended by adding a new column to Table I thereof indicating that the following exhibits would be required for filings on Form S-15: plan of acquisition, reorganization arrangement, liquidation or succession; instruments defining the rights of security holders; opinion re legality; opinion re tax matters; and material contracts. Item 7 (Exhibits) of

Regulation S-K was adopted by the Commission on August 27, 1980.<sup>26</sup> Accordingly, the Commission is adopting the amendment thereto described in the proposal published in Securities Act Release No. 6177, with the addition of a requirement for a letter re unaudited financial information which provides consistency of Securities Act exhibit requirements in this regard.

**Text of Form and Rule Amendments**

17 CFR Chapter II is amended as follows:

**PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

1. By adding § 239.29 to read as follows:

**§ 239.29 Form S-15, optional form for registration of securities to be offered in certain business combination transactions.**

**SECURITIES AND EXCHANGE COMMISSION**

**Form S-15—Registration Statement Under the Securities Act of 1933**

.....  
 (Exact name of issuer as specified in its charter)  
 .....  
 (State or other jurisdiction of incorporation or organization)  
 .....  
 (Primary Standard Industrial Classification Code Number)  
 .....  
 (I.R.S. Employer Identification Number)  
 .....  
 (Address, including Zip Code, and telephone number, including area code, of issuer's principal executive offices)  
 .....  
 (Name, address and telephone number of agent for service)  
 .....  
 (Approximately date of commencement of the proposed sale of the securities to the public)

<sup>26</sup> Securities Act Release No. 6230 (August 27, 1980).

**Calculation of Registration Fee**

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee
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**Form S-15—General Instructions**

A. *Rule as to Use of Form S-15.* Form S-15 may be used for registration under the Securities Act of 1933 of securities to be issued either (a) in a transaction of the type specified in Rule 145(a) (§ 230.145(a)); (b) in a merger in which a vote of the security holders of the company being acquired is not required pursuant to applicable state law; or (c) in an exchange offer for securities of another person if the securities sought to be acquired together with any securities owned by the issuer at the time of the filing of the registration statement will aggregate in excess of 50% of the class of securities which is the subject of the exchange; Provided, that each of the following conditions is met:

1. (a) The change in each of the following items for the issuer on an historical basis compared to those for the issuer on a pro forma consolidated basis giving effect to the transaction does not exceed 10 percent for the latest fiscal year (with respect to items (i) and (ii)) and as of the end of the latest fiscal year (with respect to items (iii) and (iv)):

- (i) Gross sales and operating revenues;
- (ii) Net income;
- (iii) Total assets; and
- (iv) Total shareholders' equity.

(b) The total purchase price (market value of the securities being registered as of the date of filing the registration statement plus any additional cash consideration being offered) does not exceed 10% of the issuer's total assets as of the end of the latest fiscal year for which a report on Form 10-K (§ 249.310) has been filed.

**Note.**—Form S-15 may be used to register securities to be issued pursuant to more than one single acquisition transaction. In order for the Form to be used in connection with simultaneous acquisitions or exchange offers of more than one company, however, the conditions of Instruction A.1. above must be met on both an individual and an aggregate basis.

2. At the time of filing the registration statement, the issuer (a) meets the requirements for the use of Form S-7 (§ 239.26), (b) has furnished its latest annual report to security holders pursuant to Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3) and (c) such report contains audited year-end financial statements as of a fiscal year end not more than fifteen months prior to the date the registration statement becomes effective.

3. On or prior to the date of effectiveness of the registration statement, the transaction has been approved or recommended by the boards of directors, or other similar governing bodies, of the issuer and of the company being acquired.

4. The prospectus is delivered to the security holders whose vote, consent or authorization is solicited in accordance with the provisions of any applicable federal or state law but in no event later than 20 days prior to the date on which the meeting of such security holders is held or, if no such meeting is held, the earlier of the date of such vote, consent or authorization or the date the transaction is consummated.

5. Neither the issuer nor the company being acquired is a registered investment company.

B. *Application of General Rules and Regulations.* Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C (§ 230.400 to § 230.494). That Regulation contains general requirements regarding the preparation and filing of the registration statement. Rules 405, 411, 412, and 439 should be especially noted.

C. *Documents Comprising Registration Statement.* The registration statement shall consist of the facing sheet of the Form, a prospectus containing the information called for by Part I, the information and undertaking called for by Part II, signatures, consents of experts, exhibits and any other information or documents filed as a part of the registration statement.

D. *Compliance With Proxy or Information Rules.* 1. If a corporation or other person submits to its security holders entitled to vote or consent a proposal to approve the transaction in which the securities being registered are to be issued, and such person's submission to its security holders is subject to Regulation 14A (§§ 240.14a-1 to 14a-101 of this chapter) or 14C (§§ 240.14c-1 to 14c-101) under the Securities Exchange Act of 1934, then the provisions of such Regulations shall apply in all respects to such person's submission, except that (a) the prospectus may be in the form of a proxy or information statement and shall contain the information required by this Form in lieu of that required by Schedule 14A (§ 240.14a-101) or 14C (§ 240.14c-101) of Regulation 14A or 14C under the Securities Exchange Act of 1934; and (b) copies of the preliminary and definitive proxy or information statement, form of proxy or other material filed as a part of the registration statement shall be deemed filed pursuant to the requirements of such Regulations. All other soliciting material shall be filed in accordance with such Regulations.

2. If the proxy or information material sent to such security holders is not subject to Regulation 14A or 14C, all such material shall be filed as a part of the registration statement at the time the statement is filed or as an amendment thereto prior to the use of such material.

3. If the transaction pursuant to which the securities being registered on this Form are to be issued is subject to Section 13(e), 14(d) or 14(e) of the Securities Exchange Act of 1934, the provisions of those sections and the rules and regulations thereunder shall apply to the transaction regardless of the provisions of Form S-15.

E. *Availability of the Prospectus for Reoffers or Resales.* The Form S-15 prospectus may be used by affiliates of the issuer, or any other persons who may be deemed underwriters of such securities, for reoffers or resales of securities acquired pursuant to this registration statement. Provided, that: (1) The additional information called for by Item 8 of this form is included in the prospectus so used; (2) each of the persons named as a selling security holder in a prospectus used for reoffers or resales shall have an intent to make such offers and sales within not more than sixteen months following the effective date of the prospectus [if after the effective date a person acquires an intent to reoffer or resell and the issuer

wishes to add such person to the list of selling security holders the issuer may do so by filing a post-effective amendment]; and (3) the information in a prospectus used for reoffers or resales shall be updated through an amended prospectus filed in accordance with Section 10(a)(3) of the Act.

F. *Availability and Operation of Form S-15 Prior to Implementation of Revised Annual Report Requirements.* On September 2, 1980, the Commission adopted certain amendments to Rule 14a-3 and Regulation S-K, effective for reports with respect to fiscal years ending after December 15, 1980. If all other conditions to the use of Form S-15 are met, the Form may be used prior to such time as those amendments are required to have been implemented by the issuer or, where appropriate, by the company being acquired (See Item 3(a)). In such event, the references in Item 3(b) and Item 11(a) of this Form to (1) supplementary financial information furnished in accordance with the provisions of [revised] Rule 14a-3(b); (2) market for common stock and related security holder matters furnished in accordance with [new] Item 9 of Regulation S-K; (3) selected financial data furnished in accordance with [new] Item 10 of Regulation S-K; and (4) management's discussion and analysis of financial condition and results of operations furnished in accordance with [new] Item 11 of Regulation S-K, should be deemed to refer instead to the summary of operations, management's discussion and analysis, and market and securities price data as required by Rule 14a-3 for reports with respect to fiscal years ending prior to December 15, 1980. In addition, the provisions of Item 3(b) and Item 11(a) with respect to financial statements required by Rule 14a-3 shall be deemed to be satisfied by financial statements meeting the requirements of Rule 14a-3 applicable at the time such annual report was prepared.

**Part I. Information Required in the Prospectus**

Item 1. *Summary.* Immediately following the cover page of the prospectus, set forth a summary containing the following:

(a) a brief description of the general nature of the business conducted by the issuer and by the company being acquired; (b) a brief description of the transaction pursuant to which the securities being registered are to be offered; and (c) in comparative columnar form, comparative per share data adjusted to be presented on an equivalent share basis of the issuer and the company being acquired, for the following items: (i) book value per share as of the date of the most recent balance sheet presented in response to Item 3 or incorporated by reference in response to Item 11; (ii) cash dividends declared per share during the last full fiscal year for which financial statements are presented in response to Item 3 or incorporated by reference in response to Item 11; (iii) net earnings per share for the year ended as of the same date used for purposes of paragraph (i) of this Item, and for the year to date ended as of the end of the latest corresponding fiscal quarter which ended not more than forty-five days prior to the effective date of the registration statement; and (iv) market

value of securities as of the day preceding public announcement of the proposed transaction, or, if no such public announcement was made, as of the day preceding the day the agreement with respect to the transaction was entered into.

Item 2. *Terms of the Transaction.* (a) Give the name of the issuer of the securities to be registered, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(b) Give the name of the company being acquired, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(c) Outline briefly the material features of the proposed transaction, including a description of the securities to be issued pursuant thereto. State the reasons of the company being acquired for engaging in the transaction, the federal income tax consequences thereof to the security holders of the company being acquired, and any significant differences between the rights of those security holders and the rights of holders of the securities being offered.

*Instruction.* A brief summary of the principal terms of an acquisition agreement is all that is required. Copies of the acquisition agreement need not be included in the prospectus if an undertaking is included to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of the agreement (excluding any confidential or proprietary exhibits or provisions).

(d) Briefly describe any restrictions on the issuer's present or future ability to pay dividends with respect to any class of securities.

Item 3. *Description of the Company Being Acquired.* (a) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 and has furnished an annual report to security holders pursuant to Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3) for its latest fiscal year, then, at the issuer's option, portions of such annual report may be incorporated by reference and such annual report may be delivered in accordance with the provisions of Items 9, 10 and 11 of this Form.

(b) Otherwise, if the company being acquired does not have a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, or has not furnished an annual report to security holders pursuant to Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3) for its latest fiscal year, or the issuer elects not to incorporate by reference from such annual report and to deliver it with the prospectus, then the following shall be set forth with respect to the acquired company:

(i) A brief description of the business of the company being acquired which indicates its general nature and scope;

(ii) Market for common stock of the company being acquired and related security holder matters as required by Item 9 of Regulation S-K;

(iii) Selected financial data as required by Item 10 of Regulation S-K;

(iv) Management's discussion and analysis of financial condition and results of operations as required by Item 11 of Regulation S-K;

(v) Financial statements and supplementary financial information as would have been required to be included in an annual report furnished to security holders pursuant to Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3) had the company being acquired been required to prepare such a report: *Provided, however,* That the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited; and

(vi) The quarterly financial and other information as would have been required had the company being acquired been required to file Part I of Form 10-Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the registration statement becomes effective or for a period ending as of a more recent date.

*Instruction.* The Commission may, upon the request of the issuer, permit the omission of any of the statements or other financial information required by paragraphs (iii), (v) and (vi) of this Item where such statements are not necessary for the exercise of prudent judgment in regard to the transaction pursuant to which the securities being registered are to be offered, or may permit the filing in substitution thereof of appropriate statements of comparable character.

Item 4. *Voting Information.* (a) If proxies, consents, or authorizations are to be solicited, include, where applicable, the information called for by the following items of Schedule 14A (§ 240.14a-101) of Regulation 14A under the Securities Exchange Act of 1934:

Item 1. Revocability of proxy;

Item 3. Persons making the solicitation;

Item 5. Voting securities and principal holders thereof; and

Item 22. Vote required for approval.

(b) If the transaction is not an exchange offer and proxies, consents, or authorizations are not to be solicited, include, where applicable, the information called for by Items 5 and 22 of Schedule 14A and the following items of Schedule 14C (§ 240.14c-101) of Regulation 14C under the Securities Exchange Act of 1934:

Item 2. Statement that proxies are not solicited; and

Item 3. Date, time and place of meeting.

(c) In addition to the information called for by paragraphs (a) and (b) above, in all cases include the following:

(i) *Dissenters' Rights of Appraisal.* Outline briefly appraisal or other similar rights of dissenters with respect to the proposed transaction and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

*Instruction.* Indicate whether or not a security holder's failure to vote against a

proposal will constitute a waiver of his appraisal or other similar rights and whether or not a vote against a proposal will be deemed to satisfy any notice requirements under state law with respect to appraisal rights. If the state law is unclear, state what position will be taken in regard to these matters.

(ii) *Beneficial Ownership.* Provide the information required by Items 8(a) and 8(b) of Regulation S-K (§ 229.20) with respect to both the issuer of the securities being registered and the company being acquired. To the extent that this information is already provided pursuant to paragraph (a) of this Item, a statement to that effect will suffice.

(iii) *Executive Officers and Directors.* With respect to the issuer, provide the information required by Item 3 of Regulation S-K. With respect to the company being acquired, identify each of the executive officers and directors and indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is so employed.

Item 5. *Interest of Certain Persons in the Transaction.* Describe briefly any material interest, direct or indirect, by security holdings or otherwise, of affiliates of the issuer and of the company being acquired, in the proposed transaction.

*Instruction.* This item shall not apply to any interest arising from the ownership of securities of the issuer where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

Item 6. *Additional Information With Respect to the Issuer.* (a) Provide financial and other information with respect to the issuer in the form required by Part I of Form 10-Q (§ 249.308a) as of the end of the most recent fiscal quarter for which a Form 10-Q has been filed or as of a more recent date by one of the following means:

(i) Including such information in the prospectus;

(ii) Delivering to each person to whom a prospectus is delivered a copy of the issuer's latest Form 10-Q; or

(iii) Delivering to each person to whom a prospectus is delivered a copy of the issuer's latest quarterly report which was delivered to its security holders and which included the required financial and other information.

*Instruction.* Form 10-Q(s) which are to accompany the prospectus should be filed and quarterly reports to security holders which are to accompany the prospectus should be delivered to the staff ten days prior to the expected effective date of the registration statement.

(b) Describe any and all material changes in the issuer's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders. Financial information may be required in the prospectus if the financial statements in the annual report to security holders do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles where such change requires a substantial

retroactive restatement of financial statements.

(c) State that reports, proxy statements and other information filed by the issuer can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and state the current address of such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates.

(d) Name any national securities exchange on which the issuer's securities are listed, and state that reports, proxy statements and other information concerning the issuer can be inspected at such exchanges.

(e) Include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of any and all of the information which has been incorporated by reference in the registration statement, other than exhibits to such information. Indicate the name, address and telephone number of the person to whom such a written request is to be directed.

**Item 7. Additional Information With Respect to the Company Being Acquired.** (a) If the Company being acquired has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, has furnished an annual report to security holders pursuant to Rule 14a-3 or Rule 14c-3 for its latest fiscal year, and such annual report is incorporated by reference into and delivered with the prospectus pursuant to the option provided by Item 3(a), provide financial and other information with respect to the company being acquired in the form required by Part I of Form 10-Q as of the end of the most recent of the first three fiscal quarters which ended more than forty-five days prior to the effective date of this registration statement or as of a more recent date by one of the following means:

(i) Including such information in the prospectus;

(ii) Delivering to each person to whom a prospectus is delivered a copy of the latest Form 10-Q filed by the company being acquired; or

(iii) Delivering to each person to whom a prospectus is delivered a copy of the latest quarterly report which was delivered to the security holders of the company being acquired and which included the required financial and other information.

**Instruction.** Form 10-Q(s) which are to accompany the prospectus should be filed and quarterly reports to security holders which are to accompany the prospectus should be delivered to the staff ten days prior to the expected effective date of the registration statement.

(b) Describe any and all material changes in the affairs of the company being acquired which have occurred since the end of the latest fiscal year for which certified financial statements have been included either:

(i) In the annual report to security holders

delivered pursuant to Item 10 of this form; or

(ii) In the prospectus as a result of the provisions of paragraph (c)(v) of Item 3 of this Form.

Financial information may be required in the prospectus if such financial statements do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles where such change requires a substantial retroactive restatement of financial statements.

(c) Describe any changes in control of the company being acquired which have occurred within thirty-six months prior to the filing date of the registration statement.

(d) If the company being acquired has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 or is required to file reports under Section 15(d) of that Act:

(i) State that reports and other information filed by the company being acquired can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and state the current address of such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates;

(ii) Name any national securities exchange on which the securities of the company being acquired are listed, and state that reports, proxy statements and other information concerning the company being acquired can be inspected at such exchange; and

(iii) Include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of any and all of the information which has been incorporated by reference in the registration statement, other than exhibits to such information. Indicate the name, address and telephone number of the person to whom such a written request is to be directed.

**Item 8. Additional Information Required for Reoffering by Persons and Parties Deemed to be Underwriters.** If any of the securities are to be reoffered to the public by any person or party who is deemed to be an underwriter thereof the prospectus shall, at the time of such offering, include the following additional information which would then be required to be included in the prospectus by the appropriate registration form, other than Form S-15, to the extent that such information is not already included in the prospectus:

(a) Information in regard to the persons and parties on whose behalf the securities are to be offered and the underwriting and distribution of such securities;

(b) Information with respect to the consummation of the transaction pursuant to which the securities were acquired and any material developments in the business or affairs of the issuer subsequent to the transaction; and

(c) Any other information necessary to make the prospectus current, including financial statements of the issuer and any other party to the transaction.

**Item 9. Information Delivered and Incorporated by Reference.** (a) A statement shall be made indicating that the prospectus is accompanied by the following documents:

(i) The issuer's latest annual report to security holders; and

(ii) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, has furnished its annual report for its latest fiscal year to security holders pursuant to and meeting the requirements of Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3), and the issuer has elected pursuant to the option provided by Item 3(a) to incorporate by reference from such annual report and deliver it with the prospectus, such annual report.

(b) A statement shall be made that certain information has been incorporated by reference, including but not limited to specified portions of the document(s) which accompany the prospectus. The issuer may also state, if it so chooses, that specifically described portions of those documents are not incorporated by reference and are not a part of the registration statement. In such case, the description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail. The detailed description of all material incorporated by reference may, at the issuer's option, either be included in the prospectus or in Part II of the registration statement in response to Item 11 or in both places.

#### Part II. Information Not Required in Prospectus; Undertakings

**Item 10. Undertaking To Transmit Certain Material.** The registration statement shall contain an undertaking substantially as follows:

"The undersigned issuer hereby undertakes to deliver or cause to be delivered with the prospectus to each person to whom the prospectus is sent or given by the issuer or by the acquired company:

(i) The issuer's latest annual report to security holders; and

(ii) The latest annual report to security holders of the company being acquired furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3."

However, if the issuer either does not have available or does not elect the option provided by Item 3(a) to incorporate by reference and deliver the annual report to security holders of the company being acquired, then paragraph (ii) of this undertaking may be omitted.

