PART 28—BONDS AND INSURANCE

28.203-7 [Amended]

10. Section 28.203–7 is amended in paragraphs (c) and (d) by removing the words "list entitled Parties Excluded from Procurement Programs" and inserting in its place "List of Parties Excluded from Federal Procurement and Nonprocurement Programs".

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.202-2 [Amended]

11. Section 44.202–2 is amended in paragraph (a)(13) by removing the words "Consolidated List of Debarred, Suspended, and Ineligible Contractors" and inserting in its place "List of Parties Excluded from Federal Procurement and Nonprocurement Programs".

44.303 [Amended]

12. Section 44.303 is amended in paragraph (c) by removing the words "list of Parties Excluded from Procurement Programs" and inserting in its place "List of Parties Excluded from Federal Procurement and Nonprocurement Programs".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209-6 [Amended]

13. Section 52.209–6 is amended in paragraphs (c) introductory text, (c)(2), and (c)(3) by removing the words "Procurement Programs" and inserting in its place "Federal Procurement and Nonprocurement Programs".

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Tuesday
December 20, 1994

Part IV

Securities and Exchange Commission

17 CFR Part 210 et al.

Selection of Reporting Currency for Financial Statements of Foreign Private Issuers, et al.; Final Rules and Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 249

[Release Nos. 33–7117; 34–35093; FR43; International Series Release No. 757; File No. S7–11–94]

RIN 3235–AD70

Selection of Reporting Currency for Financial Statements of Foreign Private Issuers and Reconciliation to U.S. GAAP for Foreign Private Issuers With Operations in a Hyperinflationary Economy

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is announcing the adoption of amendments to Regulation S–X and Form 20–F to facilitate registration and reporting by foreign private issuers. The amendments allow foreign issuers flexibility in the selection of the reporting currency used in filings with the Commission, and streamline financial statement reconciliation requirements for foreign private issuers with operations in countries with hyperinflationary economies.

EFFECTIVE DATE: December 20, 1994.

FOR FURTHER INFORMATION CONTACT: Wayne E. Carnall, Deputy Chief Accountant, Division of Corporation Finance at (202) 942–2960, Mail Stop 3–13, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: As described in detail below, the Commission is adopting amendments to Rule 3–20 [1] of Regulation S–X [2] and Form 20–F [3] under the Securities Exchange Act of 1934.[4]

I. Introduction

The Commission is adopting amendments to facilitate registration and reporting by foreign private issuers by allowing flexibility in the selection of the reporting currency used in filings with the Commission and by streamlining financial statement reconciliation requirements for foreign private issuers with operations in countries with hyperinflationary economies. Under the amended rules, a foreign private issuer can state amounts in its financial statements in any currency which it deems appropriate. In addition, a foreign private issuer that accounts in its primary financial statements for its operations in a hyperinflationary economy in accordance with *International Accounting Standards No. 21*, "The Effects of Changes in Foreign Exchange Rates," as amended in 1993 ("IAS 21"), using the historical cost/constant currency method would not need to reconcile the differences that would result from application of the U.S. standard, *Statement of Financial Accounting Standards No. 52*, "Foreign Currency Translation" ("SFAS 52"). The amendments adopted today were proposed by the Commission on April 19, 1994.[5]

Most of the comment letters received regarding the proposals were supportive of the Commission's efforts to increase flexibility in the selection of the reporting currency and to streamline the reconciliation process for foreign private issuers.[6] The Commission believes that this flexibility can be provided to foreign private issuers with no loss of material information that is necessary for a U.S. investor to make an informed investment decision. The amendments are being adopted largely as proposed, with certain modifications and clarifications in response to public comments.

II. Reporting Currency of Foreign Private Issuers

A. Selection of a Reporting Currency

The amendments adopted today permit a foreign private issuer to state the amounts in its primary financial statements using any currency which it deems appropriate. The proposed requirement that the reporting currency also be used to report to a majority of the issuer's nonaffiliated securityholders has been deleted in response to comments, as discussed below.

Commenters generally agreed with the Proposing Release on the need to increase flexibility in the selection of the reporting currency. Commenters agreed that rules regarding reporting currency have been troublesome for some foreign issuers that operate in various currencies. Compliance with the rule previously governing selection of the reporting currency was problematic for some issuers because no primary economic environment could be identified, and the country of incorporation had minimal significance to operations. In addition, several commenters cited the preference of U.S. investors for financial statements prepared using the U.S. dollar as the reporting currency.

A number of commenters expressed the view that, as proposed, the rule was overly restrictive in requiring that the reporting currency used in filings with the Commission also be used in financial statements that are distributed to the majority of the issuer's nonaffiliated shareholders. Commenters believed that requirement would force some foreign issuers to distribute an additional set of financial statements, stated in the currency used for reporting to the Commission, to securityholders outside the U.S. who would find the additional material of no interest or benefit. Mandating delivery of financial statements in foreign countries is not appropriate or necessary for the protection of U.S. investors. Accordingly, the restriction has been deleted from the rule as adopted.

Several commenters favored increased flexibility but suggested various limiting criteria for determining the appropriate currency. A few commenters indicated a view that an issuer should use the same reporting currency for all external reporting. One commenter suggested that the Commission ask the Financial Accounting Standards Board ("FASB") to undertake a project on the selection of reporting currency. The Commission does not believe that a need for new restrictions on a registrant's choice of reporting currency has been demonstrated, and does not believe reporting currency is an issue that needs to be addressed by the FASB. Moreover, restricting an issuer that chooses to sell its securities in U.S. public markets to a single reporting currency in all external reports in any jurisdiction is not practical or necessarily helpful to U.S. investors. Foreign law or custom may require an issuer to publicly distribute financial statements in a currency that is not as meaningful and relevant to U.S. investors as another currency. The Commission believes management and its advisors should be free to select the reporting currency that is most useful for U.S. markets. Of course, reporting practices will continue to be monitored to assess the practiced application of today's amendments.