**Item 11. Incorporation of Certain Information by Reference.** (a) The following information contained in the annual report(s) to security holders delivered with the

prospectus pursuant to Item 10 shall be specifically incorporated by reference into the registration statement by means of a statement to that effect in Part II filed with the Commission (see Item 9(b)):

(i) Description of business furnished in accordance with the provisions of Rule 14a-3(b)(5);

(ii) Certified financial statements furnished in accordance with the provisions of Rule 14a-3(b);

(iii) Supplementary financial information furnished in accordance with the provisions of Rule 14a-3(b)(3);

(iv) Information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S-K (§ 229.20);

(v) Market for common stock and related security holder matters furnished in accordance with Item 9 of Regulation S-K;

(vi) Selected financial data furnished in accordance with Item 10 of Regulation S-K; and

(vii) Management's discussion and analysis of financial condition and results of operations furnished in accordance with Item 11 of Regulation S-K.

(b) The following documents shall be specifically incorporated by reference into the registration statement, by means of a statement to that effect in Part II filed with the Commission (see Item 9(b)):

(i) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the issuer on or after the end of the issuer's latest fiscal year reported on in the annual report to security holders delivered with the prospectus pursuant to Item 10 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable State law or, if no such vote or consent is solicited, the date of the transaction described in the registration statement is fully consummated; and

(ii) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the company being acquired on or after the end of such company's latest fiscal year as reported on in the annual report to security holders delivered with the prospectus pursuant to Item 10 or as reported on in the prospectus pursuant to Item 3 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable State law or, if no such vote or consent is solicited, the date the transaction in the registration statement is fully consummated.

**Item 12. Undertaking To File Prospectuses as Amendments.** The registration statement shall contain an undertaking substantially as follows:

"The undersigned issuer hereby undertakes as follows:

(a) That prior to any public reoffering of the securities registered hereunder through the use of a prospectus which is a part of this registration statement, by any person or party

who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain, or will be amended to contain, the information called for by Item 8 with respect to the securities to be so offered, in addition to the information called for by the other Items of Form S-15;

"(b) That every prospectus which is filed pursuant to paragraph (a) above, or which purports to meet the requirements of Section 10(a)(3) of the Act, will be filed as a part of an amendment to the registration statement and will not be used until such amendment has become effective, and that for the purpose of determining liabilities under the Act, the effective date of such amendment shall be deemed the effective date of the registration statement with respect to securities sold after such amendment has become effective;

"(c) That all such new registration statements will comply with the applicable forms, rules and regulations of the Commission in effect at the time such post-effective amendments are filed; and

"(d) That the issuer will remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering."

**Item 13. Interest of Experts Named in Registration Statement.** If any expert named in the registration statement as having prepared or certified any part thereof was employed for such a purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a substantial interest in the issuer or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee, furnish a brief statement of the nature of such contingent basis, interest or connection.

**Item 14. Exhibits.** Subject to the rules regarding incorporation by reference, the exhibits as required by Item 7 of Regulation S-K (17 CFR 229.20) shall be filed as a part of the registration statement. List all exhibits so filed and appropriately letter or number each exhibit for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

**Signatures.** Pursuant to the requirements of the Securities Act of 1933, the issuer has duly caused this registration statement to be signed on its behalf of the undersigned, thereunto duly authorized, in the City of \_\_\_\_\_, State of \_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_\_.

(Issuer) \_\_\_\_\_  
By (Signature and Title) \_\_\_\_\_

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_

#### Instructions

1. The registration statement shall be signed by the issuer, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

#### PART 201—RULES OF PRACTICE

2. By amending § 201.24 to read as follows:

##### § 201.24 Incorporation by reference.

Where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and, where the document being incorporated by reference has been filed with the Commission, to the prior filing in which such document was physically filed. Reference may not be made to any document which incorporates another document by reference if the pertinent portion of the document containing the information or financial statements to be incorporated by reference includes an incorporation by reference to another document. No document on file with the Commission for more than five years may be incorporated by reference except—

(a) Documents contained in registration statements which may be incorporated by reference as long as the registrant has a reporting requirement with the Commission;

(b) Documents that the registrant specifically identifies by physical location and by SEC file number reference, provided such materials have not been disposed of by the Commission pursuant to its Records Control Schedule (17 CFR 200.80f).

#### PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

3. By amending Table I of Item 7 (added at 45 FR 58825, Sept. 5, 1980) of § 229.20 to read as follows:

Table I.—Securities Act of 1933—Frequently Used Forms

	S-1	S-2	S-7	S-8	S-11	S-14	S-15	S-16
(1) Underwriting agreement.....	X	X	X		X	X		X
(2) Plan of acquisition, reorganization arrangement, liquidation or succession.	X		X		X	X	X	X
(3) Articles of incorporation and by-laws.	X	X			X	X		
(4) Instruments defining the rights of security holders, including indentures.	X	X	X	X	X	X	X	X
(5) Opinion re legality.....	X	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares.	X	X	X		X	X		
(7) Opinion re liquidation preference....	X	X	X		X	X		
(8) Opinion re tax matters.....	X	X	X	X	X	X	X	X
(9) Voting trust agreement.....	X	X			X	X		
(10) Material contracts.....	X	X	X		X	X	X	
(11) Statement re computation of per share earnings.	X		X		X	X		
(12) Statements re computation of ratios <sup>1</sup> .	X		X		X	X		
(13) Annual report to security holders.....				X				
(14) Material foreign patents.....	X	X				X		
(15) Instruments defining the rights of participating employees.	X			X				
(16) Letter re unaudited financial information.	X	X	X	X	X	X	X	X

<sup>1</sup> Such plans need not be filed for secondary offerings on this form.

<sup>2</sup> Such statements are necessary only when such ratios are furnished.

<sup>3</sup> This exhibit need only be filed for the registration of securities offered pursuant to an employee benefit plan of the registrant.

§ 229.20 Information required in document.

Item 7. Exhibits.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

4. By amending paragraph (b) of § 230.411 to read as follows:

§ 230.411 Incorporation of certain information by reference.

(b) Any financial statement or part thereof filed with the Commission pursuant to any Act administered by the Commission, or any financial statement or part thereof contained in an annual report to security holders prepared in compliance with Rule 14a-3 (§ 240.14a-3) or Rule 14c-3 (§ 240.14c-3), and furnished to security holders and mailed to the Commission in compliance with those rules, may be incorporated by reference in any registration statement if it substantially conforms to the requirements of the appropriate form and is not required to be included in the prospectus. However, a financial schedule incorporated by reference to an annual report filed with the Commission pursuant to any Act administered by it need not be certified, if such schedule was not required to be certified in connection with the filing of the annual report, any requirement of any registration form to the contrary notwithstanding.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

5. By amending paragraph (a) of § 240.14a-3 to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

(a) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule 14A (§ 240.14a-101) or with a written proxy statement included in a registration statement filed under the Securities Act of 1933 on Form S-15 (§ 239.29) and containing the information specified in such Form.

6. By amending paragraph (i) of § 240.14a-6 to read as follows:

§ 240.14a-6 Material required to be filed.

(i) Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S-14 (§ 239.23 of this chapter) or Form S-15 (§ 239.29 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant

to this section nor shall any fee be required under paragraph (i) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S-14 or Form S-15 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

7. By revising the introductory text of paragraph (a) and paragraph (a)(2) of § 240.14a-12 to read as follows:

§ 240.14a-12 Solicitation Prior to Furnishing Required Proxy Statement.

(a) Notwithstanding the provisions of Rule 14a-3(a) (§ 240.14a-3(a)), a solicitation (other than one subject to Rule 14a-11 (§ 240.14a-11)) may be made prior to furnishing security holders a written proxy statement meeting the requirements of Rule 14a-3(a) if—

(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by Rule 14a-3(a) (§ 240.14a-3(a)) is furnished to security holders: *Provided, however,* That this subparagraph (2) shall not apply where a proxy statement then meeting the requirements of Rule 14a-3(a) has been furnished to security holders by or on behalf of the person making the solicitation.

8. By amending paragraph (a) of § 240.14c-2 to read as follows:

§ 240.14c-2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the issuer of such securities shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c-101) or a written information statement included in a registration statement filed under the Securities Act of 1933 on Form S-15 (§ 239.29) and containing the information specified in such form, to every such security holder who is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited

on behalf of the management of the issuer pursuant to section 14(a) of the Act: *Provided, however,* That in the case of a class of securities in unregistered or bearer form, such statements need be transmitted only to those security holders whose names are known to the issuer.

9. By amending paragraph (e) of § 240.14c-5 to read as follows:

**§ 240.14c-5 Filing of information statement.**

(e) Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement filed under the Securities Act of 1933 on Form S-14 (§ 239.23 of this chapter) or Form S-15 (§ 239.39 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S-14 or Form S-15 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a); secs. 14(a), 23(a), 48 Stat. 985, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 5, 78 Stat. 569, 570; sec. 18, 89 Stat. 155; 15 U.S.C. 78n(a), 78w(a); secs. 12(e), 20(a), 49 Stat. 823, 833; 15 U.S.C. 79f, 79t; secs. 20(a), 38(a), 54 Stat. 822, 841; 15 U.S.C. 80a-20(a), 80a-37(a))

**Statutory Authority and Findings**

The Commission hereby adopts Form S-15 and the foregoing amendments to 17 CFR Parts 201, 229, 230, and 240 pursuant to the Securities Act of 1933, particularly Sections 6, 7, 10 and 19(a) thereof, and pursuant to Sections 14(a) and 23(a) of the Securities Exchange Act of 1934, Sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and Sections 20(a) and 38(a) of the Investment Company Act of 1940.

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact that the new Form and related rule amendments would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of that Act.

Pursuant to Section 553(d) of the Administrative Procedure Act of 1949 (5 U.S.C. 553), the Commission finds for good cause that the new Form and related Rule amendments may be used and relied upon prior to their effective date by any persons desiring to do so, provided that they comply with all applicable provisions of the Form.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 2, 1980.

[FR Doc. 80-27814 Filed 9-18-80; 10:30 am]

BILLING CODE 8010-01-M

**17 CFR Parts 210, 229, 240, and 249**

[Release Nos. 33-6233; 34-17116; 35-21699; IC-11325; AS-280]

**General Revision of Regulation S-X**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission is adopting a general revision of Articles 3 and 5 and the related sections of Article 12 of Regulation S-X ("S-X"), the regulation which prescribes the form and content of and requirements for financial statements. The changes in the content of S-X (i) eliminate rules which are presently duplicative of generally accepted accounting principles ("GAAP"), (ii) effect changes to recognize predominant current practice and changes in circumstances, (iii) clarify and modify requirements which are presently subject to differing interpretations, and (iv) expand certain requirements to improve financial reporting. These changes have been structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S-X.

**EFFECTIVE DATE:** Effective for companies with fiscal years ended after December 15, 1980. However, upon publication in the Federal Register, earlier implementation is encouraged.

**FOR FURTHER INFORMATION CONTACT:** Arthur J. Schmeiser, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2133).

**SUPPLEMENTARY INFORMATION:** In Securities Act Release No. 6178 issued January 15, 1980, the Commission proposed for comment revisions to Articles 3 and 5 and the related sections

of Article 12 of Regulation S-X. The purposes of the proposal were to:

- (i) Eliminate rules which are presently duplicative of generally accepted accounting principles,
- (ii) Effect changes to recognize predominant current practice and changes in circumstances,
- (iii) Clarify and modify requirements which are presently subject to differing interpretations, and
- (iv) Expand certain requirements to improve financial reporting.

These proposed changes were structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S-X.

More than 300 letters of comment were received on the proposal. After giving these comments careful consideration, the Commission has determined to adopt the amendments with some revisions which are responsive to the comments. Generally, commentators were in accord with the revisions which related to the first three objectives enumerated above and those revisions have been adopted substantially as proposed. On the other hand, many commentators opposed the last objective, expansion of certain requirements to improve financial reporting, and the proposal to conform the financial statements included in annual reports to shareholders to those prepared in accordance with S-X. Nevertheless, the Commission has determined to adopt the rule which provides for uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S-X. The proposed expanded disclosure of the components of income tax expense has been withdrawn and the present disclosure requirements have been retained substantially; however, a requirement to disclose domestic and foreign income before income tax expense has been adopted. The present form of the property, plant and equipment schedules has been retained. The proposed property, plant and equipment schedules are being considered further and the issuance of a separate revised proposal is being evaluated. Additionally, certain commentators addressed rules which were proposed to be unchanged from previous S-X requirements and as a result further revisions have been adopted.

## Background

### General

In 1940, the Securities and Exchange Commission announced the adoption of Accounting Series Release ("ASR") No. 12, "Adoption of Regulation S-X." S-X codified the existing instructions as to the form and content of financial statements included as a part of each of the registration and reporting forms. The regulation did not prescribe accounting methods, but rather stated requirements which were intended to elicit informative disclosures. In 1940, there was little available authoritative accounting literature. Indeed, the predecessor of the American Institute of Certified Public Accountants ("AICPA") only two years earlier had instituted a research program resulting in the publication of accounting principles in the form of Accounting Research Bulletins ("ARBs"). This was the first attempt by the accounting profession to formally promulgate standards. Consequently, the Commission considered it beneficial that S-X included condensed requirements contained in one authoritative source.

### Private Sector Initiatives

Since the development of S-X, however, the private sector has established and improved accounting and reporting standards through various organized bodies—the Accounting Principles Board ("APB"), other units of the AICPA and, most recently, the Financial Accounting Standards Board ("FASB"). The Commission indicated support for the FASB in ASR No. 150, which stated that financial statements conforming to standards set by the FASB will be presumed to have substantial authoritative support. Additionally, the Commission has indicated in its reports to Congress on its oversight of the accounting profession that it continues to believe that the initiative for establishing and improving accounting standards should remain in the private sector, subject to Commission oversight.

### Need for Revision

Similarly, the Advisory Committee on Corporate Disclosure<sup>1</sup> supported private sector standard setting in its report to the Commission, issued in November 1977, in which it recommended among other things, that:

A continuing goal of the Commission should be the elimination of rules of general

<sup>1</sup>An *ad hoc* committee established by the Securities and Exchange Commission for the purpose of assessing the adequacy of the corporate disclosure system.

applicability which cause differences between financial statements prepared in accordance with Regulation S-X and those prepared in accordance with GAAP. When the Commission requires an extension of disclosures beyond those required by GAAP because of an emerging problem, the reasons for the extension and the underlying accounting issues involved should be stated. The Commission should then ask the FASB to consider the issue \* \* \* the Commission should undertake the following:

1. Eliminate all financial statement disclosures required by Regulation S-X which duplicate those required in financial statements prepared in accordance with codified GAAP.
2. Critically review all disclosures of general applicability which are supplementary to those required by GAAP with the objective of eliminating disclosures which may not be necessary to users in making investment decisions.

In recent years, the Commission has sought to integrate the registration and reporting requirements under the Securities Act of 1933 and Securities Exchange Act of 1934. The Commission believes integration of the requirements of these two Acts benefits registrants by offering a more coherent reporting structure. In this connection, the Commission has recently undertaken the task of re-examining the present reporting and disclosure system focusing principally on the form, content and use of Form 10-K. This re-examination process resulted in a variety of separate but related projects of which this general revision of S-X is a part.<sup>2</sup>

The most recent comprehensive revision of S-X was in 1972, which was prior to the issuance by the APB of its last seven opinions and the establishment of the FASB. During the ensuing eight year period, the authoritative accounting literature has expanded dramatically and some of the requirements of S-X are now outdated. Accordingly, this revision was undertaken to respond to that situation.

### Role of the FASB

The Commission frequently and unequivocally has voiced its support of the FASB as the leader in the establishment and improvement of accounting principles. A minority of the commentators have stated that certain components of the proposed

<sup>2</sup>Three other releases issued today adopt changes relating to: (1) Certain amendments to Form 10-K, the annual report form required to be filed by most publicly-owned companies, and a number of related rule, form and guide changes; (2) a new simplified form for the registration of securities issued in certain merger and reorganization transactions; and (3) uniform financial statement instructions for certain forms and reports required to be filed pursuant to the Securities Act and the Exchange Act; Securities Act Release Nos. 33-6231, 33-6232 and 33-6234, respectively.

amendments to S-X effectively may be pre-empting the activities of the FASB, especially its project to develop a conceptual framework for financial accounting and reporting. Indeed, one of the FASB's concerns about the proposal to require registrants to include financial statements prepared in accordance with S-X in their annual reports to shareholders is:

Possible conflicts with the FASB's conceptual framework projects on reporting earnings, funds flows and liquidity, and financial statements and other means of financial reporting.

Other commentators objected that the proposal regarding the content of financial information in the annual report to shareholders contradicted ASR No. 150 and would undermine the authority of the FASB.

The Commission does not believe that any decision to require particular disclosures or, less likely, a decision to require a particular method of accounting through rulemaking in S-X, conflicts with the basic policy of relying on the FASB for leadership in establishing financial accounting and reporting standards. Furthermore, it believes that the remaining requirements of S-X address those areas where GAAP standards are not explicit and there is a need for an authoritative source for such requirements. While there is, of course, always the possibility that the Commission may conclude it cannot accept an FASB standard in a particular area, such events have been rare. The Commission intends to continue its present policy of carefully re-evaluating its rules as the FASB effectuates changes in financial accounting and reporting standards, and will eliminate those rules which become unnecessary. For example, as standards are issued by the FASB regarding "Funds Flows and Liquidity," "Reporting Earnings" and other phases of the conceptual framework project, the Commission expects it will be able to defer to the requirements of the private sector. The Commission believes that the action which it currently is taking is in harmony with its statement of policy pronounced in ASR No. 150.

### Uniformity

The financial statements filed with the Commission frequently have been somewhat different from those included in annual reports to shareholders because of additional requirements of S-X. As mentioned previously, one of the purposes of the revisions to S-X is to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining uniformity

between financial statements included in annual reports to shareholders and those prepared in accordance with S-X. Therefore, the Commission has re-examined Articles 3, 5 and 12 of S-X to determine which financial statement requirements should be required in annual reports to shareholders because of their significance and relevance.<sup>3</sup>

The Commission believes that annual reports to shareholders should not be overburdened with information which, although relevant to meaningful analysis, is of little interest to the majority of users. Therefore, it has relocated certain financial disclosures mandated in the financial statements by its previous requirements to the supplemental schedules required by Article 12.

The rules which are being adopted today have been the focus of serious consideration by the Commission and its staff. The Commission has considered the comments of the respondents and appreciates their concerns regarding its rules which affect the content of the annual report to shareholders. Clearly, the need to provide registrants with adequate flexibility in order to maintain the annual report to shareholders, and financial statements included therein, as readable and comprehensible documents has been one of the Commission's primary concerns. As a result, in January 1980 it proposed numerous changes to its rules, many of which are being adopted presently. As a consequence of the comment process, the Commission has re-evaluated the proposed rules and is adopting further revisions which are less restrictive than those proposed.

These revisions are discussed throughout this release and focus on the need for registrant flexibility, balanced with the need for uniformity in an integrated system. Overshadowing both these issues is the pervasive concern that registrants disseminate the financial information which is necessary for a fair presentation of the registrant's financial condition and results of operations.

As part of this re-evaluation, the requirement for financial statement note references has been removed and greater flexibility has been provided for determining items to be presented on the face of the financial statements. The Commission has decided not to adopt certain proposals such as the requirements to disclose earnings

applicable to common stock and certain information about income tax expense; it has relocated the note disclosures addressing short-term borrowings to the financial statement schedules; and the disclosure of disagreements with predecessor accountants to the supplementary financial information; and it has decided not to relocate the supplementary income statement schedule information to the notes. Additionally, certain rules which were interpretative of GAAP have been removed since present practice is considered acceptable.

#### Article 4

Article 4 now contains the rules of general application to be followed by all registrants in preparing financial statements in accordance with S-X which were included previously in Article 3. The proposed release envisioned a substantial reduction of the content of this Article and discussed the rationale for such action. Commentators substantially agreed with the changes which resulted in complete or partial elimination of certain rules and primarily focused their comments on those rules which were proposed to be retained or established. Consequently, this discussion will not include those rules which were proposed to be deleted, in whole or in part, the disposition of which is as proposed. The following is a discussion of the rules which were proposed to be retained, along with a discussion of the comments received and final rules being adopted.

*Form, order, and terminology.* This rule describes certain mechanics which registrants should follow when preparing financial statements in accordance with S-X. One of the items proposed to remain in this rule presented specific requirements for the display of negative amounts in financial statements. Commentators have indicated that present practice renders this segment of the rule unnecessary, and since the Commission is requiring annual reports to shareholders, required by Rule 14a-3 of the Commission's proxy rules, to conform with S-X, this rule may conflict with the display techniques utilized in these annual reports. Accordingly, this segment of the rule is modified to require that negative amounts be presented in a manner which clearly distinguishes the negative attribute.

*Items not material.* This rule permits registrants to exclude the separate presentation of items not material which otherwise would be required to be shown. The proposed rule contained a

reference to ASR No. 41 which has been deleted. The adopted rule instead paraphrases the essence of ASR No. 41 which permits insignificant amounts in financial statements to be combined. No negative comments were received regarding this rule and therefore it is adopted as proposed, with the modification indicated above.

*Inapplicable captions and omission of unrequired or inapplicable financial statements.* This rule explicitly permits the exclusion of captions and financial statements because the related information either does not exist or is not applicable. It further requires registrants to indicate the reasons why any otherwise required financial statements have been omitted. The rule is adopted as proposed.

*Omission of substantially identical notes.* This rule, which is adopted as proposed, permits the single presentation of substantially the same information which is required with respect to two or more financial statements relating to the same or affiliated persons, provided that a clear and specific reference is made in each of the other statements with respect to which the note is required.

*Valuation and qualifying accounts.* This proposed rule would have required that valuation and qualifying accounts be shown either separately in financial statements as deductions from the specific assets to which they apply or parenthetically on the face of the statements. Commentators recommended that registrants have the option of presenting this information in the notes to the financial statements. They indicated this flexibility would enhance the readability of the financial statements and that, in many cases, note disclosure results in a more meaningful and understandable financial presentation. The Commission has concluded that these comments have substantial validity; and, accordingly, it has deleted this general requirement. However, rules as to presentation of certain valuation and qualifying accounts are provided in Article 5.

*Basis of determining amounts—book value.* The proposed rule would have provided guidance to registrants when an instruction requires a statement as to "the basis of determining the amount." Further, it prohibited use of the term "book value" except in situations where the term explicitly was indicated as acceptable. Commentators have indicated that this rule is duplicative of the requirements of APB Opinion No. 22, "Disclosure of Accounting Policies." Therefore, recognizing that GAAP requires this disclosure, the Commission has determined to delete this rule.

<sup>3</sup> Registrants which are subject to Articles 6, 7, 7A and 9 of S-X may deviate from strict compliance with S-X in their annual reports to shareholders (as permitted by the proxy rules) until those Articles have been revised. That revision should occur during the ensuing twelve months.

**Current assets and current liabilities.** This rule requires that generally recognized trade practice be followed if a company's normal operating cycle is longer than one year. This pertains to the inclusion of items in current assets or current liabilities and requires an explanation of the circumstances and, if practicable, an estimate of the amount not realizable or payable within one year, and the amounts maturing each year along with the interest rates or range of interest rates. This rule is adopted as proposed, except that the reference to ASR No. 102 is deleted.

**Reacquired evidence of indebtedness.** This rule requires that reacquired evidences of indebtedness be deducted from the appropriate liability caption, except for certain situations where the reacquired evidence of indebtedness is held for pension and other special funds not related to the particular issues and then may be shown as an asset of the fund. However, if shown as an asset, the amount of such evidences of indebtedness, the cost thereof, the stated amount, and purpose for which it was reacquired must be stated. This rule is adopted as proposed.

**Reacquired shares.** The proposed rule, which was unchanged from previous S-X requirements, would have required that reacquired shares not retired be shown separately as a deduction from the applicable account. Commentators noted that ARB No. 43 addresses this issue and permits reacquired shares to be shown as an asset when the investment is temporary and the shares are held for special purposes not related to the particular issue. The Commission recognizes the treatment prescribed by ARB No. 43 and accordingly has determined to delete this rule.

**Discount on shares.** This rule, which is adopted as proposed, requires that discounts on shares be shown separately as a deduction from the applicable account(s) as circumstances require.

**General notes to financial statements.** This section of Article 4 specifies the required general notes to the financial statements and requires disclosure of certain applicable information which is not explicitly required by GAAP. It requires presentation of the information either on the face of the appropriate financial statements or in appropriately captioned notes. The proposed rule would have required appropriate cross-references to the applicable notes on the face of the statements. Commentators indicated that registrants should be given flexibility in this matter, because in certain instances cross-references may impair readability or clutter the financial statements. Additionally,

certain methods of presentation are not conducive to cross-referencing. Registrants stated their belief that a general statement referring the reader to the notes frequently is adequate. The Commission believes note references can be valuable to users of financial statements if properly utilized by preparers but it does not desire to impede preparer efforts to develop more effective means of communicating financial information. Accordingly, this rule proposal has been withdrawn; however, cross-references to the applicable notes should appear on the face of the financial statements when appropriate for the effective presentation of financial information to the user of the financial statements.

The following is a discussion of the proposed subsections of *General notes to financial statements*:

**Principles of consolidation or combination.** This rule, which received no negative comments, refers registrants to revised Article 3 of S-X which contains the requirements for consolidated and combined financial statements.

**Assets subject to lien.** Two commentators indicated that this rule, which requires the presentation of certain information concerning assets mortgaged, pledged or otherwise subject to lien, is duplicative of Statement of Financial Accounting Standards ("SFAS") No. 5, "Accounting for Contingencies." The Commission believes that SFAS No. 5 does not provide explicit requirements in this regard and is adopting this rule as proposed.

**Defaults.** This rule requires disclosure of the facts and amounts concerning any default in principal, interest, sinking fund or redemption provisions with respect to any issues of securities or credit agreements. Previously, portions of this rule emphasized the need to classify as a current liability accelerated debt payments resulting from default. These were proposed for deletion since GAAP is considered to provide adequate guidance for the classification of liabilities as current or long-term. Most comments were favorable, and as a result this rule is adopted as proposed.

**Preferred shares.** This rule requires that the amount of aggregate preferences on involuntary liquidation, if other than par or stated value, be shown parenthetically in the appropriate section of the balance sheet. Commentators expressed conflicting interpretations of GAAP with regard to this issue. Some interpreted GAAP as requiring balance sheet presentation when this preference in liquidation may be of significance to the user, while

others stated that presentation should be either on the balance sheet or in the notes to the financial statements. The Commission believes practice should be consistent and for this reason the rule is adopted as proposed.

**Restrictions which limit the availability of retained earnings or net income for dividend purposes.** This rule was proposed to be expanded to require disclosure of restrictions on the payment of intra-company dividends as well as restrictions on the parent company's payment of dividends to its shareholders. A number of commentators recommended that the rule only require disclosure of the most restrictive of any restrictions on the payment of dividends to shareholders.

The Commission proposed expansion of this rule because of its belief that there should be disclosure of information about the ability of the consolidated entity to transfer funds among its component corporations. The presentation of consolidated financial statements and use of the equity method of accounting frequently leads users to believe that there is a free flow of funds among the various corporations which are combined in the consolidated entity or whose investment are recorded at equity, when in fact the viability of certain components, and perhaps the entire entity, may be threatened because of restrictions on the intra-company flow of funds.

In formulating these disclosure requirements, the Commission has noted that previous Rule § 210.5-02.41 required registrants to disclose the amount included in retained earnings of the issuer which represents undistributed earnings of unconsolidated subsidiaries and 50 or less owned persons. Since that requirement embraces issues which are related to the availability of retained earnings for dividend purposes it is being moved to this rule. Therefore, this rule has been altered to require disclosure of the most significant restrictions which limit the payment of dividends to shareholders and the payment of dividends by subsidiaries to the issuer; and in addition, the amount of undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons. These restrictions may result from contractual agreements or from legal prohibitions.

**Significant changes in bonds, mortgages and similar debt.** This rule requires information about events occurring subsequent to the latest balance sheet being filed and is adopted as proposed.

**Income tax expense.** The proposed rule regarding income tax expense would have required registrants to

reconcile pretax income and income tax expense for both their Federal and foreign components, as reported in their financial statements, to Federal (foreign) taxable income and related income taxes anticipated to be reported on registrants' Federal (foreign) income tax returns. A summary of the actual tax computation showing amounts taxed at various rates, statutory, capital gains, etc., and the effects of offsetting credits, also would have been required.

A substantial majority of the commentators addressed this particular rule proposal and, of that group, all but a few totally opposed the rule. Commonly expressed reasons for such opposition were the opinions that (1) the present rule adopted by ASR No. 149, "Notice of Adoption of Amendment to Regulation S-X for Improved Disclosure of Income Tax Expense," is adequate, (2) there is no real benefit to the majority of users by providing this information, (3) many of the tax circumstances are too complex to be properly presented and understood in the proposed format, (4) companies' tax returns usually are not prepared for many months after financial statements are published, and (5) the amount of information would tend to overburden the financial statements. Commentators who supported the proposed rules indicated an overwhelming interest in the proposed disclosure concerning foreign income and related taxes.

The Commission believes that these objections substantially are valid. Accordingly, it is adopting final rules based primarily on the disclosure requirements adopted by ASR No. 149. These requirements call for disclosure of the components of income tax expense, the reasons for and tax effects of timing differences between book and tax reporting resulting in deferred income taxes, and a reconciliation between the effective income tax rate indicated by the income statement and the statutory Federal income tax rate. These rules are being retained with one significant addition—a requirement for separate disclosure of domestic and foreign pretax income.

In ASR No. 149, the Commission stated its belief that the detailed tax disclosure would be primarily of interest to professional analysts who have the obligation to develop an in-depth understanding of corporate results but might not be necessary in financial disclosure designed for the average investor. Since the adoption of those rules, however, the Commission has seen substantial voluntary inclusion by registrants of this tax information in their annual reports to shareholders.

Furthermore, as previously mentioned, numerous commentators supported the disclosure requirements instituted by ASR No. 149. Therefore, the Commission has determined to require disclosure of this information in annual reports to shareholders.

In the rule proposal, the Commission specifically invited commentators to address whether the Commission should retain the requirement concerning disclosure about future cash outlays for income taxes that are anticipated to substantially exceed income tax expense. Most registrants suggested that the rule be deleted, notwithstanding the importance of the disclosure it requires, because it is difficult to predict. The Commission understands that it is difficult to accurately predict this information; however, it believes that in situations where future cash outlays are anticipated to substantially exceed income tax expense, disclosure should be made. Since this disclosure may be more useful in relation to the liquidity section of the revised Management's Discussion and Analysis,<sup>4</sup> the Commission has determined to delete this portion of the income tax rule. It should be pointed out that although this disclosure has not been explicitly required in the Management's Discussion and Analysis, when applicable, this is the type of information which should be provided.

**Warrants and rights outstanding.** This rule requires disclosure of certain pertinent information with respect to warrants and rights outstanding at the date of the related balance sheet. Similar disclosure is required by paragraph 19 of APB No. 15, "Earnings per Share." However, APB No. 15 requires disclosure for "the various securities outstanding" and is not as explicit as this rule with regard to warrants and rights. Only one commentator objected to this rule and the Commission has determined to adopt the rule as proposed.

**Leased assets and lease commitments.** The purpose of this rule is twofold. First, the Commission believes that, except for cases where a problem (as defined in the rules) exists, the provisions of SFAS No. 13, "Accounting for Leases," should be fully effective for public companies, whereas, SFAS No. 13 does not require full application until fiscal years beginning after December 31, 1980. When SFAS No. 13 is fully effective the Commission will rescind this segment of the rule. Second, the rule requires certain "as if" disclosures by rate-regulated enterprises which are not

within the scope of SFAS No. 13, a requirement which several commentators suggested should be deleted. The Commission is aware of the FASB project and related discussion memorandum, "Effect of Rate Regulation on Accounting for Regulated Enterprises." It is expected that the issue of accounting for leases and lease commitments will be given due consideration in the FASB's project. The Commission expects to retain the disclosure requirements related to rate-regulated enterprises until the FASB project is completed, at which time this segment of the rule will be re-evaluated.

**Interest Cost.** This rule requires disclosure of the amount of interest cost incurred and the respective amount expensed or capitalized for each period for which an income statement is presented. In ASR No. 272, "Rescission of Moratorium on Capitalization of Interest Costs," the Commission required these disclosures because SFAS No. 34, "Capitalization of Interest Cost," only requires prospective compliance for fiscal years beginning after December 15, 1979. The Commission will rescind this rule when the transition period has lapsed.

**Disagreements on accounting and financial disclosure matters.** This rule, which was proposed to be unchanged from the previous S-X requirements, requires disclosure about disagreements between registrants and their predecessor accountant involving certain accounting and financial disclosure matters. Several commentators argued that the resultant disclosure is not of financial significance and therefore, at a minimum, should not be included in the notes to the financial statements. The Commission continues to believe, as it has stated previously in Accounting Series Release Nos. 165 and 194, that:

This disclosure is \* \* \* necessary to put readers of financial statements on notice that such a disagreement existed which could have significantly affected the statements.

However, the Commission has concluded that the disclosure of disagreements between registrants and their predecessor accountants can be made outside of the financial statements. Accordingly, this rule has been relocated to Item 12 of Regulation S-K, "Supplementary Financial Information," *Material related party transactions which affect the financial statements*. The first component of this rule was taken from Statement of Auditing Standards No. 6 ("SAS No. 6"), "Related Party Transactions," which provides guidance on procedures that should be considered by the Auditor when he is

<sup>4</sup> Securities Act Release No. 33-6231 (September 2, 1980).

performing an examination of financial statements in accordance with generally accepted auditing standards to identify related party transactions and to satisfy himself as to the substance of and accounting for such transactions including financial statement disclosure.

Since GAAP does not include any general accounting or reporting guidelines for these types of transactions, the Commission believes it is beneficial to integrate the disclosure requirements of SAS No. 6 into S-X. Further, SAS No. 6 applies to audited financial statements only and not unaudited financial statements, which are frequently included in filings with the Commission. This part of the rule requires disclosure of transactions with investments in, and balances due to or from related parties which are material to the financial statements, individually or in the aggregate.

If comprehensive requirements for related party issues are developed by the FASB in the future as part of GAAP, as a result of the work now being performed by a task force authorized by the AICPA to investigate the issues dealing with related parties, the Commission will re-examine the need for it to have specific rules with regard to related party transactions. Until then, the Commission believes the rule is appropriate notwithstanding its partial or total opposition by approximately fifteen percent of the commentators who stated that the rule was unnecessary primarily because related party transactions are addressed in the auditing literature.

The second component of the rule applies to separate financial statements of the registrant, certain investees, or subsidiaries. It requires disclosure in the separate statements of amounts in the related consolidated financial statements which are eliminated and those not eliminated. Also, any intercompany profits or losses resulting from transactions with related parties and not eliminated and the effects thereof must be disclosed. These provisions are necessary because the first component of this rule does not explicitly cover this area.

The third segment of the rule received several specific comments in opposition to its adoption. It requires disclosure on the face of the balance sheet, income statement, or statement of changes in financial position of any material related party receivable or payable; revenue, expense, gain or loss; or cash flows, respectively. Commentators were opposed to the requirement to exhibit significant related party items on the face of the statements. However, this rule has been adopted since the

Commission believes that the information is meaningful to users of financial statements.

The fourth segment of the rule was proposed to provide guidance regarding the classification of current amounts due from related parties. Although commentators did not object to this component of the rule, the Commission has revised it in order to clarify that in classifying all amounts due to and due from related parties consideration should be given to the intent and financial position of the related parties in determining whether such amounts should be classified as current or long-term.

*Supplementary income statement information.* The information proposed to be required by this rule was previously required by Rules 5-04 and 12-16; however, the information, whether presented in a note or a schedule, was required to be presented in the prospectus for purposes of a Securities Act offering. The proposal to require disclosure of this information in the notes to the financial statements reflected the Commission's belief that this information about certain income statement items is relevant to substantially all users of financial statements. Approximately ten percent of the commentators indicated the contrary belief and suggested that the information continue to be presented in a schedule. Since the FASB project, "Reporting Earnings," is expected to address the issues underlying the need for this type of information, and since material changes in the components of expense items are required to be discussed in the revised Management's Discussion and Analysis, the Commission has determined it can permit this information to be furnished in a schedule.

#### Article 5

Article 5 prescribes the form and content of financial statements (balance sheets and income statements) and identifies the necessary schedules for commercial and industrial companies. This article, similar to the other articles designed for use by specific types of registrants, was adopted to provide guidance to commercial and industrial registrants when preparing financial statements pursuant to the Commission's rules. Alterations and modifications have been adopted on a "need to" basis and the format and components are intended to follow generally accepted practice. Although GAAP provides some guidance with respect to form and content of financial statements, the Commission believes it is appropriate to continue to assist

preparers of financial statements by providing this skeletal outline and narrative guidance based on generally accepted practice. The underlying intent of the article is to obtain financial statements presented in a coherent, comprehensive and consistent manner which thereby effectively communicate information to users. The Commission realizes that financial statement information can be displayed in a variety of somewhat similar and diverse forms and has retained Rule 4-01 to permit certain other presentations used by some industries. Nevertheless, it believes that a certain level of consistency is necessary to foster user comprehension. The adopted rules provide an overall structure but permit greater flexibility than did the prior S-X rules.

Additionally, the Commission is aware of the various activities of the FASB which might result in revised accounting principles and significant alteration of the form and content of financial statements. The Commission supports these endeavors and stands ready to re-evaluate this matter and alter S-X as acceptable alternatives are developed.

\* \* \* \* \*

The individual rules in Article 5 are numerous and most have been adopted as proposed. The following discusses those items which were of particular interest to commentators and those items which have been adopted in a different form than that which was proposed.

*Balance sheets.* This rule indicates the persons to whom this article applies and requires compliance with its provisions. The reference to ASR No. 41 has been deleted.

Certain commentators indicated that this part of the article should provide guidance as to the application of the various required line items. The Commission concurs and, accordingly, has expanded this section. The rule states that the various indicated line items should be presented on the face of the balance sheet. Revised rule 4-02 refers to the fact that insignificant amounts may be combined. Additionally, certain items may be combined on the face of the statement as long as there is separate disclosure in the notes. This treatment is governed by explicit provisions included in the various rules of Article 5.