One commenter that generally supported increased flexibility in the selection of the reporting currency indicated that issuers should not be permitted to report in U.S. dollars if the currency of its primary economic environment or the currency in which

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[1] 17 CFR 210.3–20.

[2] 17 CFR 210.

[3] 17 CFR 249.220f.

[4] 15 U.S.C. 78a *et seq.*

[5] See Securities Act Release No. 7054 (April 19, 1994) (59 FR 21644) (the "Proposing Release").

[6] Fourteen comment letters on the proposal were received. Those letters and a summary of the comments are available for public inspection and copying in File No. S7–11–94 at the Commission's Public Reference Room in Washington, DC.

dividends are paid is a currency of a hyperinflationary economy or is subject to material exchange restrictions. That suggestion has not been followed. Domestic issuers that conduct substantial operations in countries whose currency is hyperinflationary consolidate those operations and present them in U.S. dollars. While translation from a currency of a hyperinflationary environment into a more stable currency presents some practical problems, the accounting profession has addressed these situations. SFAS 52 provides guidance on the translation of operations in hyperinflationary economies under U.S. GAAP, and IAS 21, as discussed in a separate section of this release, also prescribes a method of translation.

The rule has not been revised, as suggested by one commenter, to address material foreign exchange restrictions and controls because the resolution of such issues typically is dependent on the particular facts and circumstances. Registrants are encouraged to discuss unique issues regarding exchange restrictions or controls involving the registrant and its subsidiaries and other affiliates with the Commission's staff prior to filing.

The amended rule requires, as was proposed, specific disclosure in a note to the financial statements if the currency in which the issuer expects to declare dividends is different from the reporting currency, or there are material exchange restrictions affecting the reporting currency or the currency in which dividends are paid. Registrants are reminded that to the extent that depicted trends and reported results are affected by exchange rate fluctuations, explanatory disclosure should be provided in filings with the Commission as part of the explanation of the material changes from year to year required by management's discussion and analysis in Regulation S–K[7] as well as the comparable sections presented in Item 9 of Form 20–F.[8]

The adopted rule applies to financial statements of the registrant. Financial statements furnished with respect to equity investees or acquired businesses may be prepared using the same reporting currency as the registrant's primary financial statements or the currency in which that entity normally prepares its financial statements. If the currency selected for the separate financial statements of acquisitions and investees differs from that of the registrant, pro forma information and condensed financial data of an investee should be prepared using the reporting currency of the registrant.[9]

B. Measurement

The Proposing Release requested comment on two alternative approaches to measuring transactions that would then be translated into the reporting currency. Commenters, with one exception, supported the method described as Approach A. Under that approach, the issuer would measure separately its own transactions, and those of each of its material operations (for example, branch, division, subsidiary, or joint venture) that are included in the issuer's consolidated financial statements and located in a non-hyperinflationary environment, using the particular currency of the primary economic environment in which the issuer or the operation conducts its business.[10] Financial statement amounts so determined would be translated to the reporting currency using the methodology that is prescribed by SFAS 52 for translation of financial statements from a functional currency to a reporting currency. Under that method, (a) all assets and liabilities are translated into the reporting currency at the exchange rate at the balance sheet date, (b) all revenues, expenses, gains, and losses are translated at the exchange rate existing at the time of the transaction or, if appropriate, a weighted average of the exchange rates during the period or year, and (c) all the translation effects of exchange rate changes are included as a separate component ("cumulative translation adjustment") of shareholders' equity.

Commenters generally objected to Approach B because measurement of reported results of operations and financial position would be dependent on the issuer's particular reporting currency, rather than the economic environment in which the business operated. Pursuant to Approach B, all transactions of the issuer and its subsidiaries would be measured (or remeasured if not so measured initially) using reporting currency, except that transactions of each of its material foreign operations (for example, branch, division, subsidiary, or joint venture) included in the consolidated financial statements and located in a non-hyperinflationary environment would be measured using the particular currency of the primary economic environment in which the foreign operation conducts its business. Financial statement amounts determined for the material foreign operations of the issuer would be translated using the methodology prescribed by SFAS 52 for translation of financial statements from a functional currency to a reporting currency, as described above. Commenters also opposed Approach B because it could not be readily implemented by foreign issuers that report in several currencies due to the significant data and computational requirements of the remeasurement process. While the Commission has determined not to adopt Approach B in the amendment, issuers that have historically presented results using that method are encouraged to discuss with the staff possible resolutions of any particular problems that may be encountered by the issuer as a result of the Commission's adoption of Approach A.

C. Changes of Reporting Currency

As was proposed, the final amendments provide that changes in the reporting currency require the financial statements of periods prior to the change be comprehensively recast as if the new reporting currency had been used.[11] To comprehensively recast prior financial statements, a methodology consistent with SFAS 52 should be applied. That is, the income statement and statement of cash flows should be translated into the new reporting currency using an appropriately weighted average exchange rate for the applicable period, and assets and liabilities should be translated using the exchange rate at the end of the applicable period. Registrants that encounter unusual or complex problems

[7] 17 CFR 229.303.

[8] 17 CFR 249.220f.