Numerous commentators suggested that the proposed rules be altered to provide registrants with a greater degree of flexibility to determine whether certain information should be disclosed

on the face of the balance sheet or in the accompanying notes.

The Commission has concluded that those comments have substantial validity and therefore has revised the instructions to require separate disclosure of the following items either on the face of the balance sheet or in an appropriately captioned note:

—Notes receivable when in the aggregate they exceed 10% of the total of accounts and notes receivable.

—Allowances for doubtful accounts and notes receivable.

—The individual components of other current assets which exceed five percent of total current assets.

—Accumulated depreciation, depletion, and amortization of property, plant and equipment.

—Accumulated depreciation and amortization of intangible assets.

—The individual components of other assets which exceed five percent of total assets.

—Amounts payable to (1) banks for borrowing; (2) factors or other financial institutions for borrowings; and (3) holders of commercial paper.

—The individual components of other current liabilities which exceed five percent of total current liabilities.

—The individual components of other liabilities which exceed five percent of total liabilities.

**Inventories.** This rule requires certain disclosures with respect to the components of inventory and other specific disclosures when certain unique situations exist.

Several commentators recommended deletion or clarification of the segment of this rule which requires certain disclosures if "cost" is used to determine any portion of the inventory amounts. This particular rule was adopted by ASR No. 164, "Notice of Adoption of Amendments to Regulation S-X to Provide for Improved Disclosures Related to Defense and Other Long-Term Contract Activities." The rule was intended to require disclosure of unique components of inventory, i.e., retained costs representing the excess of manufacturing and production costs over the amounts charged to cost of sales for delivered or in-process units, initial tooling and other deferred start-up costs, or general and administrative costs. In general, the Commission believes that the accounting treatment of such costs is sufficiently unique to warrant disclosure of their existence. The adopted rule contains examples of costs, such as those above, to provide guidance to registrants.

**Accounts and notes payable.** In addition to defining the components of this caption, this rule previously

required disclosure of certain information regarding short-term borrowings and unused lines of credit. These requirements were established by ASR No. 148, "Notice of Adoption of Amendments to Regulation S-X and Related Interpretations and Guidelines Regarding Disclosure of Compensating Balances and Short-Term Borrowing Arrangements." Several commentators noted that the detail of information required, including weighted average interest rates; average aggregate short-term borrowings outstanding during the period; maximum amount of aggregate short-term borrowings outstanding at any month end; and lines of credit may not be of interest to the majority of users of financial statements. Certain commentators stated that the revised Management's Discussion and Analysis might elicit a more effective presentation of the required information.

The Commission has concluded that these comments have substantial validity and it is adopting rules which correspond to the comments. With respect to the requirement to disclose information about the amounts of short-term borrowings outstanding and related interest rates, the Commission has adopted a schedule in § 210.12-10, "Short-term borrowings." The schedule is required by § 210.5-04, Schedule IX, to provide information about current amounts payable to banks for borrowings; factors and financial institutions for borrowings; and holders of commercial paper. The information required for each of these categories includes the balance outstanding at the end of the period and related weighted average interest rate, the maximum amount outstanding at any month end during the period, and the average amount outstanding during the period and related weighted average interest rate. The Commission has concluded that information concerning unused lines of credit is meaningful to the majority of users of financial statements and should remain as a financial statement requirement.

With regard to inclusion of the information concerning short-term borrowings, the information may be presented in Management's Discussion and Analysis if it results in a more meaningful presentation of the information being provided. If that procedure is followed, the schedule may be omitted if appropriate cross-references are made.

**Income statements.** This rule indicates that applicable registrants are to comply with the provisions of this rule except as otherwise permitted by the Commission.

The reference to ASR No. 41 has been deleted.

**Net sales and gross revenue.** In addition to detailing the display format for sales and revenues, this rule specifies that if the total reported sales or revenues include consumer excise tax in an amount equal to 1% or more, the amount of excise tax shall be shown parenthetically or otherwise on the face of the income statement. Several commentators urged that the rule be eliminated or the percentage requirement increased.

The Commission proposed to lower the percentage test from 10% to 1% because consumer excise tax amounts which are less than 10% of sales and revenue frequently are significant to the reported tax amount which includes the corresponding excise tax expense. The Commission continues to believe that this information should be disclosed because of its unique nature. It is neither a component of costs nor expenses although it frequently is aggregated with such items.

**Earnings applicable to common stock.** The proposed rule would have required registrants to present on the face of the income statement earnings which apply to common stock, if applicable. The previous requirement to disclose this amount was contained in the "Summary of Operations" items of the various Securities Act and Securities Exchange Act forms; however, this summary has been deleted in a concurrent release.<sup>5</sup> Several commentators opposed the adoption of this rule because the information is not meaningful and suggested that the issue be considered by the FASB. The Commission has concluded that these comments are substantially valid with regard to many registrants and although it believes disclosure of earnings applicable to common stock is of value in certain situations, it has decided not to mandate presentation of the amount in all financial statements.

**Property, plant and equipment.** The proposed rule would have required substantial revision of the form and content of the property, plant and equipment schedules. The following information about property, plant and equipment would have been required:

(1) Assets classified by depreciation, depletion or amortization method and thereunder by major classification.

(2) Fully depreciated, depleted or amortized assets which are still in use.

(3) By classification, the rate used in computing depreciation, depletion or amortization, and, if more than one rate

<sup>5</sup> Securities Act Release No. 33-6231 (September 2, 1980).

is used, the range and weighted average rate.

(4) Any asset or group of homogeneous assets (such as computers, equipment used in a specific manufacturing process, warehouses, and office buildings) which comprises 25 percent or more of a major class of property, plant and equipment and the depreciation, depletion or amortization rate. This requirement, however, would not have applied if the asset or group or homogeneous assets constituted less than five percent of total assets.

Numerous comments were received in response to the exposure of this rule. Most commentators opposed the disclosure on the grounds that it would be costly to produce and would provide details in excess of the present requirements which would be of little value to the majority of users. The Commission believes that certain of the comments have substantial validity, and therefore it has decided to reconsider the proposed rule and anticipates that it will re-expose in the near future a rule addressing this issue. Accordingly, the property, plant and equipment schedules will remain unchanged, except for a requirement to disclose depreciation methods and, if practicable, rates used to compute annual charges to the income statement. These requirements were previously included in the Rules of General Application and, accordingly, their inclusion in Article 5 is not an expansion of required disclosure.

**Other Amendments**

*Changes to other articles.* There are numerous cross-references in the other Articles of S-X to rules in Articles 3, 5 and 12 which have been deleted, revised or renumbered in this release. Accordingly, appropriate changes have been made to those articles in this release.

*Selected quarterly financial data.* This rule was proposed to be unchanged; however, it was proposed to be moved from S-X to Regulation S-K in recognition of the fact that the information is not required to be audited. This change has been adopted as proposed. The proposal noted that Rule 2-02(e) of S-X required a certain level of auditor involvement with this unaudited information. Coincident with the movement of the requirement for selected quarterly financial data to Regulation S-K, the substance of Rule 2-02(e) has been transferred to Regulation S-K. The Auditing Standards Board of the AICPA has stated that they will consider amendment of the applicable auditing standards in recognition of this change.

*Financial accounting and reporting for oil and gas producing activities.* A subparagraph is being added to § 210.4-10(k)(5), "Disclosure of estimated quantities of proved oil and gas reserves," which deals with the situation where foreign governments restrict disclosures about estimated reserves in that country. This instruction is the same as the one already contained in Item 2(b)(1), instruction (c) of Regulation S-K; however, since a requirement to disclose reserve quantities is also contained in S-X, this instruction should have been included therein. This revision was not proposed in the original proposed rule changes; however, adoption is considered appropriate since no new requirement is being adopted, but rather the Regulations S-K and S-X provisions are being conformed.

*Foreign issuers.* As part of this revision of S-X, a rule has been added to Article 4-01 which provides that financial statements of foreign private issuers filed with the Commission, on any form other than Form 20-F, may be prepared according to foreign accounting principles, if a reconciliation to United States GAAP and the provisions of S-X are also filed as part of the financial statements. This rule is not an amendment but is formalization of a policy which the Commission follows presently.

**Reference Table of Rule Changes**

The table which follows is presented to enable the reader to trace each of the previous rules to its amended rule number or to identify which previous rules have been deleted. Very brief indications of the changes are also provided. The discussion in the previous section of this release provides the detailed explanation of the more significant rule changes and those where the adopted rule differs from the proposed rule. The table is intended only as a guide, the new rules and the discussion of changes should also be read in conjunction with this table.

Previous rule	New rule
Article 3:	
210.3-01(a)	210.4-01(a) The first paragraph contains minor wording revisions in the first sentence and the second sentence was moved from previous rule 210.3-06. A second and third paragraph were added covering GAAP requirements and foreign issuers, respectively.
210.3-01(b)	210.4-01(b) First sentence revised. Second sentence deleted.
210.3-01(c)	210.4-01(c) Rule revised to allow different methods of display for negative amounts.

Previous rule	New rule
210.3-02	210.4-02 Minor wording changes.
210.-03	210.4-03 Minor wording revising in paragraph (a). Paragraph (c) also revised.
210.3-04	210.4-04 No change.
210.3-05	Deleted.
210.3-06	First sentence moved to 210.4-01(a). Second sentence deleted.
210.3-07	Deleted.
210.3-08	Deleted.
210.3-09	Deleted.
210.3-10	Deleted.
210.3-11	210.4-05 Revised and combined with previous rule 210.3-12.
210.3-12	Combined with previous rule 210.3-11.
210.3-13	210.4-06 Minor revisions to rule.
210.3-14	Deleted.
210.3-15	210.4-07 Minor revisions to recognize changes made in ASR No. 268.
210.3-16	210.4-08 The requirement to present note references on the face of the financial statements has been deleted.
210.3-16(a)	210.4-08(a) No change.
210.3-16(b)	Deleted.
210.3-16(c)	210.4-08(b) No change.
210.3-16(d)	Deleted.
210.3-16(e)	210.4-08(c) Second and third sentences deleted.
210.3-16(f)	210.4-08(d) Subparagraphs (1), (2), (3)(i), and (3)(ii) deleted. Minor revisions to remainder of rule.
210.3-16(g)	Deleted.
210.3-16(h)	210.4-08(e) Present requirements of the rule are clarified and subparagraph (b) of previous rule 210.5-02.41 added.
210.3-16(i)	Deleted.
210.3-16(j)	Deleted.
210.3-16(k)	210.4-08(f) No change.
210.3-16(l)	Deleted.
210.3-16(m)	Deleted.
210.3-16(n)	Deleted.
210.3-16(o)	210.4-08(g) Portions of the rule which duplicate GAAP were deleted and a requirement added for separate disclosure of domestic and foreign income (loss) before taxes.
210.3-16(p)	210.4-08(h) No change.
210.3-16(q)	210.4-08(i) Most of the rule is deleted but the references to SFAS No. 13, "Accounting for Leases," continue the previous requirements.
210.3-16(r)	210.4-08(j) No change from the rule adopted in Accounting Series Release No. 272.
210.3-16(s)	Moved to Item 12 of Regulation S-K.
210.3-16(t)	Moved to Item 12 of Regulation S-K.
210.3-17	210.4-09 No change but see Accounting Series Release No. 271.
210.3-18	210.4-10 Subparagraph (vii) added to 4-10(k)(5).
210.5-01	210.5-01 No change.
210.5-02	210.5-02 Revisions to the introductory paragraph.
210.5-02.1	210.5-02.1 Minor revisions to the rule to focus on withdrawal or usage restrictions.
210.5-02.2	210.5-02.2 Revised to recognize current GAAP requirements.
210.5-02.3	210.5-02.3 Subparagraphs (a) revised; (b) deleted; (c) deleted; (d) revised; and (e) through (g) combined.
210.5-02.4	210.5-02.4 Location of disclosure is optional.
210.5-02.5	210.5-02.5 Caption only retained.
210.5-02.6	210.5-02.6 A portion of the first and second paragraphs of subparagraph (b) is revised.
210.5-02.7	210.5-02.8 Last sentence deleted and location of disclosure is optional.

Previous rule	New rule
210.5-02.8	210.5-02.7 Reference deleted.
210.5-02.9	210.5-02.9 No change.
210.5-02.10	210.5-02.10 Caption only retained (after being revised to refer to related parties) with a reference to rule 210.4-08(k) added.
210.5-02.11	210.5-02.11 Caption only retained (after being revised with a reference to rule 210.4-08(k) added.
210.5-02.12	210.5-02.12 Revised to recognize current GAAP requirements and to combine the requirements of previous rule 210.5-02.13.
210.5-02.13	Deleted. Requirement combined with 210.5-02.12.
210.5-02.14	210.5-02.13 Subparagraph (a) revised; subparagraph (b) revised to delete part of next to last sentence and all of last sentence.
210.5-02.15	210.5-02.14 Location of disclosure is optional.
210.5-02.16	210.5-02.15 Previous requirement revised and expanded.
210.5-02.17	210.5-02.16 Location of disclosure is optional.
210.5-02.18	210.5-02.17 Previous requirement revised and expanded and location of disclosure is optional.
210.5-02.19	Deleted.
210.5-02.20	Deleted.
210.5-02.21	Deleted.
210.5-02.22	Deleted.
210.5-02.23	Deleted.
210.5-02.24	210.5-02.18 No change.
210.5-02.25	210.5-02.19 Minor revisions to subparagraph (a). The requirements of subparagraph (b) have been transferred to a schedule (§ 210.12-10). No change in subparagraph (c).
210.5-02.26	Deleted. Requirement combined with previous rule 210.5-02.27.
210.5-02.27	210.5-02.20 Revised to also include the requirements of previous rule 210.5-02.26.
210.5-02.28	210.5-02.21 No change.
210.5-02.29	210.5-02.22 Minor revisions in subparagraph (a); no change in subparagraph (b).
210.5-02.30	Deleted.
210.5-02.31	210.5-02.23 Caption only retained with a reference to rule 210.4-08(k) being added.
210.5-02.32	Deleted.
210.5-02.33	210.5-02.24 Location of disclosure is optional.
210.5-02.34	210.5-02.25 No change.
210.5-02.35	210.5-02.26 Last sentence deleted.
210.5-02.36	Deleted.
210.5-02.37	210.5-02.27 Minor revisions.
210.5-02.38	210.5-02.28 No change.
210.5-02.39	210.5-02.29 Location of certain disclosure is optional.
210.5-02.40	210.5-02.30 Location of certain disclosure is optional.
210.5-02.41	210.5-02.31 Revised to permit the combination of certain items; subparagraph (b) to 210.4-08(e).
210.5-02.42	210.5-02.32 Minor wordings changes.
210.5-03	210.5-03 Minor revisions made to introductory paragraph; subparagraphs (a) and (b) deleted; minor revisions made to subparagraph (c).
210.5-03.1A	210.5-03.1 Minor revisions made and combined with previous rules 210.5-03.1B and .1C.
210.5-03.2A	210.5-03.2 Minor revisions made and combined with previous rules 210.5-03.2B and .2C.
210.5-03.3A	210. Deleted.
210.5-03.1B	210.5-03.1 See 210.5-03.1A above.
210.5-03.2B	210.5-03.2 See 210.5-03.2A above.

Previous rule	New rule
210.5-03.1C	210.5-03.1 See 210.5-03.1A above.
210.5-03.2C	210.5-03.2 See 210.5-03.2A above.
210.5-03.3	210.5-03.3 No change except for reference to preceding rules.
210.5-03.4	210.5-03.4 Caption only retained.
210.5-03.5	210.5-03.5 No change.
210.5-03.6	210.5-03.6 No change.
210.5-03.7	210.5-03.7 Revised and combined with previous Rules 210.5-03.8, .9, and .10.
210.5-03.8	See 210.5-03.7 above.
210.5-03.9	See 210.5-03.7 above.
210.5-03.10	See 210.5-03.7 above.
210.5-03.11	210.5-03.8 Caption only retained.
210.5-03.12	210.5-03.9 Revised and combined with previous rule 210.5-03.13.
210.5-03.13	210.5-03.9 Revised and combined with previous rule 210.5-03.12.
210.5-03.14	210.5-03.10 No change.
210.5-03.15	210.5-03.11 No change.
210.5-03.16	210.5-03.12 No change.
210.5-03.17	210.5-03.13 First sentence deleted and minor revisions to remainder of rule.
210.5-03.18	210.5-03.16 Caption expanded.
210.5-03.19	210.5-03.17 Caption only retained.
210.5-03.20	210.5-03.18 Caption only retained.
210.5-03.21	210.5-03.19 No change.
210.5-03.22	210.5-03.20 Caption only retained.
210.5-04	210.5-04. The changes made to this rule are as a result of the revisions made in Article 12 (see below) and a renumbering of schedules.
Article 12:	
210.12-01	210.12-01 No change.
210.12-02	210.12-02 Revised heading.
210.12-03	210.12-03 Revised and expanded to include related parties.
210.12-04	210.12-04 Expanded to include related parties.
210.12-05	210.12-05 Format of schedule changed and combined with previous rule 210.12-11.
210.12-06	210.12-06 Footnote added to include the requirements of previous rule 210.3-16(m)(1).
210.12-07	210.12-07 No change.
210.12-08	Deleted.
210.12-09	Deleted.
210.12-10	Deleted.
210.12-11	Combined with 210.12-05 above.
210.12-12	210.12-06 No change.
210.12-13	210.12-09 Revised title.
210.12-14	Deleted.
210.12-15	Deleted.
210.12-16	210.12-11 Partial elimination of disclosures.
210.12-17	Previously revoked.
210.12-18	Previously revoked.
210.12-19	210.12-12 No change.
210.12-20	Previously revoked.
210.12-21	210.12-13 No change.
210.12-22	210.12-14 No change.
210.12-23	Previously revoked.
210.12-24	Previously revoked.
210.12-25	Previously revoked.
210.12-26	Previously revoked.
210.12-27	210.12-15 No change.
210.12-28	Previously revoked.
210.12-29	210.12-16 No change.
210.12-30	Previously revoked.
210.12-31	210.12-17 No change.
210.12-31a	210.12-18 No change.
210.12-32	Previously revoked.
210.12-33	210.12-19 No change.
210.12-34	210.12-20 No change.
210.12-35	210.12-21 No change.
210.12-36	210.12-22 No change.
210.12-37	210.12-23 No change.
210.12-38	210.12-24 No change.
210.12-39	210.12-25 No change.
210.12-40	210.12-26 No change.
210.12-41	210.12-27 No change.

Previous rule	New rule
210.12-42	210.12-26 No change.
210.12-43	210.12-29 No change.

### Commission Action

The Commission hereby amends 17 CFR Chapter II as follows:

### PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By adding a new paragraph (t) to § 210.1-02 and by redesignating the former paragraphs (t) through (y) as (u) through (z).