[9] In circumstances where a registrant furnishes separate financial statements of an equity investee pursuant to Rule 3–09 of Regulation S–X, the staff has not required the registrant to also furnish summarized financial data of the investee pursuant to Rule 4–08(g) of Regulation S–X (17 CFR 210.4–08(g)) (*See* Staff Accounting Bulletin No. 44, Topic 6:K (March 3, 1983) (47 FR 10789). However, if the separate financial statements of an equity investee are not prepared in the same reporting currency as the issuer, the summarized financial data pursuant to Rule 4–08(g) of Regulation S–X should be provided in the primary financial statements.

[10] An issuer with a material operation in a hyperinflationary environment would measure the transactions of the operation in the reporting currency pursuant to SFAS 52, except that no reconciliation to that method will be required in the circumstances discussed in Section III of this release.

[11] A change in the reporting currency may or may not be coincidental with a change in the currency of the primary economic environment in which the operations exist. The U.S. accounting guidance applicable to a change in an entity's functional currency appears in paragraph 9 of SFAS 52. The effects of differences between the method of accounting in the primary financial statements for a change in functional currency and the method of accounting prescribed by U.S. GAAP should be explained and quantified where reconciliation is required pursuant to Item 17 or Item 18 of Form 20–F.

in the implementation of a change in reporting are encouraged to discuss those issues with the staff prior to filing.

While the number of periods for which retroactive recasting of results is computed generally does not affect relationships among balance sheet or income statement amounts, it may affect the allocation of amounts between the cumulative translation adjustment and other stockholder equity accounts. As proposed, the adopted rule specifies that financial statements of prior periods need be comprehensively recast as if the new reporting currency had been used only since the earliest period presented in the filing that initially reflects the change in reporting currency.

In response to requests for views regarding the need to disclose the reasons for a registrant's change in its reporting currency, several commenters questioned the need for the disclosure or doubted that the information would be useful. Comments of financial analysts supported such a disclosure. The Commission agrees with those commenters that indicated that disclosure of the reason for the change would be informative, and accordingly, the adopted rule requires that disclosure.

III. Foreign Issuer Operations in a Hyperinflationary Economy

As adopted, the rules eliminate the requirement that a foreign private issuer quantify the effects of a translation methodology for operations in a hyperinflationary environment which differs from SFAS 52 so long as the method used in the financial statements conforms with IAS 21, provided that the method is used consistently for all periods. IAS 21, as amended in 1993, requires that amounts in the financial statements of the hyperinflationary operations be restated for the effects of changing prices using a methodology permitted by *International Accounting Standard No. 29,* "Financial Reporting in Hyperinflationary Economies" ("IAS 29"), and then translated to the reporting currency. The adopted rule differs from the proposal in that it limits the permissible method for restating for effects of changing prices to the historical cost/constant dollar method, as discussed below

Commenters supporting the Commission's proposal cited various reasons including the high cost of reconciliation for differences in accounting for hyperinflationary operations, support for harmonization of international accounting standards, and the view that IAS 21 is theoretically superior to SFAS 52. In addition, commenters observed that acceptance of IAS 21 without reconciliation is consistent with the Commission's existing rule that does not require the elimination of the effects of inflation in price level adjusted financial statements in the reconciliation to U.S. GAAP. One commenter opposed the proposal, suggesting that the Commission was abandoning the objective of providing the market with comparable information about issuers. The Commission's acceptance of IAS 21 for purposes of foreign issuers is based, in part, on the recognition that financial information reported about the hyperinflationary operations of a foreign issuer will not necessarily be comparable to a U.S. issuer or to another foreign issuer if that information is determined on a basis consistent with SFAS 52. Since SFAS 52 requires the use of the reporting currency as the currency of measurement for hyperinflationary operations, reported results are dependent on the reporting currency under SFAS 52. IAS 29 addresses that problem by adjusting measurements in the local currency for inflation before translation to the reporting currency.

IAS 29 permits two methods of adjusting for the effects of changing prices: (a) Restatement of historical cost amounts into units of currency that have the same general purchasing power (historical cost/constant currency method), or (b) measurement as current cost, with amounts for prior periods restated for changes in the general level of prices (current cost method). In response to a request for comments concerning the appropriateness of accepting either method under IAS 29, two commenters indicated that the flexibility permitted by IAS 29 would not promote consistency or an understanding of the financial statements. In recognition of this concern, the adopted rule does not allow the use of the current cost approach. The Commission believes that the historical cost/constant currency method is the preferable choice of the two because it is more likely to facilitate comparison among similarly situated companies. Under the historical cost/ constant currency method, amounts in the financial statements of the hyperinflationary operation are restated for the effects of changing prices, and then translated to the reporting currency.

The elimination of the alternative of using the current cost method is not expected to have a significant effect on many registrants. Issuers from several countries currently prepare financial statements filed with the Commission that are adjusted for inflation. With the exception of Mexico, it is the predominant practice in most of these countries to use a method consistent with the historical cost/constant currency method in IAS 29.[12] The elimination of the availability of using the current cost method does not apply to situations in which the issuer's reporting currency comprehensively includes the effects of price level changes. Such entities can continue to use the current cost method. That is, the current cost method is eliminated only for those issuers whose reporting currency is not adjusted for inflation (stable reporting currency), but have operations in a hyperinflationary economy. Issuers that use the current cost method for operations in a hyperinflationary economy should discuss their particular circumstances with the staff.

As proposed, a hyperinflationary environment is defined in the adopted rule as one experiencing cumulative inflation of approximately 100% or more over the most recent three year period, as measured using an appropriate inflation index which measures general price levels in the country This definition is consistent with that used to define a hyperinflationary entity under SFAS 52.[13] Accordingly, foreign private issuers may omit reconciliation of accounting differences arising from the use of IAS 21 for hyperinflationary operations only when they would have been required to comply with the comparable provisions of SFAS 52.

Consistent with the rule prior to amendment, foreign private issuers that prepare their financial statements in a reporting currency that comprehensively includes the effects of price level changes are not required to eliminate such effects in the reconciliation to US GAAP Item 17(c)(2)(iv)(A) and Item 18(c)(2)(iv)(A) of Form 20–F does not require that the entity operate in a hyperinflationary environment

One commenter questioned whether the proposed rule only applies to a subsidiary that operates in a hyperinflationary environment, or if it would apply equally to a parent company that operated in a hyperinflationary environment.

The adopted rules would apply equally to the parent company It would also be acceptable for a parent company to apply the remeasurement principles

[12] The Commission has been advised that the Mexican Institute of Public Accountants recently approved an amendment to eliminate the use of the current cost method

[13] *See* paragraph 11 of SFAS 52

of SFAS 52. The legal structure of an entity should not affect the financial statements.

IV. Cost-Benefit Analysis

No specific data were provided in response to the Commission's request regarding the costs and benefits of the amendment being adopted today. Several issuers did indicate, however, that if the Commission adopted the method to measure transactions described as Approach B in the Proposing Release that significant additional recordkeeping would be required. In addition, commenters supporting the proposal with respect to hyperinflationary accounting noted that the current reconciliation requirements did not meet the cost benefit test because of the complexities of preparation. The Commission believes that the amendments will reduce costs and that the adoption of these rules will be beneficial to U.S. investors, as it will encourage more foreign companies to list their securities and raise capital in the United States and will be consistent with investor protection.

V. Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the revisions to rules and forms will not have a significant impact on a substantial number of small entities. Members of the public who wish to obtain a copy of the Regulatory Flexibility Certification should contact Wayne E. Carnall, (202) 942-2960, Deputy Chief Accountant, Division of Corporation Finance, Mail Stop 3-13, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

VI. Statutory Bases

The Commission's rules and forms are amended pursuant to section 19 of the Securities Act of 1933 and sections 3(b), 4A, 12, 13, 14, 15, 16, and 23 of the Securities Exchange Act of 1934.

VII. Effective Date

The final rule and amendments to the Commission's rules and forms shall be effective immediately upon publication in the **Federal Register**, in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publications for, *inter alia*, "a substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1).

List of Subjects in 17 CFR Parts 210 and 249

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR 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 The authority citation for part 210 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37a, unless otherwise noted.

2. By revising § 210.3-20 to read as follows:

§ 210.3-20 Currency for financial statements of foreign private issuers.

(a) A foreign private issuer, as defined in § 230.405 of this chapter, shall state amounts in its primary financial statements in the currency which it deems appropriate.

(b) The currency in which amounts in the financial statements are stated shall be disclosed prominently on the face of the financial statements. If dividends on publicly-held equity securities will be declared in a currency other than the reporting currency, a note to the financial statements shall identify that currency. If there are material exchange restrictions or controls relating to the issuer's reporting currency, the currency of the issuer's domicile, or the currency in which the issuer will pay dividends, prominent disclosure of this fact shall be made in the financial statements. If the reporting currency is not the U.S. dollar, dollar-equivalent financial statements or convenience translations shall not be presented, except a translation may be presented of the most recent fiscal year and any subsequent interim period presented using the exchange rate as of the most recent balance sheet included in the filing, except that a rate as of the most recent practicable date shall be used if materially different.

(c) If the financial statements of a foreign private issuer are stated in a currency of a country that has experienced cumulative inflationary effects exceeding a total of 100 percent over the most recent three year period, and have not been recast or otherwise supplemented to include information on a historical cost/constant currency or current cost basis prescribed or permitted by appropriate authoritative standards, the issuer shall present supplementary information to quantify the effects of changing prices upon its financial position and results of operations.

(d) Notwithstanding the currency selected for reporting purposes, the issuer shall measure separately its own transactions, and those of each of its material operations (*e.g.*, branches, divisions, subsidiaries, joint ventures, and similar entities) that is included in the issuer's consolidated financial statements and not located in a hyperinflationary environment, using the particular currency of the primary economic environment in which the issuer or the operation conducts its business. Assets and liabilities so determined shall be translated into the reporting currency at the exchange rate at the balance sheet date; all revenues, expenses, gains, and losses shall be translated at the exchange rate existing at the time of the transaction or, if appropriate, a weighted average of the exchange rates during the period; and all translation effects of exchange rate changes shall be included as a separate component ("cumulative translation adjustment") of shareholder's equity For purposes of this paragraph, the currency of an operation's primary economic environment is normally the currency in which cash is primarily generated and expended; a hyperinflationary environment is one that has cumulative inflation of approximately 100% or more over the most recent three year period. Departures from the methodology presented in this paragraph shall be quantified pursuant to Items 17(c)(2) or 18(c)(2) of Form 20-F (§ 249.220f of this chapter).

(e) The issuer shall state its primary financial statements in the same currency for all periods for which financial information is presented. If the financial statements are stated in a currency that is different from that used in financial statements previously filed with the Commission, the issuer shall recast its financial statements as if the newly adopted currency had been used since at least the earliest period presented in the filing. The decision to change and the reason for the change in the reporting currency shall be disclosed in a note to the financial statements in the period in which the change occurs.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

§ 249.220f [Amended]

4. By amending Form 20–F (referenced in § 249.220f) by revising paragraph (c)(2)(iv) of Item 17 and adding Instruction (5) to Item 17, by revising paragraph (c)(2)(iv) of Item 18 and adding Instruction (4) of Item 18 to read as follows:

Note: The form 20–F does not and the amendments will not appear in the Code of Federal Regulations.