#### § 210.1-02 Definitions of terms used in Regulation S-X (17 CFR Part 210).

(t) *Related parties.* The term "related parties" means the registrant; its affiliates; principal owners, management, and members of their immediate families; entities for which investments are accounted for by the equity method; and any other party with which the reporting entity may deal when one party has the ability to significantly influence the management or operating policies of the other, to the extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. Related parties also exist when another entity has the ability to significantly influence the management or operating policies of the transacting parties or when another entity has an ownership interest in one of the transacting parties and the ability to significantly influence the other, to the extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests. For purposes of this definition, the terms (1) "principal owner" means the owner(s) of record or known beneficial owner(s) of more than 10% of the voting interests of the reporting entity, and (2) "Management" means any person(s) having responsibility for achieving the objectives of the organization and the concomitant authority to establish the policies and to make the decisions by which such objectives are to be pursued.

2. By deleting § 210.2-02(e).

#### § 210.2-02 Accountants' reports.

(e) [Deleted].

§§ 210.3-05—210.3-10, 210.3-12 and 210.3-14 [Removed]; §§ 210.4-01—210.4-08 [Redesignated as §§ 210.3A-01—210.3A-08]; §§ 210.3-01—210.3-04 [Redesignated as §§ 210.4-01—210.4-04]; § 210.3-11 [Redesignated as § 210.4-05]; § 210.3-13 [Redesignated as § 210.4-06]; §§ 210.3-15—210.3-18 [Redesignated §§ 210.4-07—210.4-10]; Redesignated §§ 210.4-01—210.4-06 [Revised]; § 210.4-10 [Amended]

3. (a) Sections 210.3-05 through 210.3-10, 210.3-12 and 210.3-14 are removed; (b) §§ 210.4-01 through 210.4-08 are redesignated as §§ 210.3A-01 through 210.3A-08 in concurrent Release No. 33-6234; (c) §§ 210.3-01 through 210.3-04 are redesignated as §§ 210.4-01 through 210.4-04; (d) § 210.3-11 is redesignated § 210.4-05; (e) § 210.3-13 is redesignated § 210.4-06 and §§ 210.3-15 through 210.3-18 are redesignated §§ 210.4-07 through 210.4-10; (f) redesignated §§ 210.4-01 through 210.4-08 are revised and a new paragraph (k)(5)(vii) is added to § 210.4-10 as follows:

#### Rules of General Application

##### § 210.4-01 Form, order, and terminology.

(a) Financial statements should be filed in such form and order, and should use such generally accepted terminology, as will best indicate their significance and character in the light of the provisions applicable thereto. The information required with respect to any statement shall be furnished as a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(1) Financial statements filed with the Commission which are not prepared in accordance with generally accepted accounting principles will be presumed to be misleading or inaccurate, despite footnote or other disclosures, unless the Commission has otherwise provided. This article and other articles of Regulation S-X provide clarification of certain disclosures which must be included in any event, in financial statements filed with the Commission.

(2) Financial statements of foreign private issuers filed with the Commission, on any form other than Form 20-F, may be prepared according to foreign accounting principles: *Provided*, That a reconciliation to United States generally accepted accounting principles and the provisions of Regulation S-X is also filed as part of the financial statements.

(b) All money amounts required to be shown in financial statements may be

expressed in whole dollars or multiples thereof, as appropriate: *Provided*, That, when stated in other than whole dollars, an indication to that effect is inserted immediately beneath the caption of the statement or schedule, at the top of the money columns, or at an appropriate point in narrative material.

(c) Negative amounts (red figures) shall be shown in a manner which clearly distinguishes the negative attribute. When determining methods of display, consideration should be given to the limitations of reproduction and microfilming processes.

##### § 210.4-02 Items not material.

If the amount which would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth. The combination of insignificant amounts is permitted.

##### § 210.4-03 Inapplicable captions and omission of unrequired or inapplicable financial statements.

(a) No caption should be shown in any financial statement as to which the items and conditions are not present.

(b) Financial statements not required or inapplicable because the required matter is not present need not be filed.

(c) The reasons for the omission of any required financial statements shall be indicated.

##### § 210.4-04 Omission of substantially identical notes.

If a note covering substantially the same subject matter is required with respect to two or more financial statements relating to the same or affiliated persons, for which separate sets of notes are presented, the required information may be shown in a note to only one of such statements: *Provided*, That a clear and specific reference thereto is made in each of the other statements with respect to which the note is required.

##### § 210.4-05 Current assets and current liabilities.

If a company's normal operating cycle is longer than one year, generally recognized trade practices should be followed with respect to the inclusion or exclusion of items in current assets or current liabilities. An appropriate explanation of the circumstances should be made and, if practicable, an estimate given of the amount not realizable or payable within one year. The amounts maturing in each year (if practicable) along with the interest rates or range of rates also shall be disclosed.

##### § 210.4-06 Reacquired evidences of indebtedness.

Reacquired evidences of indebtedness shall be deducted from the appropriate liability caption. However, reacquired evidences of indebtedness held for pension and other special funds not related to the particular issues may be shown as assets: *Provided*, That there be stated the amount of such evidences of indebtedness, the cost thereof, the amount at which stated, and the purpose for which acquired.

##### § 210.4-07 Discount on shares.

Discount on shares, or any unamortized balance thereof, shall be shown separately as a deduction from the applicable account(s) as circumstances require.

##### § 210.4-08 General notes to financial statements.

If applicable to the person for which the financial statements are filed, the following shall be set forth on the face of the appropriate statement or in appropriately captioned notes. The information shall be provided for each statement required to be filed, except that the information required by items (b), (c), (d), (e), (f), and (h) shall be provided as of the most recent audited balance sheet being filed and for item (i) as specified therein. When specific statements are presented separately, the pertinent notes shall accompany such statements unless cross-referencing is appropriate.

(a) *Principles of consolidation or combination.* With regard to consolidated or combined financial statements, refer to §§ 210.3A-01 to 3A-08 for requirements for supplemental information in notes to the financial statements.

(b) *Assets subject to lien.* Assets mortgaged, pledged, or otherwise subject to lien, and the approximate amounts thereof, shall be designated and the obligations collateralized briefly identified.

(c) *Defaults.* The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue of securities or credit agreements, or any breach of covenant of a related indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated in the notes to the financial statements. If a default or breach exists but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed,

state the amount of the obligation and the period of the waiver.

(d) *Preferred shares.* (1) Aggregate preferences on involuntary liquidation, if other than par or stated value, shall be shown parenthetically in the equity section of the balance sheet.

(2) Disclosure shall be made of any restriction upon retained earnings that arises from the fact that upon involuntary liquidation the aggregate preferences of the preferred shares exceeds the par or stated value of such shares.

(e) *Restrictions which limit the availability of retained earnings or net income for dividend purposes.* (1)

Describe the most significant restrictions, other than as reported in paragraph (d) of this section, on the payment of dividends by the issuer, indicating briefly their sources, their pertinent provisions, and, where appropriate and determinable, the amount of retained earnings or net income (i) so restricted, or (ii) free of such restrictions.

(2) Describe the most significant restrictions on the payment of dividends by consolidated subsidiaries to the issuer, indicating briefly their sources, their pertinent provisions, and, where determinable, the amount of retained earnings or net income (i) so restricted or (ii) free of such restrictions.

(3) Disclose separately the amount of retained earnings of the issuer which represents undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons. With respect to the undistributed earnings of unconsolidated subsidiaries, describe the most significant restrictions on the payment of dividends by the unconsolidated subsidiaries to the issuer, indicating briefly their sources, their pertinent provisions, and, where determinable the amount (i) so restricted or (ii) free of such restrictions.

(f) *Significant changes in bonds, mortgages and similar debt.* Any significant changes in the authorized or issued amounts of bonds, mortgages and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

(g) *Income tax expense.* (1) Disclosure shall be made in the income statement or a note thereto, of (i) the components of income (loss) before income tax expense (benefit) as either domestic or foreign; (ii) the components of income tax expense, including (A) taxes currently payable and (B) the net tax effects, as applicable, of timing differences (indicate separately the amount of the estimated tax effect of each of the various types of timing differences, such as depreciation,

warranty costs, etc., where the amount of each such tax effect exceeds five percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate; other differences may be combined.)

**Note.**—Amounts applicable to United States Federal income taxes, to foreign income taxes and the other income taxes shall be stated separately for each major component. Amounts applicable to foreign income (loss) and amounts applicable to foreign or other income taxes which are less than five percent of the total of income before taxes or the component of tax expense, respectively, need not be separately disclosed. For purposes of this rule, foreign income (loss) is defined as income (loss) generated from a registrant's foreign operations, i.e., operations that are located outside of the registrant's home country.

(2) Provide a reconciliation between the amount of reported total income tax expense (benefit) and the amount computed by multiplying the income (loss) before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount of each of the underlying causes for the difference. If no individual reconciling item amounts to more than five percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than five percent of such computed amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than five percent of the computed amount may be aggregated in the reconciliation. The reconciliation may be presented in percentages rather than in dollar amounts. Where the reporting person is a foreign entity, the income tax rate in that person's country of domicile should normally be used in making the above computation, but different rates should not be used for subsidiaries or other segments of a reporting entity. When the rate used by a reporting person is other than the United States Federal corporate income tax rate, the rate used and the basis for using such rate shall be disclosed.

(h) *Warrants or rights outstanding.* Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows:

(1) Title of issue of securities called for by warrants or rights.

(2) Aggregate amount of securities called for by warrants or rights outstanding.

(3) Date from which warrants or rights are exercisable.

(4) Price at which warrant or right is exercisable.

(i) *Leased assets and lease commitments.* (1) Leased assets and lease commitments of regulated enterprises subject to the rate-making process.

(i) Paragraph (i)(1) of this section is applicable to all regulated enterprises subject to the rate-making process that do not record capital leases as assets with associated liabilities.

(ii) The following information shall be provided for capital leases covered by this rule:

(A) As of the date for each required balance sheet, the aggregate amounts of the assets and liabilities that would have been recorded in the accounts had all leases meeting the definition of a capital lease been recorded.

(B) For each period for which an income statement is required, the aggregate effect on expenses had all assets obtained through leases meeting the definition of a capital lease been recorded as assets with associated liabilities and any additional information management believes is necessary as to the rate-making process.

(2) Leased assets and lease commitments of enterprises which are not covered by paragraph (i)(1) of this section. The financial statement requirements in Statement of Financial Accounting Standards No. 13, "Accounting for Leases," shall be applied in financial statements filed for fiscal years ended after December 24, 1978 with regard to all leases except for companies where a problem, as defined exists. The problem and its potential impact should be disclosed in the footnotes to the financial statements. For purposes of this paragraph "problem" is defined as: That situation where capitalization of capital leases as defined in Statement of Financial Accounting Standards No. 13 would result in the violation or probable future violation expected to occur prior to fiscal years beginning after December 31, 1980 of a restrictive clause in an existing loan indenture or other agreement.

(j) *Interest cost.* Disclosure shall be provided for each period for which an income statement is presented of the amount of interest cost incurred and the respective amounts expensed or capitalized.

(k) *Material related party transactions which affect the financial statements.* (1) The financial statements filed shall disclose transactions with, investments in, and balances due to or from related parties that are material, individually or in the aggregate. This disclosure should include the following:

(i) The nature of the relationship(s).  
 (ii) A description of the transactions (summarized when appropriate) for the periods for which an income statement is presented, including amounts, if any, and such other information as is deemed necessary to an understanding of the effects on the financial statements.

(iii) The dollar volume of transactions and the effects of any change in the method of establishing terms from that used in the preceding period.

(iv) Amounts due to or from related parties and, if not otherwise apparent, the terms and manner of settlement.

(v) Amount of investments in related parties.

(2) In cases where separate financial statements are presented for the registrant, certain investees, or subsidiaries, separate disclosure shall be made in such statements of the amounts in the related consolidated financial statements which are (i) eliminated and (ii) not eliminated. Also, any intercompany profits or losses resulting from transactions with related parties and not eliminated and the effects thereof shall be disclosed.

(3) Disclosure should be made on the face of the balance sheet, income statement, or statement of changes in financial position for any material related party receivable or payable; revenue, expense, gain or loss; or cash flows, respectively. Relevant details regarding these amounts should be provided in the notes.

(4) With respect to the classification of current amounts due from or to related parties, consideration should be given to the intent and the financial position of such related parties in determining whether such amounts should be classified as current or long-term.

**§ 210.4-10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.**

(k) \* \* \*

(5) \* \* \*

(vii) If any foreign government restricts the disclosure of estimated reserves for properties under its governmental authority, or amounts under long-term supply, purchase, or similar agreements, or if the foreign government requires the disclosure of reserves other than proved, the registrant should identify the country, cite the law or regulation which restricts or requires such disclosure, and indicate that the reported reserve estimates or amounts do not include figures for the

named country or that reserve estimates include reserves other than proved.

4. By revising §§ 210.5-10 to 210.5-04 (Article 5) to read as follows:

**Commercial and Industrial Companies**

**§ 210.5-01 Application of §§ 210.5-01 to 210.5-04.**

(a) Sections 210.501 to 210.5-04 shall be applicable to financial statements filed for all persons except—

(1) Management investment companies (see §§ 210.6-01 to 210.6-10).

(2) Unit investment trusts (see §§ 210.6-10a to 210.6-13).

(3) Face amount certificate investment companies (see §§ 210.6-20 to 210.6-24).

(4) Employee stock purchase, savings and similar plans (see §§ 210.6-30 to 210.6-34).

(5) Insurance companies other than title insurance companies (see §§ 210.7-01 to 210.7-06 and §§ 210.7A-01 to 210.7A-06).

(6) Committees issuing certificates of deposit (see §§ 210.8-01 to 210.8-03).

(7) Bank holding companies and banks (see §§ 210.9-01 to 210.9-05).

(8) Brokers and dealers when filing Forms X-17A-5 and X-17A-10 (§ 249.617) (see §§ 240.17a-5 and 240.17a-10 under the Securities Exchange Act of 1934).

(b) Companies in the development stage.

Section 210.5A-2 prescribes additional information to be included in financial statements filed by companies in the development stage.

**§ 210.5-02 Balance sheets.**

The purpose of this rule is to indicate the various line items and certain additional disclosures which, if applicable, and except as otherwise permitted by the Commission, should appear on the face of the balance sheets or related notes filed for the persons to whom this article pertains (see § 210.4-01(a)).

**Assets and Other Debits**

*Current Assets, when appropriate*

**[See § 210.4-05]**

1. *Cash and cash items.* Separate disclosure shall be made of the cash and cash items which are restricted as to withdrawal or usage. The provisions of any restrictions shall be described in a note to the financial statements. Restrictions may include legally restricted deposits held as compensating balances against short-term borrowing arrangements, contracts entered into with others, or company statements of intention with regard to particular deposits; however, time deposits and short-term certificates of deposit are not generally included in legally restricted deposits. In cases where

compensating balance arrangements exist but are not agreements which legally restrict the use of cash amounts shown on the balance sheet, describe in the notes to the financial statements these arrangements and the amount involved, if determinable, for the most recent audited balance sheet required and for any subsequent unaudited balance sheet required in the notes to the financial statements. Compensating balances that are maintained under an agreement to assure future credit availability shall be disclosed in the notes to the financial statements along with the amount and terms of such agreement.

2. *Marketable securities.* The accounting and disclosure requirements for current marketable equity securities are specified by generally accepted accounting principles. With respect to all other current marketable securities, state, parenthetically or otherwise, the basis of determining the aggregate amount shown in the balance sheet, along with the alternatives of the aggregate cost or the aggregate market value at the balance sheet date.

3. *Accounts and notes receivable.* (a) State separately amounts receivable from (1) customers (trade); (2) related parties (see § 210.4-08(k)); (3) underwriters, promoters, and employees (other than related parties) which arose in other than the ordinary course of business; and (4) others.

(b) If the aggregate amount of notes receivable exceeds 10 percent of the aggregate amount of receivables, the above information shall be set forth separately, in the balance sheet or in a note thereto, for accounts receivable and notes receivable.

(c) If receivables include amounts due under long-term contracts (see § 210.5-02.6(d)), state separately in the balance sheet or in a note to the financial statements the following amounts:

(1) Balances billed but not paid by customers under retainage provisions in contracts.

(2) Amounts representing the recognized sales value of performance and such amounts that had not been billed and were not billable to customers at the date of the balance sheet. Include a general description of the prerequisites for billing.

(3) Billed or unbilled amounts representing claims or other similar items subject to uncertainty concerning their determination or ultimate realization. Include a description of the nature and status of the principal items comprising such amount.

(4) With respect to (1) through (3) above, also state the amounts included in each item which are expected to be collected after one year. Also state, by year, if practicable, when the amounts of retainage (see (1) above) are expected to be collected.

4. *Allowances for doubtful accounts and notes receivable.* The amount is to be set forth separately in the balance sheet or in a note thereto.

5. *Unearned income.*

6. *Inventories.* (a) State separately in the balance sheet or in a note thereto, if practicable, the major classes of inventory such as: (1) Finished goods; (2) inventoried costs relating to long-term contracts or programs (see (d) below and § 210.4-05); (3)

work in process (see § 210.4-05); (4) raw materials; and (5) supplies.

(b) The basis of determining the amounts shall be stated.

If "cost" is used to determine any portion of the inventory amounts, the description of this method shall include the nature of the cost elements included in inventory. Elements of "cost" include, among other items, retained costs representing the excess of manufacturing or production costs over the amounts charged to cost of sales or delivered or in-process units, initial tooling or other deferred startup costs, or general and administrative costs.

The method by which amounts are removed from inventory (e.g., "average cost," "first-in, first-out," "last-in, first-out," "estimated average cost per unit") shall be described. If the estimated average cost per unit is used as a basis to determine amounts removed from inventory under a total program or similar basis of accounting, the principal assumptions (including, where meaningful, the aggregate number of units expected to be delivered under the program, the number of units delivered to date and the number of units on order) shall be disclosed.

If any general and administrative costs are charged to inventory, state in a note to the financial statements the aggregate amount of the general and administrative costs incurred in each period and the actual or estimated amount remaining in inventory at the date of each balance sheet.

(c) If the LIFO inventory method is used, the excess of replacement or current cost over stated LIFO value shall, if material, be stated parenthetically or in a note to the financial statements.

(d) For purposes of §§ 210.5-02.3 and 210.5-02.6, long-term contracts or programs include (1) all contracts or programs for which gross profits are recognized on a percentage-of-completion method of accounting or any variant thereof (e.g., delivered unit, cost to cost, physical completion), and (2) any contracts or programs accounted for on a completed contract basis of accounting where, in either case, the contracts or programs have associated with them material amounts of inventories or unbilled receivables and where such contracts or programs have been or are expected to be performed over a period of more than twelve months. Contracts or programs of shorter duration may also be included, if deemed appropriate.

For all long-term contracts or programs, the following information, if applicable, shall be stated in a note to the financial statements:

(i) The aggregate amount of manufacturing or production costs and any related deferred costs (e.g., initial tooling costs) which exceeds the aggregate estimated cost of all in-process and delivered units on the basis of the estimated average cost of all units expected to be produced under long-term contracts and programs not yet complete, as well as that portion of such amount which would not be absorbed in cost of sales based on existing firm orders at the latest balance sheet date. In addition, if practicable, disclose the amount of deferred costs by type of cost (e.g., initial tooling, deferred production, etc.).

(ii) The aggregate amount representing claims or other similar items subject to uncertainty concerning their determination or ultimate realization, and include a description of the nature and status of the principal items comprising such aggregate amount.