Form 20–F

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Item 17 Financial Statements

* * * * *

(c) * * *

(2) * * *

(iv) (A) Issuers that prepare their financial statements on a basis of accounting other than U S. generally accepted accounting principles in a reporting currency that comprehensively includes the effects of price level changes in its primary financial statements using the historical cost/constant currency or current cost approach, may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this item relating to affects of price level changes. The financial statements should describe the basis of presentation, and that such effects have not been included in the reconciliation.

(B) Issuers that prepare their financial statements on a basis of accounting other than U S generally accepted accounting principles that translates amounts in financial statements stated in a currency of a hyperinflationary economy into the issuer's reporting currency in accordance with International Accounting Standards No. 21, "The Effects of Changes in Foreign Exchange Rates," as amended in 1993, using the historical cost/constant currency approach, may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item relating to the effects of the different method of accounting for an entity in a hyperinflationary environment.

(C) If the method of accounting for an operation in a hyperinflationary economy complies with IAS 21, a statement to that effect must be included in the financial statements. The reconciliation shall state that such amounts presented comply with Item 17 of Form 20–F and are different from that required by U.S. GAAP

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Instructions

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(5) For purposes of this Item, a hyperinflationary economy is one that has cumulative inflation of approximately 100% or more over the most recent three year period.

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Item 18. Financial Statements

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(c) * * *

(2) * * *

(iv) (A) Issuers that prepare their financial statements on a basis of accounting other than U S. generally accepted accounting principles in a reporting currency that comprehensively includes the effects of price level changes in its primary financial statements using the historical cost/constant currency or current cost approach, may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this item relating to effects of price level changes. The financial statements should describe the basis of presentation, and that such effects have not been included in the reconciliation.

(B) Issuers that prepare their financial statements on a basis of accounting other than U S. generally accepted accounting principles that translates amounts in financial statements stated in a currency of a hyperinflationary economy into the issuer's reporting currency in accordance with International Accounting Standards No 21, "The Effects of Changes in Foreign Exchange Rates," as amended in 1993, using the historical cost/constant currency approach, may omit the disclosures specified by paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this Item relating to the effects of the different method of accounting for an entity in a hyperinflationary environment.

(C) If the method of accounting for an operation in a hyperinflationary economy complies with IAS 21, a statement to that effect must be included in the financial statements The reconciliation shall state that such amounts presented comply with Item 18 of Form 20–F and are different from that required by U.S. GAAP

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Instructions

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(4) For purposes of this Item, a hyperinflationary economy is one that has cumulative inflation of approximately 100% or more over the most recent three year period.

* * * * *

By the Commission.

Dated: December 13, 1994

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 94–31035 Filed 12–19–94, 8:45 am]

BILLING CODE 8010–01–P

17 CFR Parts 210, 229, and 249

[Release Nos. 33–7118; 34–35094; IC–20766; FR44; International Series No. 758; File No. S7–12–94]

RIN 3235–AG17

Financial Statements of Significant Foreign Equity Investees and Acquired Foreign Businesses of Domestic Issuers and Financial Schedules

AGENCY: Securities and Exchange Commission

ACTION: Final rules.

SUMMARY: The Commission is announcing the adoption of amendments to Regulation S–X, which governs the form and content of financial statements and schedules furnished by public companies in filings with the Commission, and Form 20–F, which is applicable to foreign private issuers. The amendments extend accommodations adopted recently with respect to financial statements of foreign issuers to filings by domestic issuers that are required to include financial statements of foreign equity investees or acquired foreign businesses. The accommodations relate to the age of financial statements and the reconciliation of financial statements to U S. generally accepted accounting principles. In addition, the amendments revise the tests for determining whether financial statements of an equity investee must be provided, and they eliminate the requirement to furnish certain supplemental financial schedules.

EFFECTIVE DATES: December 20, 1994.

FOR FURTHER INFORMATION CONTACT: Wayne E. Carnall, (202) 942–2960, Deputy Chief Accountant, Division of Corporation Finance, Mail Stop 3–13, or, with respect to investment company matters, Jim Volk, (202) 942–0637, Office of Disclosure and Review, Division of Investment Management, U S Securities and Exchange Commission, Mail Stop 10–5, 450 Fifth Street, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to the following rules and forms: Rules 1–02,[1] 3–05,[2] 3–09,[3] 3–12,[4] 4–08,[5] 5–02,[6]

[1] 17 CFR 210 1–02

[2] 17 CFR 210.3–05

[3] 17 CFR 210 3–09

[4] 17 CFR 210 3–12

[5] 17 CFR 210.4–08

[6] 17 CFR 210 5–02

5–04,[7] 6–07,[8] 6–10,[9] 7–05,[10] 9–07,[11] 12–01,[12] of Regulation S–X,[13] and Items 404 [14] and 601 [15] of Regulation S–K.[16] In addition, the Commission is amending Form 20–F [17] under the Securities Exchange Act of 1934 ("Exchange Act").[18]

I. Introduction

The Commission today is adopting several amendments that will extend financial statement accommodations available to foreign issuers to filings by domestic issuers that are required to include financial statements of foreign equity investees or acquired foreign business.[19] The accommodations relate to the age of financial statements [20] and the reconciliation of financial statements to U.S. generally accepted accounting principles ("GAAP") for those foreign entities.[21] In addition, the adopted amendments revise the tests of significance for determining whether financial statements of an equity investee must be provided. The amendments also eliminate certain supplemental financial schedules that were eliminated recently for foreign issuers,[22] as well as eliminate two additional schedules that foreign and domestic issuers have been required to include in annual reports and registration statements filed with the Commission.