(iii) The amount of progress payments netted against inventory at the date of the balance sheet.

#### 7. Prepaid expenses.

8. *Other current assets.* State separately, in the balance sheet or in a note thereto, any amounts in excess of five percent of total current assets.

9. *Total current assets, when appropriate.*

10. *Securities of related parties.* (See § 210.4-08(k).)

11. *Indebtedness of related parties—non-current.* (See § 210.4-08(k).)

12. *Other investments.* The accounting and disclosure requirements for non-current marketable equity securities are specified by generally accepted accounting principles. With respect to other security investments and any other investment, state, parenthetically or otherwise, the basis of determining the aggregate amounts shown in the balance sheet, along with the alternate of the aggregate cost or aggregate market value at the balance sheet date.

#### 13. Property, plant and equipment.

(a) State the basis of determining the amounts.

(b) Tangible and intangible utility plant of a public utility company shall be segregated so as to show separately the original cost, plant acquisition adjustments, and plant adjustments, as required by the system of accounts prescribed by the applicable regulatory authorities. This rule shall not be applicable in respect to companies which are not required to make such a classification.

14. *Accumulated depreciation, depletion, and amortization of property, plant and equipment.* The amount is to be set forth separately in the balance sheet or in a note thereto.

15. *Intangible assets.* State separately each class of such assets which is in excess of five percent of the total assets, along with the basis of determining the respective amounts. Any significant addition or deletion shall be explained in a note.

16. *Accumulated depreciation and amortization of intangible assets.* The amount is to be set forth separately in the balance sheet or in a note thereto.

17. *Other assets.* State separately, in the balance sheet or in a note thereto, any other item not properly classed in one of the preceding asset captions which is in excess of five percent of total assets. Any significant addition or deletion should be explained in a note. With respect to any significant deferred charge, state the policy for deferral and amortization.

18. *Total assets and, when appropriate, other debts.*

### Liabilities and Stockholders' Equity

*Current Liabilities, When Appropriate* (See § 210.4-05)

19. *Accounts and notes payable.* (a) State separately amounts payable to (1) banks for borrowings; (2) factors or other financial

institutions for borrowings; (3) holders of commercial paper; (4) trade creditors; (5) related parties (see § 210.4-08(k)); (6) underwriters, promoters, and employees (other than related parties); and (7) others. Amounts applicable to (1), (2) and (3) may be stated separately in the balance sheet or in a note thereto.

(b) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

20. *Other current liabilities.* State separately, in the balance sheet or in a note thereto, any item in excess of 5 percent of total current liabilities. Such items may include, but are not limited to, accrued payrolls, accrued interest, taxes, indicating the current portion of deferred income taxes, and the current portion of long-term debt. Remaining items may be shown in one amount.

21. *Total current liabilities, when appropriate.*

### Long-Term Debt

22. *Bonds, mortgages and other long-term debt, including capitalized leases.* (a) State separately, in the balance sheet or in a note thereto, each issue or type of obligation and such information as will indicate (see § 210.4-06): (1) the general character of each type of debt including the rate of interest; (2) the date of maturity, or, if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990"; (3) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (4) a brief indication of priority; (5) if convertible, the basis; and (6) the combined aggregate amount of maturities and sinking fund requirements for all issues, each year for the five years following the date of the balance sheet. For amounts owed to related parties, see § 210.4-08(k).

(b) The amount and terms (including commitment fees and the conditions under which commitments may be withdrawn) of unused commitments for long-term financing arrangements that would be disclosed under this rule if used shall be disclosed in the notes to the financial statements if significant.

23. *Indebtedness to related parties—noncurrent.* Include under this caption indebtedness to related parties as required under § 210.4-08(k).

24. *Other liabilities.* State separately, in the balance sheet or in a note thereto, any item not properly classified in one of the preceding liability captions which is in excess of 5 percent of total liabilities.

25. *Commitments and contingent liabilities.*

26. *Deferred credits.* State separately in the balance sheet amounts for (a) deferred income taxes, (b) deferred tax credits, and (c) material items of deferred income.

### Minority Interests

27. *Minority interests in consolidated subsidiaries.* State separately in a note the

amounts represented by preferred stock and the applicable dividend requirements if the preferred stock is material in relation to the consolidated stockholders' equity.

#### Redeemable Preferred Stocks

28. Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer. (a) Include under this caption amounts applicable to any class of stock which has any of the following characteristics: (1) it is redeemable at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (2) it is redeemable at the option of the holder; or (3) it has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings. Amounts attributable to preferred stock which is not redeemable or is redeemable solely at the option of the issuer shall be included under § 210.5-02.29 unless it meets one or more of the above criteria.

(b) State on the face of the balance sheet the title of each issue, the carrying amount, and redemption amount. (If there is more than one issue, these amounts may be aggregated on the face of the balance sheet and details concerning each issue may be presented in the note required by paragraph (c) below.) Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. If the carrying value is different from the redemption amount, describe the accounting treatment for such difference in the note required by paragraph (c) below. Also state in this note or on the face of the balance sheet, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate (See § 210.4-07).

(c) State in a separate note captioned "Redeemable Preferred Stocks" (1) a general description of each issue, including its redemption features (e.g. sinking fund, at option of holders, out of future earnings) and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event a required dividend, sinking fund, or other redemption payment(s) is not made; (2) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet; and (3) the changes in each issue for each period for which an income statement is required to be filed. (See also § 210.4-08(d).)

(d) Securities reported under this caption are not to be included under a general heading "stockholders' equity" or combined in a total with items described in captions 29, 30 or 31 which follow.

#### Non-Redeemable Preferred Stocks

29. Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer. State on the face of the balance sheet, or if more than one issue is outstanding state in a note, the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable

therefrom. State on the face of the balance sheet or in a note, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate (see § 210.4-07). Show in a note or separate statement the changes in each class of preferred shares reported under this caption for each period for which an income statement is required to be filed. (See also § 210.4-08(d).)

#### Common Stocks

30. Common stocks. For each class of common shares state, on the face of the balance sheet, the number of shares issued or outstanding, as appropriate (see § 210.4-07), and the dollar amount thereof. If convertible, this fact should be indicated on the face of the balance sheet. For each class of common shares state, on the face of the balance sheet or in a note, the title of the issue, the number of shares authorized, and, if convertible, the basis of conversion (see also § 210.4-08(d)). Show also the dollar amount of any common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement the changes in each class of common shares for each period for which an income statement is required to be filed.

#### Other Stockholders' Equity

31. Other stockholders' equity. (a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital and (3) retained earnings (i) appropriated and (ii) unappropriated. (See § 210.4-08(e).) Additional paid-in capital and other additional capital may be combined with the stock caption to which it applies, if appropriate.

(b) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate, on the face of the balance sheet, the total amount of the deficit eliminated.

(c) A summary of each account under this caption setting forth the information prescribed in Rule 11-02 (§ 210.11-02) shall be given in a note or separate statement, for each period for which an income statement is required to be filed.

#### 32. Total liabilities and stockholders' equity.

#### § 210.5-03 Income statements.

(a) The purpose of this rule is to indicate the various line items which, if applicable, and except as otherwise permitted by the Commission, should appear on the face of the income statements filed for the persons to whom this article pertains (see § 210.4-01(a)).

(b) If income is derived from more than one of the subcaptions described under § 210.5-03.1, each class which is not more than 10 percent of the sum of the items may be combined with another class. If these items are combined, related costs and expenses as described under § 210.5-03.2 shall be combined in the same manner.

1. Net sales and gross revenues. State separately:

(a) net sales of tangible products (gross sales less discounts, returns and allowances), (b) operating revenues of public utilities or others; (c) income from rentals; (d) revenues from services; and (e) other revenues. Amounts earned from transactions with related parties shall be disclosed as required under § 210.4-08(k). A public utility company using a uniform system of accounts or a form for annual report prescribed by federal or state authorities, or a similar system or report, shall follow the the general segregation of operating revenues and operating expenses reported under § 210.5-03.2 prescribed by such system or report. If the total of sales and revenues reported under this caption includes excise taxes in an amount equal to 1 percent or more of such total, the amount of such excise taxes shall be shown on the face of the statement parenthetically or otherwise.

#### 2. Costs and expenses applicable to sales and revenues.

State separately the amount of (a) cost of tangible goods sold, (b) operating expenses of public utilities or others, (c) expenses applicable to rental income, (d) cost of services, and (e) expenses applicable to other revenues. Merchandising organizations, both wholesale and retail, may include occupancy and buying costs under caption 2(a). Amounts of costs and expenses incurred from transactions with related parties shall be disclosed as required under § 210.4-08(k).

3. Other operating costs and expenses. State separately any material amounts not included under caption 2 above.

#### 4. Selling, general and administrative expenses.

5. Provision for doubtful accounts and notes.

6. Other general expenses. Include items not normally included in caption 4 above. State separately any material item.

7. Non-operating income. State separately amounts earned from (a) dividends, (b) interest on securities, (c) profits on securities (net of losses), and (d) miscellaneous other income. Amounts earned from transactions in securities of related parties shall be disclosed as required under § 210.4-08(k). Material amounts included under miscellaneous other income shall be separately stated, indicating clearly the nature of the transactions out of which the items arose.

#### 8. Interest and amortization of debt discount and expense.

9. Non-operating expenses. State separately amounts of (a) losses on securities (net of profits) and (b) miscellaneous income deductions. Material amounts included under miscellaneous income deductions shall be separately stated, indicating clearly the nature of the transactions out of which the items arose.

#### 10. Income or loss before income tax expense and appropriate items below.

11. Income tax expense. Include under this caption only taxes based on income (see § 210.4-08(g)).

#### 12. Minority interest in income of consolidated subsidiaries.

13. Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned

persons. State, parenthetically or in a note, the amount of dividends received from such persons. If justified by the circumstances, this item may be presented in a different position and a different manner (see § 210.4-01(a)).

14. *Income or loss from continuing operations.*

15. *Discontinued operations.*

16. *Income or loss before extraordinary items and cumulative effects of changes in accounting principles.*

17. *Extraordinary items, less applicable tax.*

18. *Cumulative effects of changes in accounting principles.*

19. *Net income or loss.*

20. *Earnings per share data.*

#### § 210.5-04 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this section as Schedules I, VII, XI, XII, and XIII shall be filed as of the dates of the most recent audited balance sheet for each person or group.

(2) All other schedules specified below in this section as Schedules II, III, IV, V, VI, VIII, IX, and X shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) When information is required in schedules for both the registrant and the registrant and its subsidiaries consolidated it may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

#### *Schedule I—Marketable securities—other investments.*

The schedule prescribed by § 210.12-02 shall be filed—

(1) In support of caption 2 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 10 percent or more of total assets.

(2) In support of caption 12 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of other investments as of the balance sheet date constitutes 10 percent or more of total assets.

(3) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market of other investments plus the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 15 percent or more of total assets.

(4) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market value of the securities as of the balance sheet date of any issuer reported under either caption 2 or caption 12 constitutes 2 percent or more of total assets.

*Schedule II—Amounts receivable from related parties and underwriters, promoters, and employees other than related parties.* The schedule prescribed by § 210.12-03 shall be filed with respect to each person among related parties and underwriters, promoters, and employees other than related parties, from whom an aggregate indebtedness of more than \$100,000 or 1 percent of total assets, whichever is less, is owed, or at any time during the period for which related income statements are required to be filed was owed. This schedule shall not include information which is prescribed by § 210.12-05. For the purposes of this schedule, exclude in the determination of the amount of indebtedness all amounts receivable from such persons for purchases subject to usual trade terms, for ordinary travel and expense advances and for other such items arising in the ordinary course of business.

*Schedule III—Investments in, equity in earnings of, and dividends received from related parties.* The schedule prescribed by § 210.12-04 shall be filed in support of caption 10 of each balance sheet. This schedule may be omitted if (1) neither the sum of captions 10 and 11 in the related balance sheet nor the amount of caption 23 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

*Schedule IV—Indebtedness of and to related parties—not current.* The schedule prescribed by § 210.12-05 shall be filed in support of captions 11 and 23 of each balance sheet; however, the required information may be presented separately on Schedule III. This schedule may be omitted if (1) neither the sums of captions 10 and 11 in the related balance sheet nor the amount of caption 23 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

*Schedule V—Property, plant and equipment.* The schedule prescribed by § 210.12-06 shall be filed in support of caption 13 of each balance sheet, provided that this schedule may be omitted if the total shown by caption 13 does not exceed 5 percent of total assets as shown by the related balance sheet at both the beginning and end of the period and if neither the additions nor the deductions during the period exceeded 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule VI—Accumulated depreciation, depletion, and amortization of property, plant and equipment.* The schedule prescribed by § 210.12-07 shall be filed in support of caption 14 of each balance sheet. This schedule may be omitted if Schedule V is omitted.

*Schedule VII—Guarantees of securities of other issuers.* The schedule prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

*Schedule VIII—Valuation and qualifying accounts.* The schedule prescribed by § 210.12-09 shall be filed in support of valuation and qualifying accounts included in each balance sheet but not included in Schedule VI. (See § 210.4-02.)

*Schedule IX—Short-term borrowings.* The schedule prescribed by § 210.12-10 shall be filed in support of caption 19, amounts payable to banks for borrowings; factors and financial institutions for borrowings; and holders of commercial paper. The information required by this schedule may be presented in Management's Discussion and Analysis if it results in a more meaningful presentation of the information being provided.

*Schedule X—Supplementary income statement information.* The schedule prescribed by § 210.12-11 may be omitted for each income statement in which sales or operating revenues were not of significant amount. This schedule may also be omitted if the information required by column B and instructions 3 and 5 thereof is furnished in the income statement or in a note thereto.

*Schedule XI—Real estate and accumulated depreciation.* The schedule prescribed by § 210.12-28 shall be filed for real estate (and the related accumulated depreciation) held by persons a substantial portion of whose business is that of acquiring and holding for investment real estate or interests in real estate, or interests in other persons a substantial portion of whose business is that of acquiring and holding real estate or interests in real estate for investment. Real estate used in the business shall be excluded from the schedule.

*Schedule XII—Mortgage loans on real estate.* The schedule prescribed by § 210.12-29 shall be filed by persons specified under Schedule XI for investments in mortgage loans on real estate.

*Schedule XIII—Other investments.* If there are any other investments, under caption 12 of § 210.5-02 or elsewhere in a balance sheet, not required to be included in Schedule I or III, there shall be set forth in a separate schedule information concerning such investments corresponding to that prescribed by Schedule I. This schedule may be omitted if the total amount of such other investments does not exceed 5 percent of total assets as shown by such balance sheet.

5. By revising § 210.6-10 to read as follows:

#### § 210.6-10 What schedules are to be filed.

(a) Except as otherwise expressly provided in the applicable form:

(1) The schedules specified below in this section as Schedules I and VII shall be filed as of the date of the most recent balance sheet filed for each person and for each group for which separate statements are filed. Such schedules shall be certified if the related balance sheet is certified.

(2) All other schedules specified below in this section shall be filed for

each period for which a statement of income and expense is filed. Such schedules shall be certified if the related statement of income and expense is certified.

(b) The information required in schedules for the registrant, for the consolidated subsidiaries and for the registrant and its subsidiaries consolidated may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant and to each consolidated subsidiary or group for which separate statements are required are separately shown and that such single schedule affords a properly summarized presentation of the facts.

(c) If the information required by any schedule (including the footnotes thereto) may be shown in the statements required by §§ 210.6-03 to 210.6-09 (Rules 6-03 to 6-09) without making such statements unclear or confusing, that procedure may be followed and the schedule omitted.

#### A. Investment Schedules

*Schedule I—Investments in securities of unaffiliated issuers.* The schedule prescribed by § 210.12-12 (Rule 12-12) shall be filed in support of caption 7 of each balance sheet (§ 210.6-03).

*Schedule II—Investments, other than securities.* The schedule prescribed by § 210.12-13 (Rule 12-13) shall be filed in support of caption 8 of each balance sheet (§ 210.6-03). This schedule may be omitted if the investments, other than securities, at both the beginning and end of the period amount to less than 1 percent of total assets or \$50,000, whichever is less.

*Schedule III—Investments in affiliates.* The schedule prescribed by § 210.12-14 (Rule 12-14) shall be filed in support of caption 9 of each balance sheet (§ 210.6-03).

#### B. Miscellaneous Schedules

*Schedule IV—Amounts due from directors and officers.* The schedule prescribed by § 210.12-03 (Rule 12-03) shall be filed with respect to each person among the directors and officers from whom any amount was owed at any time during the period for which related statements of income and expense are filed.

*Schedule V—Indebtedness to affiliates.* The schedule prescribed by § 210.12-05 (Rule 12-05) shall be filed in support of caption 16(b). This schedule and schedule III may be combined if desired.

*Schedule VI—Valuation and qualifying accounts.* The schedule prescribed by § 210.12-09 (Rule 12-09) shall be filed in support of all reserves included in the balance sheet (§ 210.6-03).

*Schedule VII—Guarantees of securities of other issuers.* The schedule prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

*Schedule VIII—Short-term borrowings.* The schedule prescribed by § 210.12-10 shall be filed in support of caption 12, amounts payable to banks for borrowings; factors and

financial institutions for borrowings; and holders of commercial paper, of each balance sheet (§ 210.6-03).

6. By revising § 210.6-13 to read as follows:

#### § 210.6-13 What schedules are to be filed.

(a) Schedule IV, specified below, shall be filed as of the date of the most recent statement of condition filed. The other schedules specified shall be filed for each period for which a statement of income and distributable funds is filed. All schedules shall be certified.

*Schedule I—Investment in securities.* The schedule prescribed by § 210.12-19 (Rule 12-19) shall be filed in support of caption 1 of each statement of condition and of captions 1 and 2 of each statement of income and distributable funds.

*Schedule II—Trust shares.* The schedule prescribed by § 210.12-20 (Rule 12-20) shall be filed in support of caption 8 of each statement of condition.

*Schedule III—Gain or loss from transactions in trust property.* A schedule shall be submitted showing for each investment set forth in Schedule I in which there were any sales or redemptions during the period: (a) The aggregate amount received from sale; (b) the aggregate cost of the investment sold; and (c) the realized gain or loss thereon.

*Schedule IV—Allocation of trust assets to series of trust shares.* If the trust assets are specifically allocated to different series of trust shares, and if such allocation is not shown in the statement of condition in columnar form or by the submission of separate statements for each series of trust shares, a schedule shall be submitted showing the amount of trust assets, indicated by each statement of condition filed, which is applicable to each series of trust shares.

*Schedule V—Allocation of trust income and distributable funds to series of trust shares.* If the trust income and distributable funds are specifically allocated to different series of trust shares and if such allocation is not shown in the statement of income and distributable funds in columnar form or by the submission of separate statements for each series of trust shares, a schedule shall be submitted showing the amount of income and distributable funds, indicated by each statement of income and distributable funds filed, which is applicable to each series of trust shares.

7. By revising § 210.6-24 to read as follows:

#### § 210.6-24 What schedules are to be filed.

(a) Except as otherwise expressly provided in the applicable forms:

(1) The schedules specified in this section as schedules I, V, and X shall be filed as of the date of the most recent balance sheet filed for each person and for each group for which separate statements are filed. Such schedules shall be certified if the related balance sheet is certified.

(2) All other schedules specified in this section shall be filed for each period for which a profit and loss or income statement is filed, except as indicated for schedules III and IV. Such schedules shall be certified if the related profit and loss or income statement is certified.

(b) The information required in schedules for the registrant, for the consolidated subsidiaries and for the registrant and its subsidiaries consolidated may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant and to each consolidated subsidiary or group for which separate statements are required are separately shown and that such single schedule affords a properly summarized presentation of the facts.

(c) If the information required by any schedules (including the notes thereto) may be shown in the statements required by §§ 210.6-22 and 210.6-23 without making such statements unclear or confusing, that procedure may be followed and the schedule omitted.

#### A. Investment Schedules

*Schedule I—Investment in securities of unaffiliated issuers.* The schedule prescribed by § 210.12-21 shall be filed in support of captions 6(a) and 12 of each balance sheet. Separate schedules shall be furnished in support of each caption, if applicable.

*Schedule II—Investments in and advances to affiliates and income thereon.* The schedule prescribed by § 210.12-22 shall be filed in support of captions 10 and 13 of each balance sheet and caption 1(a) of each profit and loss or income statement. Separate schedules shall be furnished in support of each caption, if applicable.

*Schedule III—Mortgage loans on real estate and interest earned on mortgages.* The schedule prescribed by § 210.12-23 shall be filed in support of captions 6(b) and (c) and 12 of each balance sheet and caption 1(a)(i) of each profit and loss or income statement, except that only the information required by column G and note 8 of the schedule need be furnished in support of profit and loss or income statements for years for which related balance sheets are not required.

*Schedule IV—Real estate owned and rental income.* The schedule prescribed by § 210.12-24 shall be filed in support of captions 7 and 12 of each balance sheet and caption 1(a)(iv) of each profit and loss or income statement for rental income included therein, except that only the information required by columns H, I, and J, and item "Rent from properties sold during the period" and note 4 of the schedule need be furnished in support of profit and loss or income statements for years for which related balance sheets are not required.

#### B. Miscellaneous Schedules

*Schedule V—Qualified assets on deposit.* The schedule prescribed by § 210.12-27 shall be filed in support of note required by caption 11 of § 210.6-22 as to total amount of qualified assets on deposit.

**Schedule VI—Amounts due from officers and directors.** The schedule prescribed by § 210.12-03 shall be filed with respect to each person among the directors and officers from whom any amount was owed at any time during the period for which related profit and loss or income statements are filed. The schedule shall include also amounts due from employees. These amounts may be shown in an aggregate amount setting forth separately the amount due (1) from office employees and (2) sales employees, stating the total number of employees in each class. State if an exemption has been granted by the Commission with respect to amounts included in this schedule.

**Schedule VII—Short-term borrowings.** The schedule prescribed by § 210.12-10 shall be filed in support of caption 17(a), amounts payable to banks for borrowings; factors and financial institutions for borrowings; and holders of commercial paper, of each balance sheet.

**Schedule VIII—Indebtedness to affiliates, not current.** The schedule prescribed by § 210.12-05 shall be filed in support of caption 20 of each balance sheet. This schedule and schedule II may be combined if desired.

**Schedule IX—Supplementary profit and loss information.** The schedule prescribed by § 210.12-25 shall be filed in support of each profit and loss or income statement.

**Schedule X—Guarantees of securities of other issuers.** The schedule prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

#### C. Reserve Schedules

**Schedule XI—Certificate reserves.** The schedule prescribed by § 210.12-26 shall be filed in support of caption 16 of each balance sheet.

**Schedule XII—Valuation and qualifying accounts.** The schedule prescribed by § 210.12-09 shall be filed in support of all other reserves included in the balance sheet.

8. By revising § 210.6-34 to read as follows:

#### § 210.6-34 What schedules are to be filed.

(a) Schedules I and II, specified below, shall be filed as of the date of each statement of financial condition filed. Schedule III shall be filed for each period for which a statement of income and changes in plan equity is filed. All schedules shall be certified if the related statements are certified.

**Schedule I—Investments.** A schedule substantially in form prescribed by § 210.12-12 shall be filed in support of captions 1, 2 and 3 of each statement of financial condition unless substantially all of the information is given in the statement of financial condition by footnote or otherwise.

**Schedule II—Allocation of plan assets and liabilities to investment program.** If the plan provides for separate investment programs with separate funds, and if the allocation of assets and liabilities to the several funds is not shown in the statement of financial condition in columnar form or by the

submission of separate statements for each fund, a schedule shall be submitted showing the allocation of each caption of each statement of financial condition filed to the applicable fund.

**Schedule III—Allocation of plan income and changes in plan equity to investment programs.** If the plan provides for separate investment programs with separate funds, and if the allocation of income and changes in plan equity to the several funds is not shown in the statement of income and changes in plan equity in columnar form or by the submission of separate statements for each fund, a schedule shall be submitted showing the allocation of each caption of each statement of income and changes in plan equity filed to the applicable fund.

9. By revising § 210.7-06 to read as follows:

#### § 210.7-06 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this rule as Schedules I and VII shall be filed as of the dates of the most recent audited balance sheet for each person or group.

(2) All other schedules specified below in this rule as Schedules II, III, IV, V, and VI shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) When information is required in schedules for both the registrant and its consolidated subsidiaries it may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall support the financial statements prepared in accordance with generally accepted accounting principles except for statements prepared in accordance with § 210.7-02(d).

(d) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

**Schedule I—Summary of investments, other than investments in affiliates.** The schedule prescribed by § 210.12-15 shall be filed in support of caption 1 of each balance sheet.

**Schedule II—Investments in, equity in earnings of, and dividends received from the related parties.** The schedule prescribed by § 210.12-04 shall be filed, for each period for which an income statement is required to be

filed, in support of caption 3(a) of each balance sheet. This schedule may be omitted if neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

**Schedule III—Indebtedness of and to related parties, not current.** The schedule prescribed by § 210.12-05 shall be filed, for each period for which an income statement is required to be filed, in support of captions 3(b) and 15 of each balance sheet; however, the required information may be presented separately on Schedule II. This schedule may be omitted if neither the sums of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

**Schedule IV—Amounts receivable from related parties, and underwriters, promoters, and employees other than related parties.**

The schedule prescribed by § 210.12-03 shall be filed, for each period for which an income statement is required to be filed, with respect to each person among related parties and underwriters, promoters, and employees other than related parties, from whom an aggregate indebtedness of more than \$20,000 or 1 percent of total assets, whichever is less, is owed, or at any time during the period for which related income statements are required to be filed was owed. This schedule shall not include information which is prescribed by § 210.12-05. For purposes of this schedule exclude in the determination of the amount of indebtedness all amounts receivable from such persons for purchases subject to usual trade terms, for ordinary travel and expense advances, and for other such items arising in the ordinary course of business.

**Schedule V—Valuation and qualifying accounts.** The schedule prescribed by § 210.12-09 shall be filed for each period for which an income statement is required to be filed, in support of valuation and qualifying accounts included in each balance sheet (see § 210.4-02).

**Schedule VI—Premiums, losses and claims and policy acquisition costs.** The schedule prescribed by § 210.12-18 shall be filed, for each period for which an income statement is required to be filed, in support of captions 8 and 12 of each balance sheet and captions 1(a), 1(c), 4(a), 4(b) and 5 of each income statement.

**Schedule VII—Guarantees of securities of other issuers.** The schedule prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is being filed.

10. By revising § 210.7A-06 to read as follows:

#### § 210.7A-06 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this rule as Schedules I, VII, and VIII shall be filed as of the date of the most

recent audited balance sheet being filed for each person or group.

(2) All other schedules specified below in this rule as Schedules II, III, IV, V, and VI shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) When information is required in schedules for both the registrant and the registrant and its consolidated subsidiaries it may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall support the financial statements prepared in accordance with generally accepted accounting principles except for statements prepared in accordance with § 210.7A-02(d).

(d) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

*Schedule I—Summary of investments, other than investments in affiliates.* The schedule prescribed by § 210.12-15 shall be filed in support of caption 1 of each balance sheet.

*Schedule II—Investments in equity in earnings of, and dividends received from related parties.* The schedule prescribed by § 210.12-04 shall be filed in support of caption 3(a) of each balance sheet. This schedule may be omitted if neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule III—Indebtedness of and to related parties—not current.* The schedule prescribed by § 210.12-05 shall be filed in support of captions 3(b) and 15 of each balance sheet; however, the required information may be presented separately on Schedule II. This schedule may be omitted if neither the sums of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule IV—Deferred policy acquisition costs.* The schedule prescribed by § 210.12-18 shall be filed in support of caption 6 of each balance sheet provided that this schedule may be omitted if the total shown by caption 6 does not exceed five percent of total assets as shown by the related balance sheet at both the beginning and end of the period and if neither the additions nor the deductions

during the period exceeded five percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule V—Amounts receivable from related parties and underwriters, promoters, and employees other than related parties.* The schedule prescribed by § 210.12-03 shall be filed with respect to each person among related parties and underwriters, promoters, and employees other than related parties, from whom an aggregate indebtedness of more than \$20,000 or 1 percent of total assets, whichever is less, is owed, or at any time during the period for which related income statements are required to be filed was owed. This schedule shall not include information which is prescribed by § 210.12-05. For the purposes of this schedule exclude in the determination of the amount of indebtedness all amounts receivable from such persons for purchases subject to usual trade terms, for ordinary travel and expense advances, and for other such items arising in the ordinary course of business.

*Schedule VI—Valuation and qualifying accounts.* The schedule prescribed by § 210.12-09 shall be filed in support of valuation and qualifying accounts included in each balance sheet (see § 210.4-02).

*Schedule VII—Future policy benefits and insurance in force.* The schedule prescribed by § 210.12-17 shall be filed in support of caption 11 of each balance sheet. The schedule prescribed by § 210.12-16 shall be used insofar as it may more appropriately support the liability for future policy benefits of accident and health insurance at caption 11(b) which are based on unearned premiums.

*Schedule VIII—Guarantees or securities of other issuers.* The schedules prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is being filed.

11. By revising paragraphs (b) (1) and (2) of § 210.9-01 to read as follows:

§ 210.9-01 Application of §§ 210.9-01 to 210.9-05.

\* \* \* \* \*

(b) \* \* \*

(1) On the balance sheet, (i) current assets and current liabilities need not be separately classified from other assets and liabilities respectively, and (ii) in lieu of amounts of investments in, equity in earnings of, dividends received from, indebtedness of and to related parties to be reported at §§ 210.5-02, 10, 11, and 23 and on Schedules III and IV, there shall be substituted amounts of securities and indebtedness of and to affiliates and entities for which investments are accounted for by the equity method. The references to related parties in §§ 210.5-02.3 and .19 and in Schedule II shall be limited to affiliates and entities for which investments are accounted for by the equity method. Securities and Indebtedness of and to

banks shall be shown separately from amounts for other persons; and

(2) On the income statement dividends received from unconsolidated subsidiaries and 50 percent or less owned persons shall be shown as the first item on the statement, and the amount to be reported at § 210.5-03.13 shall be the equity in undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons. Dividends and equity in undistributed earnings related to banks shall be shown separately from amounts for other persons. Disclosures related to transactions with related parties required under §§ 210.5-03.1, .2, and .7 shall be limited to unconsolidated subsidiaries and 50 percent or less owned persons.

\* \* \* \* \*

12. By removing from § 210.9-02.17 paragraph (a) and the designation of the second paragraph as (b).

13. By revising § 210.9-05 to read as follows:

§ 210.9-05 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) Schedule III, specified below, shall be filed as of the dates of the most recent audited balance sheet for each person or group.

(2) The other schedules specified below in the rule as schedules I and II shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

(d) The schedules prescribed by §§ 210.12-04 and 210.12-05 shall be filed in support of subcaptions 9(c) and 14(b) of each balance sheet and shall be designated schedules IV and V, respectively. These schedules shall be filed for each period for which an income statement is required to be filed. These schedules may be omitted if (1) neither the amount required to be reported in a note under subcaption 9(c) in the related balance sheet nor the amount required to be reported in a note under subcaption 14(b) in such balance sheet exceeds 5 percent of stockholders' equity as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information

required to be filed from that last previously reported.

*Schedule I—Amounts receivable from certain persons.* The schedule prescribed by § 210.12-03 shall be filed with respect to indebtedness of more than \$500,000 or 2.5 percent of stockholders' equity, whichever is less, which is owed or, at any time during the period for which related income statements are required to be filed, was owed by each person (including those referred to below) related to the reporting person or any of its principal subsidiaries as director, executive officer,<sup>3</sup> or principal holder of equity securities. Indebtedness to be reported for a director, officer or principal holder of equity securities shall include the aggregate of indebtedness owed by such person and indebtedness owed by any of the following which are related to such person: (1) Any corporation, venture or organization of which any of the foregoing persons is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which any of the foregoing persons has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity and (3) any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person. Indebtedness to be reported shall include amounts owed to the parent company or any consolidated subsidiary. Notwithstanding the foregoing and the requirement of Column A of § 210.12-03, indebtedness incurred in the

ordinary course of business by directors (and related persons specified above) who are neither executive officers nor principal holders of equity securities may be stated in the aggregate in Columns B, C, D and E of § 210.12-03 and need not be reported on an individual basis. The number of directors whose indebtedness is included in the aggregate amount shall be stated in Column A. It shall not be necessary to include in the individual or aggregate indebtedness reported those amounts related to installment loans as defined in § 210.9-02.5(c)(3) made in the ordinary course of business. For the purpose of this schedule, loans or indebtedness made or incurred in the ordinary course of business shall be those which (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features.

*Schedule II—Valuation and qualifying accounts.* The schedule prescribed by § 210.12-09 shall be filed in support of valuation and qualifying accounts included in each balance sheet excluding the allowances for loan losses and real estate losses.

*Schedule III—Guarantees of securities of other issuers.* The schedule prescribed by § 210.12-08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is being filed.

14. By deleting present §§ 210.12-08, 09, 11, 14, 15, 17, 18, 20, 23, 24, 25, 26, 28, 30, and 32; and by revising, amending, and redesignating the remaining rules as follows:

15. Section 210.12-01 is revised to read as follows:

**Form and Content of Schedules  
General**

**§ 210.12-01 Application of §§ 210.12-01 to 210.12-27.**

These sections prescribe the form and content of the schedules required by §§ 210.5-04, 210.6-10, 210.6-13, 210.6-24, 210.6-34, 210.7-06, 210.7A-06 and 210.9-05. The heading of § 210.12-02 is revised to read as follows:

**§ 210.12-02 Marketable securities—other investments.**

16. No change from present schedule format.

17. The heading of § 210.12-03 is revised to read as follows:

**§ 210.12-03 Amounts receivable from related parties and underwriters, promoters, and employees other than related parties.**

17a. No change from present schedule format of § 210.12-03.

18. § 210.12-04 is revised to read as follows:

**§ 210.12-04 Investments in, equity in earnings of, and dividends received from related parties.**

<sup>3</sup> See footnote 1 for definition of "principal subsidiaries," "executive officer" and "relative."

Col. A	Col. B		Col. C		Col. D		Col. E		Col. F
	Balance at beginning of period		Additions		Deductions		Balance at end of period		
	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)	
Name of issuer and description of investment <sup>1</sup>	Number of shares or units. <sup>2</sup>	Amount in dollars	Equity taken up in earnings (losses) of related parties for the period <sup>3</sup>	Other <sup>4</sup>	Distribution of earnings by persons in which earnings (losses) were taken up <sup>5</sup>	Other <sup>6</sup>	Number of shares or units. <sup>2</sup>	Amount in dollars <sup>7</sup>	Dividends received during the period from investments not accounted for by the equity method <sup>5</sup>
	Principal amount of bonds and notes						Principal amount of bonds and notes		

<sup>1</sup> (a) Group separately securities of (1) subsidiaries consolidated, (2) subsidiaries not consolidated, and (3) other related parties, the investments in which are accounted for by the equity method, showing shares and bonds separately in each case. Investments in individual related parties which, when considered with related advances, exceed 2 percent of total assets shall be stated separately. Dividends from (1) marketable securities and (2) other security investments shall also be included and may be shown in separate aggregate amounts.

(b) Those foreign investments, the enumeration of which would be detrimental to the registrant, may be grouped.

<sup>2</sup> Disclose, in the column or in a note hereto, the percentage of ownership interest represented by the shares or units, if material.

<sup>3</sup> The total of column C(1) shall be reconciled with the amount of the related income statement caption.

<sup>4</sup> Briefly describe each item in column C(2); if the cost thereof represents other than a cash expenditure, explain. If acquired from a related party (and not an original issue of that related party) at other than cost to the related party, show such cost, provided the acquisition by the related party was 2 years prior to the acquisition by the person for which the statement is filed.

<sup>5</sup> As to any dividends other than cash, state the basis on which they have been taken up in the accounts, and the justification for such action. If any such dividends received from related parties have been credited in the accounts in an amount differing from that charged to retained earnings by the disbursing company, state the amount of such difference and explain.

<sup>6</sup> Briefly describe each item in column D(2) and state; (a) Cost of items sold and how determined; (b) amount received (if other than cash, explain); and (c) disposition of resulting profit or loss.

<sup>7</sup> The total (or a sub-total) of column E(2) shall be reconciled with the amount reported under caption 10 of the related balance sheet.

19. Section 210.12-05 is revised to read as follows:

**§ 210.12-05 Indebtedness of and to related parties—not current.**

Col. A	Col. B	Col. C		Col. D	Col. E	Col. F	Col. G		Col. H	Col. I
Name of person <sup>1</sup>	Balance at beginning	Indebtedness of—		Deductions <sup>3</sup>	Balance at end	Balance at beginning	Indebtedness to—		Deductions <sup>3</sup>	Balance at end
		Additions <sup>2</sup>					Additions <sup>2</sup>			

<sup>1</sup>The persons named shall be grouped as in the related schedule required for investments in related parties. The information called for shall be shown separately for any persons whose investments were shown separately in such related schedule.  
<sup>2</sup>For each person named in column A, explain in a note the nature and purpose of any increase during the period that is in excess of 10 percent of the related balance at either the beginning or end of the period.  
<sup>3</sup>If deduction was other than a receipt or disbursement of cash, explain.

**§ 210.12-06 Property, plant and equipment.<sup>1, 7</sup>**

20. No change from present schedule format. However, footnote designation 7 is added to the heading and note 7 is added as follows:

<sup>7</sup>Disclosure shall be made of the methods and, if practicable, the rates used in computing the annual provision for depreciation, depletion, obsolescence, and amortization of physical properties and capitalized leases.

<sup>1</sup>Indicate in a note the general terms (as well as formal provisions for the extension of maturity) of each category of aggregate short-term borrowings.

**§ 210.12-10 Short-term borrowings.<sup>1</sup>**

Col. A	Col. B	Col. C	Col. D	Col. E	Col. F
Category of aggregate short-term borrowings <sup>1</sup>	Balance at end of period	Weighted average interest rate	Maximum amount outstanding during the period <sup>2</sup>	Average amount outstanding during the period <sup>3</sup>	Weighted average interest rate during the period <sup>3</sup>

<sup>1</sup>The categories of short-term borrowings are amounts payable to banks for borrowings; factors or other financial institutions for borrowings; and holders of commercial paper.  
<sup>2</sup>Indicate the maximum amount outstanding at any month end (or similar time period) during the period.  
<sup>3</sup>Indicate the means used to compute such average.