The amendments adopted today were proposed by the Commission on April 19, 1994.[23] Comment letters received from registrants, accounting firms, and related professional membership associations generally supported the proposals and frequently commented that the schedules were generally redundant to information already required in the financial statements and that the costs of preparing the schedules therefore outweighed the benefit. Comments by financial analysts were critical of the proposed amendments, expressing a general concern about a perceived relaxation of disclosure requirements.[24] The Commission believes concerns regarding the revised requirements do not consider fully the offsetting effects of other disclosure requirements that must be met by reporting companies. The amendments are being adopted substantially as proposed because the Commission believes they will result in reduced costs of registration and reporting by public companies without loss of material basic disclosure for the protection of investors.

II. Financial Statements of Significant Business Acquisitions and Equity Investees

The changes to Regulation S–X and Form 20–F adopted today revise the tests of significance which determine whether financial statements of an equity investee must be provided, and modify the requirements for reconciliation to U.S. GAAP of the financial statements of the significant foreign business acquisitions and foreign investees of domestic registrants.

A. Tests of Significance of Equity Investees

Separate audited financial statements of a company accounted for by the registrants using the equity method of accounting (an "equity investee") must be provided if the investee is "significant" as measured pursuant to Rule 3–09 of Regulation S–X. The amendments adopted today eliminate one of the three tests of significance made pursuant to that rule. Pursuant to the adopted rule, significance of an investee is measured by comparison of the registrant's proportionate share of the investee's pretax income to that of the registrant and of the registrant's investment in the investee to the registrant's total assets. The determination of significance will no longer require comparison of the investee's total assets to the total assets of the registrant.

While generally favored by commenters, several financial analysts observed that the two tests retained under the adopted rule may lead to the omission of financial statements of highly leveraged investees because the registrant's investment and proportion of earnings will be minimized as a result of the investee's debt. However, exclusion of separate audited financial statements appears reasonable given that the unfavorable financial impact of the investee is generally limited to the registrant's investment in that entity; losses in excess of that investment generally are not recognized under GAAP. To the extent that a registrant has guaranteed an investee's debt or is otherwise committed to fund its operations, the registrant must continue to recognize losses of the investee,[25] and such losses would continue to be considered in one prong of the two-pronged test for significance. If there are other material consequences of a registrant's investment in a highly leveraged investee, the Commission believes discussion of these will be elicited by Item 303 of Regulation S–K, "Management's Discussion and Analysis."[26] In addition, summarized financial information, pursuant to Rule 4–08(g) of Regulation S–X,[27] that would be required to be provided in a note to the financial statements if the significance of the investees individually or in aggregate exceeds the 10% level under any of the three tests, would generally provide sufficient information in these or similar circumstances.

B. Reconciliation of Financial Statements of Significant Foreign Equity Investees and Foreign Acquirees

The amendments adopted today permit domestic issuers to furnish financial statements of significant foreign business acquisitions and foreign equity investees on substantially the same basis as may foreign private issuers. That is, the financial statements of foreign acquirees, furnished pursuant to Rule 3–05 of Regulation S–X as amended,[28] or investees, furnished pursuant to Rule 3–09 of Regulation S–X as amended, in periodic reports or registrations statements of domestic issuers need only comply with Item 17 of Form 20–F. Although some commenters questioned whether the cost of compliance with existing requirements justified the accommodation, most commenters cited the significant compliance costs incurred under the prior rule and strongly favored the proposal.

Pursuant to Item 17, the financial statements may be prepared on a comprehensive basis other than U.S. GAAP. Quantitative reconciliation of

[7] 17 CFR 210.5–04.

[8] 17 CFR 210.6–07.

[9] 17 CFR 210.6–10.

[10] 17 CFR 210.7–05.

[11] 17 CFR 210.9–07.

[12] 17 CFR 210.12–01.

[13] 17 CFR Part 210.

[14] 17 CFR 229.404.

[15] 17 CFR 229.601.

[16] 17 CFR 229.

[17] 17 CFR 249.220f.

[18] 15 U.S.C. 78a *et seq.*

[19] The amendments regarding acquired foreign businesses adopted today would also apply to issuers that file under Regulation S–B.

[20] *See* Securities Act Release No. 7026 (November 3, 1993) (58 FR 60304) regarding the age of financial statements for foreign private issuers.

[21] *See* Securities Act Release No. 7053 (April 19 1994) (59 FR 21644) regarding the modification of the reconciliation requirements for foreign equity investees and foreign acquired businesses.

[22] Id.

[23] *See* Securities Act Release No. 7055 (April 19 1994) (59 FR 21814) (the "Proposing Release").

[24] Forty-one comment letters on the Proposing Release were received. Those letters and a summary of comments are available for public inspection and copying in File No. S7–12–94 at the Commission's Public Reference Room in Washington, DC.

[25] Accounting Principles Board Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock."

[26] 17 CFR 229.303.

[27] 17 CFR 210.4–08(g).