25. Section 210.12-16 is redesignated §210.12-11 and the redesignated section is revised to read as follows:

**§ 210.12-11 Supplementary income statement information.**

Col. A <sup>1</sup>	Col. B <sup>2</sup>
Item	Charged to costs and expenses

1. Maintenance and repairs.....
2. Depreciation and amortization of intangible assets, preoperating costs and similar deferral<sup>3</sup>.....
3. Taxes, other than payroll and income taxes<sup>4</sup>.....
4. Royalties.....
5. Advertising costs<sup>5</sup>.....

<sup>1</sup>State, for each of the items noted in column A which exceeds 1 percent of total sales and revenues as reported in the related income statement, the amount called for in column B.  
<sup>2</sup>Totals may be stated in column B without further designation of the accounts to which charged.  
<sup>3</sup>State separately each category of cost amortized.  
<sup>4</sup>State separately each category of tax which exceeds 1 percent of total sales and revenues.  
<sup>5</sup>This item shall include all costs related to advertising the company's name, products or services in newspapers, periodicals or other advertising media.

**§ 210.12-07 Accumulated depreciation, depletion and amortization of property, plant and equipment.<sup>1</sup>**

21. No change.

**§ 210.12-08 Guarantees of securities of other issuers.<sup>1</sup>**

22. Section 210.12-12 is redesignated § 210.12-08.

**§ 210.12-09 Valuation and qualifying accounts.**

23. § 210.12-13 is redesignated § 210.12-09.

24. Section 210.12-10 is revised to read as follows:

**For Management Investment Companies**

**§ 210.12-12 Investments in securities of unaffiliated issuers.**

26. Section 210.12-19 is redesignated § 210.12-12.

**§ 210.12-13 Investments, other than securities.**

27. Section 210.12-21 is redesignated § 210.12-13.

**§ 210.12-14 Investments in affiliates.**

28. Section 210.12-22 is redesignated § 210.12-14.

**§ 210.12-15 Summary of investments—other than investments in affiliates.**

29. Section 210.12-27 is redesignated § 210.12-15.

**§ 210.12-16 Premiums, losses and claims, and policy acquisition costs.**

30. Section 210.12-29 is redesignated § 210.12-16.

**§ 210.12-17 Future policy benefits and insurance in force.**

31. Section 210.12-31 is redesignated § 210.12-17.

**§ 210.12-18 Deferred policy acquisition costs.**

32. Section 210.12-31a is redesignated § 210.12-18.

**For Unit Investment Trusts, and for Those Unincorporated Management Investment Companies Which Are Issuers of Periodic Payment Plan Certificates**

**§ 210.12-19 Investments in securities.**

33. Section 210.12-33 is redesignated § 210.12-19.

**§ 210.12-20 Trust shares.**

34. Section 210.12-34 is redesignated § 210.12-20.

**For Face-Amount Certificate Investment Companies**

**§ 210.12-21 Investments in securities of unaffiliated issuers.**

35. Section 210.12-35 is redesignated § 210.12-21.

**§ 210.12-22 Investments in and advances to affiliates and income thereon.**

36. Section 210.12-36 is redesignated §210.12-22.

**§ 210.12-23 Mortgage loans on real estate and interest earned on mortgages.**

37. Section 210.12-37 is redesignated §210.12-23.

**§ 210.12-24 Real estate owned and rental income.**

38. Section 210.12-38 is redesignated §210.12-24.

**§ 210.12-25 Supplementary profit and loss information.**

39. Section 210.12-39 is redesignated §210.12-25

**§ 210.12-26 Certificate reserves.**

40. Section 210.12-40 is redesignated §210.12-26.

**§ 210.12-27 Qualified assets on deposit.**

41. Section 210.12-41 is redesignated §210.12-27.

**For Certain Real Estate Companies**

**§ 210.12-28 Real estate and accumulated depreciation.**

42. Section 210.12-42 is redesignated § 210.12-28.

**§ 210.12-29 Mortgage loans on real estate.**

43. Section 210.12-43 is redesignated §210.12-29.

44. The following table serves to revise certain cross-references within §§ 210.1-01 to 210.12-29 (Regulation S-X). The first column identifies the location of the reference, the second column indicates the old reference which is deleted, and the third column indicates the new reference which is to be presented in the place of the old reference.

**PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K**

45. Section 229.20 is amended by adding new Item 12 to read as follows (Items 9-11 are added in concurrent release No. 33-6231):

**§ 229.20 Information required in document.**

Item 12. Supplementary financial information. (a) *Selected quarterly financial data.*

(1) Exemption. This rule shall not apply to any registrant that does not meet both of the two following tests:

(i) First test. The registrant: (A) Has securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934 (other than mutual life insurance companies); or

(B) Is an insurance company that is subject to the reporting requirements of section 15(d) of that Act and has securities which also meet the tests set forth in paragraphs (a)(1)(i) (C)(1) and (C)(2) of this section; or

(C) Has securities registered pursuant to section 12(g) of that Act which also

(1) Are quoted on the National Association of Securities Dealers Automated Quotation System, and

(2) Meet the following criteria:  
(i) Three or more dealers stand willing to, and do in fact, make a market in such stock, including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934.

(a) For purposes of this subsection, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market.

Location of reference	Old reference	New reference
§ 210.1-01(c)	§ 210.3-18	§ 210.4-10.
§ 210.2-02(e)	§ 210.3-16(i)	Item 12 of Regulation S-K (§ 229.20).
§ 210.6-02 (introductory text)	§§ 210.1-01 to 210.4-14 (Articles 1, 2, 3, and 4).	§§ 210.1-01 to 210.4-10 (Articles 1, 2, 3, and 4).
§ 210.6-02(c)(1)	§§ 210.4-01 to 210.4-14 (Article 4)	§§ 210.3A-01 to 210.3A-14 (Article 3A).
§ 210.6-02(k)	§ 210.3-02 (Rule 3-02)	§ 210.4-02.
§ 210.6-03-12	§ 210.5-02.25 (b) and (c)	§ 210.5-02.19(b).
§ 210.6-21 (introductory text)	§§ 210.1-01 to 210.4-14	§§ 210.1-01 to 210.4-10.
§ 210.6-21(c)(1)	§§ 210.4-01 to 210.4-14	§§ 210.3A-01 to 210.3A-14.
§ 210.6-21(h)	§ 210.3-02 and 210.3-03(a).	§§ 210.4-02 and 210.4-03(a).
§ 210.6-22-17(a)(ii)	§ 210.5-02.25 (b) and (c)	§ 210.5-02.19(b).
§ 210.6-31 (introductory text)	§§ 210.1-01 to 210.4-14	§§ 210.1-01 to 210.4-10.
§ 210.7-02(a)	§§ 210.1-01-210.1-02, 210.2-01-210.2-05, 210.3-01-210.3-16, and 210.4-01-210.4-08.	§§ 210.1-01-210.1-02, 210.2-01-210.2-05, 210.3A-01-210.3A-08, and 210.4-01-210.4-08.
§ 210.7-03(a)-14	§ 210.5-02.29	§ 210.5-02.22.
§ 210.7-03(a)-18	See §§ 210.3-16(i) and 210.7-05.4	See § 210.7-05.4.
§ 210.7-03(a)-19	§ 210.5-02.38	§ 210.5-02.28.
§ 210.7-03(a)-20	§ 210.5-02.39	§ 210.5-02.29.
§ 210.7-03(a)-21	[See §§ 210.3-14 and 210.3-15] [See also § 210.3-16(f)(3)]	[See § 210.4-07]. [See also § 210.4-08(d)].
§ 210.7-04-9	[See § 210.3-16(o)]	[See § 210.4-08(g)].
§ 210.7-05-1	[See also § 210.3-08]	Deleted.
§ 210.7-05-2	§ 210.3-16(h)	§ 210.4-08(e).
§ 210.7a-02(a)	§§ 210.1-01-1-02, 210.2-01-2-05, 210.3-01-3-16, and 210.4-01-4-09.	§§ 210.1-01-1-02, 210.2-01-2-05, 210.3A-01-3A-08, and 210.4-01-4-08.
§ 210.7a-03(a)-14	§ 210.5-02-29	§ 210.5-02.22.
§ 210.7a-03(a)-20	§§ 210.3-16(i) and 210.7a-05-6	§ 210.7a-05.6.
§ 210.7a-03(a)-21	§ 210.5-02.38	§ 210.5-02.28.
§ 210.7a-03(a)-22	§ 210.5-02.39	§ 210.5-02.29.
§ 210.7a-03(a)-23	[See §§ 210.3-14 and § 210.3-15] [See also § 210.3-16(f)(3)]	[See § 210.4-07]. [See also § 210.4-08(d)].
§ 210.7a-04-10	[See § 210.3-16(o)]	[See § 210.4-08(g)].
§ 210.7a-05-1	[See also § 210.3-08]	Deleted.
§ 210.7a-05-2	§ 210.3-16(h)	§ 210.4-08(e).
§ 210.7a-05-3	§ 210.3-16(o)	§ 210.4-08(g).
§ 210.9-01(c)	§§ 210.1-01-210.1-02, 210.2-01-210.2-05, 210.3-01-210.3-17, and 210.4-01-210.4-08.	§§ 210.1-01-210.1-02, 210.2-01-210.2-05, 210.3A-01-210.3A-08, and 210.4-01-210.4-09.
§ 210.9-02	(See paragraph (a) of § 210.3-01)	(See paragraph (a) of § 210.4-01).
§ 210.9-02-14(a)(3)	(See § 210.5-02.31)	(See § 210.5-02.23).
§ 210.9-02-14(b)	(See § 210.5-02.31)	(See § 210.5-02.23).
§ 210.9-02-15(b)	§ 210.5-02.29 (See also § 210.5-02.30)	§ 210.5-02.22. Deleted.
§ 210.9-02-19	§ 210.5-02.38	§ 210.5-02.28.
§ 210.9-02-20	§ 210.5-02.39	§ 210.5-02.29.
§ 210.9-02-21	§ 210.5-02.40	§ 210.5-02.30.
§ 210.9-02-22	§ 210.5-02.41	§ 210.5-02.31.
§ 210.9-03	(See paragraph (a) of § 210.3-01)	(See § 210.4-01(a)).
§ 210.9-03-17	(See § 210.3-16(o))	(See § 210.4-08(g)).
§ 210.11-01	§ 210.5-02.41	§ 210.5-02.31
§ 210.11-02	(See § 210.5-03(a))	Deleted.
§ 210.11A-02(a)	(See § 210.3-01)	(See § 210.4-01).

(ii) There continue to be 800 or more holders of record, as defined in Rule 12g5-1 (§ 240.12g5-1) under the Exchange Act, of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock.

(iii) The issuer continues to be a U.S. corporation.

(iv) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock.

(v) In addition, the issuer shall meet two of the three following requirements:

(a) The shares described in paragraph (i)(i)(C)(2)(iv) continue to have a market value of at least \$2.5 million.

(b) The minimum representative bid price of such stock is at least \$5 per share.

(c) The issuer continues to have at least \$2.5 million of capital, surplus, and undivided profits.

*Instructions.* 1. The computation required by (v)(a) and (v)(b) shall be based on the average of the closing representative bid prices as reported by NASDAQ for the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by (v)(c) shall be as at the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(ii) Second test. The registrant and its consolidated subsidiaries (A) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting of at least \$250,000 for each of the last three fiscal years; or (B) had total assets of at least \$200,000,000 for the last fiscal year-end.

(2) Disclosure shall be made of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income, and net income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented.

(3) When the data supplied in paragraph (2) of this section vary from the amounts previously reported on the Form 10-Q (17 CFR 249.308a) filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

(4) Describe the effect of any disposals of segments of a business, and

extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

(5) Paragraphs (1) through (4) of this rule shall not apply to a foreign private issuer not required to report quarterly financial information on Form 10-Q; *Provided, however,* That a foreign registrant which reports or is required to report interim financial information on Form 6-K shall disclose such data in the manner provided in paragraphs (1) through (4) with respect to the financial information reported on Form 6-K.

(6) If the financial statements to which this information relates have been reported on by an accountant, appropriate professional standards and procedures, as enumerated in the Statements of Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be followed by the reporting accountant with regard to the data required by this rule.

(b) *Disagreements on accounting and financial disclosure matters.* If, (1) within the twenty-four months prior to the date of the most recent financial statements, a Form 8-K has been filed reporting a change of accountants, (2) included in the Form 8-K there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (3) during the fiscal year in which the change of accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (4) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the

existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

**PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

46. Part 240 is amended by revising paragraph (b)(3) of § 240.14a-3 to read as follows:

**§ 240.14a-3 Information to be furnished to security holders.**

\* \* \* \* \*

(b) \* \* \* \* \*  
(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S-K (17 CFR 229.20).

\* \* \* \* \*

47. Part 240 is further amended by revising paragraph (a)(3) of § 240.14c-3 to read as follows:

**§ 240.14c-3 Annual report to be furnished security holders.**

(a) \* \* \* \* \*

(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S-K (17 CFR 229.20).

\* \* \* \* \*

**PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934**

**§ 249.308a [Amended]**

48. The following table serves to revise certain cross-references in § 249.308a. The first column identifies the location of the reference, the second column indicates the old reference which is deleted, and the third column indicates the new reference which is to be presented in the place of the old reference.

Location of reference	Old reference	New reference
§ 249.308a Part I <i>Instruction</i> 4(a)(1)	Rule 3-02	Rule 4-02.
§ 249.308a Part I <i>Instruction</i> 4(a)(2)	Rule 3-02	Rule 4-02.
§ 249.308a Part I <i>Instruction</i> 4(a)(3)	Rules 3-08 and 3-16	Rule 4-08.

These amendments are adopted pursuant to authority in Sections 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 15(d), and 23(a) (15

U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility

Holding Company Act of 1935; Sections 8, 30, 31(c) and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these amendments on competition and is not aware at this time of any burden that they would impose on competition.

By the Commission.

George A. Fitzsimmons,  
Secretary.

September 2, 1980.

[FR Doc. 80-27816 Filed 9-19-80; 10:30 am]

BILLING CODE 8010-01-M

## 17 CFR Parts 210, 231, 239, 240 and 249

[Releases Nos. 33-6234, 34-17117, 35-21700; IC-11326, AS-281]

### Uniform Instructions as to Financial Statements—Regulation S-X

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Amendment of rules.

**SUMMARY:** The Commission announces the adoption of amendments to rules establishing uniform instructions governing the periods to be covered by financial statements included in (1) most registration and reporting forms filed with the Commission under the Securities Act of 1933 and Securities Exchange Act of 1934, and (2) annual reports to security holders furnished pursuant to the proxy rules. The amendments specify the periods to be covered by audited financial statements as well as the periods for which unaudited interim financial information is required when securities are being registered. In addition, requirements as to the form and content of interim financial information included in registration statements have been adopted which parallel current requirements of quarterly reports filed on Form 10-Q. The amendments remove substantially all present instructions as to financial statements from the various registration and reporting forms and establish a centralized set of revised instructions in Regulation S-X. The amendments adopted are intended to simplify the registration and reporting requirements under the Federal securities laws and further the ability of registrants to integrate reporting under the 1933 and 1934 Acts.

**EFFECTIVE DATE:** Effective for companies with fiscal years ended after December 15, 1980. However, upon publication in

the *Federal Register*, earlier implementation is encouraged.

**FOR FURTHER INFORMATION CONTACT:** Lawrence C. Best, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-272-2130).

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission is adopting amendments to rules establishing uniform instructions as to the periods to be covered by financial statements included in most registration and reporting forms filed with the Commission under the Securities Act of 1933 ("Securities Act") and the Securities Exchange Act of 1934 ("Exchange Act," together the "securities acts") and in annual reports to security holders furnished pursuant to the proxy rules. Further, amendments are being adopted which modify requirements as to the form and content of interim financial information included in registration statements, conforming for most registrants previous requirements under the Securities Act with current requirements for quarterly data under the Exchange Act. The amendments remove substantially all present instructions as to financial statements from the various registration and reporting forms and establish a centralized set of revised instructions in Regulation S-X.

Adoption of the amendments contained in this release result in amendments to Forms S-1 (17 CFR 239.11), S-2 (17 CFR 239.12), S-3 (17 CFR 239.13), S-7 (17 CFR 239.26), S-11 (17 CFR 239.18), 10 (17 CFR 249.210), 10-K (17 CFR 249.310), 11-K (17 CFR 249.311), Rule 14a-3 (17 CFR 240.14a-3), Schedule 14a (17 CFR 240.14a-1 *et seq.*) Rule 14c-3 (17 CFR 240.14c-3), Regulation S-X (17 CFR 210) and Guide 23 (17 CFR 231.4936) under the Securities Act of 1933 or the Securities Exchange Act of 1934.

#### Background

On January 15, 1980, the Securities and Exchange Commission, in four separate but related releases, introduced a plan to redesign the registration and reporting system under the securities acts.<sup>1</sup> The plan proposed substantial changes to the disclosure system and incorporated revisions designed to improve overall disclosure, simplify existing rules, and reduce the registration and reporting burdens for most registrants. The underlying theme of the plan was the accomplishment of a coordinated disclosure system encompassing integrated reporting

under the Securities Act and the Exchange Act.

The plan envisioned, among other things, the use of what may be referred to as a "uniform financial disclosure package" as the central disclosure mechanism in the integrated disclosure system. This uniform package containing certain minimum disclosures was to appear in the annual report to security holders and be incorporated by reference into the Form 10-K as well as certain Securities Act filings. It was to contain items of disclosure the Commission believed warranted maximum public exposure.

In developing this plan for an integrated disclosure system, the Commission placed a high priority on determining what it believed to be the minimum content necessary for an informed investment decision and undertook to reexamine its financial disclosure requirements in an effort to develop a uniform financial disclosure package. This reexamination involved revisiting requirements for primary audited financial statements, the summary of operations, and management's discussion and analysis of the summary of operations as well as the provisions of Regulation S-X.

The reassessment of these rules resulted in the Commission proposing a redesign of the basic financial disclosure model included in most filings and in annual reports to security holders. Under the proposal, the summary of operations would be eliminated and management's discussion and analysis would be refocused on the primary audited financial statements. In addition, management's discussion and analysis would be expanded to encompass an explanation of factors affecting financial condition and changes in financial condition as well as the results of operations. The primary financial statements, prepared in accordance with Regulation S-X, would include balance sheets as of the end of the two most recent fiscal years and statements of income and changes in financial position for the three most recent fiscal years. Also, the financial disclosure package would include selected financial data and certain market data relating to common shares outstanding.

Final rules evolving from these proposals and the related public comment process are being adopted today in this release and three other concurrent releases. Amendments constituting a major restructuring of Form 10-K and a discussion of the concept of integration adopted by the Commission are included in Securities Act Release No. 6231, September 2, 1980

<sup>1</sup> Securities Act Release Nos. 6176, 6177, 6178 and 6179.