[28] 17 CFR 210.3–05.

net income and material balance sheet items is required, but the additional information specified by U.S. GAAP for disclosure in notes to financial statements is not necessary. However, no reconciliation is required at all if the foreign business does not exceed the 30% level under the tests of significance which call for the inclusion of its financial statements of a significant business acquisition [29] or significant investee.[30]

The adopted rules are applicable to a foreign business, as defined. Several commenters recommended that the definition be identical to the definition of a foreign private issuer, but it is adopted as proposed.[31] The adopted definition of a foreign business varies from the definition of a foreign private issuer because the relief available under the rule is intended to be applicable to a branch or other component of an entity, rather than only to a legally recognized business entity. Also, the rule is not intended to be applicable to a business that is incorporated outside the U.S. but that is, prior to the registrant's investment, majority owned by one or more U.S. shareholders, because such an entity can be expected to maintain its books and records on a basis permitting reconciliation to U.S. GAAP without unreasonable cost.[32]

C. Age of Financial Statements of Significant Foreign Equity Investees or Foreign Acquirees

Under the amendments adopted today, the financial statements of significant foreign equity investees and acquired foreign businesses furnished in filings by domestic issuers can be updated on the same time schedule as foreign private issuers.[33] Registration statements of foreign private issuers need not include audited financial statements of the most recently completed fiscal year until six months after the year-end; unaudited interim financial statements are required only to the extent necessary to bring the most recent financial statements included in the filing to a date within ten months of effectiveness.[34]

Although two commenters doubted that there was significant additional cost or difficulty associated with updating foreign investees and acquiree financial statements on the same basis as domestic issuers, most commenters felt that financial reporting practices outside the U.S. varied to such a degree as to present significant obstacles to the preparation of separate financial statements on as timely a basis as is required for U.S. companies.

III. Streamlining of Required Financial Statement Schedules

The amendments adopted today eliminate the following six schedules that had previously been eliminated for foreign private issuers:

(1) Rule 12–02—Marketable Securities—Other Investments including Schedule XIII

(2) Rule 12–03—Amounts Receivable from Related Parties and Underwriters, Promoters and Employees Other Than Related Parties

(3) Rule 12–05—Indebtedness of and to Related Parties—Not Current.

(4) Rule 12–06—Property, Plant and Equipment

(5) Rule 12–07—Accumulated Depreciation, Depletion and Amortization of Property, Plant and Equipment

(6) Rule 12–08—Guarantees of Securities of Other Issuers

Two additional schedules previously required for both foreign and domestic issuers also will be eliminated:

(1) Rule 12–10—Short-term Borrowings

(2) Rule 12–11—Supplementary Income Statement Information

A. Schedules Previously Eliminated From Foreign Issuer Filings

1. Marketable Securities—Other Investments

The rules adopted today eliminate this schedule. All of the issuers and accountants supported elimination of this schedule, but several financial analyst commenters did not favor elimination because they believed that the schedule provided information facilitating comparisons among companies whose accounting is affected by the classification of investments as either current or noncurrent.

Elimination of this schedule was proposed because much of its information is required to be disclosed in financial statements by *Statement of Financial Accounting Standards No. 115,* "Accounting for Certain Investments in Debt and Equity Securities" ("SFAS 115"), issued in May 1993 by the Financial Accounting Standards Board ("FASB") and effective for fiscal years beginning after December 15, 1993. Under SFAS 115, the designation as current or noncurrent no longer affects the carrying value of a security.

Some commenters favored retention of the schedule's requirement for identification of securities of individual issuers exceeding 2% of the registrant's total assets. The Commission believes retention of the specific disclosure is unnecessary because other rules applicable to filings by public companies should lead to appropriate disclosure if a particular investment is material. Disclosures required by Item 303 of Regulation S–K, "Management's Discussion and Analysis," include discussion of the material effects and uncertainties associated with concentrations and risks in the investment portfolio.[35] In addition, *Statement of Financial Accounting Standards No. 105,* "Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk," ("SFAS 105") requires disclosure of all significant concentrations of credit risk arising from an individual counterparty or groups of counterparties that would be similarly affected by changes in economic or other conditions.

2. Amounts Receivable From Related Parties and Underwriters, Promoters and Employees Other Than Related Parties and Indebtedness of and to Related Parties

The Commission has eliminated these schedules as proposed. None of the commenters cited the need to retain these schedules, as similar information is required to be furnished pursuant to *Statement of Financial Accounting Standards No. 57,* "Related Party

[29] Consistent with the recently adopted amendments for foreign private issuers (*See* Securities Act Release No. 7053 (April 19, 1994)), reconciliation to U.S. GAAP would continue to be required for pro forma financial information depicting the effects of a registrant's acquisition of a foreign business.

[30] In circumstances where a registrant furnishes separate financial statements of an equity investee pursuant to Rule 3–09 of Regulation S–X, the staff has not required the registrant to also furnish summarized financial data of the investee pursuant to Rule 4–08(g) of Regulation S–X. (*See* Staff Accounting Bulletin No. 44, Topic 6:K (March 3, 1983) (47 FR 10789). However, consistent with the recently adopted amendments for foreign private issuers (*See* Securities Act Release No. 7053 (April 19, 1994)), a domestic registrant that furnishes separate financial statements of a foreign investee that are not reconciled pursuant to the proposed rule should furnish the summarized financial data pursuant to Rule 4–08(g) in accordance with U.S. GAAP in its primary financial statements.

[31] If the acquired business or investee does not meet the definition of a foreign business, the issuer can file financial statements prepared in accordance with a basis of accounting other than US GAAP provided a reconciliation to US GAAP under Item 18 of Form 20–F is included regardless of the level of materiality. This is consistent with current staff practice.

[32] Ownership is measured prior to the acquisition of the business.

[33] If the acquired business or investee does not meet the definition of a foreign business, financial statements would need to be updated pursuant to Rule 3–12 of Regulation S–X.

[34] 17 CFR 210.3–19.

[35] *See* Securities Act Release No. 6835 (May 18, 1989).

Transactions" ("SFAS 57") and Regulation S–K, Item 404 "Certain Relationships and Related Transactions."

3. Property, Plant, and Equipment, and Accumulated Depreciation, Depletion, and Amortization

Although comments from financial analysts were generally opposed to elimination of these schedules, most commenters supported the proposal, citing the cost of their preparation and audit, and their limited usefulness. Financial analysts reported that they sometimes use the schedules to estimate the age, relative age, and average depreciable life of each class of a company's depreciable assets. Other commenters agreed with observations in the proposing release that estimates based on the schedules would not be reliable if the issuer has significant foreign operations (due to the effects of currency translation on depreciation expense), or if a depreciation method other than straight line is used. The Commission believes that adequate quantitative disclosure regarding property, plant and equipment is elicited by *Accounting Principle Board Opinion No. 12,* ("Omnibus Opinion—1967"), which requires disclosure of total depreciation expense for each period and the balances of major classes of depreciable assets. Where the age of capital assets may be indicative of increasing maintenance and replacement budgets, the registrant would be expected to disclose the material reasonably likely effects on operating trends, capital expenditures and liquidity pursuant to Item 303 of Regulation S–K.

4. Guarantees of Securities of Other Issuers

The Commission has eliminated these schedules as proposed. None of the commenters cited the need to retain this schedule, as similar information is required to be disclosed by *Statement of Financial Accounting Standards No. 5,* "Accounting for Contingencies," ("SFAS 5").

B. Additional Schedules Eliminated for Both Foreign and Domestic Issuers

1. Short Term Borrowings

The adopted amendments eliminate this schedule. However, as proposed, weighted average interest rate on borrowings outstanding as of each of the dates for which balance sheets are presented will be required to be disclosed in a note to the financial statements. In addition, for investment companies, although the schedule requirement has been eliminated, the information formerly required by § 210.12–10 will now be required to be provided in the body of the financial statements or in the footnotes. While two of the financial analysts indicated that the year end rates may not be indicative of the average rate during the period, they did not address the computational problems arising from foreign currency translation and other factors, as discussed in the proposing release. A number of other commenters cited those computational problems and indicated that the information disclosed in the schedule frequently was not meaningful. The Commission concluded that the costs of furnishing the information outweighs its usefulness.

2. Supplementary Income Statement Information

The Commission has eliminated this schedule by today's amendments. While the amounts of the items formerly referenced by this schedule (maintenance and repairs; depreciation and amortization of the cost of intangible assets, preoperating costs and similar deferred costs; taxes other than payroll; royalties; and advertising costs) need not be disclosed on an ongoing basis by registrants, discussion of discretionary expenses and other items in the schedule, quantified to the extent practicable, will be required in the company's Management's Discussion and Analysis where necessary to explain material trends and uncertainties that affected operating results, liquidity or financial condition of the registrant, or that may be reasonably likely to affect future results, liquidity or financial condition.[36]

IV. Cost-Benefit Analysis

Several registrants provided quantified estimates of the cost reductions which would vary from registrant to registrant. All of the registrants and accounting firms that addressed the cost-benefit of the amendments indicated that the cost of preparation and audit of the schedules and other information that have been eliminated today exceeded their benefit. Several financial analysts indicated that they thought that the actual costs of providing this information is small, and that the benefits exceeded such costs. They suggested that the reduced disclosures could lead to an increase in the costs of capital due to an increase in investor uncertainty.

For reasons discussed above, the Commission believes that the adoption of these rules will reduce the regulatory burden and costs of the vast majority of the registrants without a loss of information that is necessary for investor protection.

[36] *See* Financial Reporting Release 36.

V. Availability of Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis in accordance with the Regulatory Flexibility Act has been prepared with respect to the final amendments. A summary of a corresponding Initial Regulatory Flexibility Analysis was included in the Proposing Release. Members of the public who wish to obtain a copy of the Final Regulatory Flexibility Analysis should contact Wayne E. Carnall, Deputy Chief Accountant, Division of Corporation Finance, Securities and Exchange Commission, Mail Stop 3–13, 450 5th Street, N.W., Washington, D.C. 20549, (202) 942–2960.

VI. Statutory Basis for Rules

The Commission's rules and forms are amended pursuant to section 19 of the Securities Act of 1933 and sections 3(b), 4A, 12, 13, 14, 15, 16, and 23 of the Securities Exchange Act of 1934.

VII. Effective Date

The final rule and amendments to the Commission's rules and forms shall be effective immediately upon publication in the **Federal Register**, in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publications for, *inter alia,* "a substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1).

List of Subjects in 17 CFR Parts 210, 229, and 249

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR 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. The authority citation for Part 210 is continued to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37a, unless otherwise noted.

2. By amending § 210.1-02 by redesignating paragraphs (l) through (aa) as paragraphs (m) through (bb), and adding paragraph (l) to read as follows:

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

(l) *Foreign business.* A business that is majority owned by persons who are not citizens or residents of the United States and is not organized under the laws of the United States or any state thereof, and either:

(1) More than 50 percent of its assets are located outside the United States; or

(2) The majority of its executive officers and directors are not United States citizens or residents

* * * * *

3. By amending § 210.3-05 by revising the last sentence of the introductory text of paragraph (b)(1) and adding paragraph (c) to read as follows:

§ 210.3-05 Financial statements of businesses as acquired or to be acquired.

* * * * *

(b) *Periods to be presented.*

(1) * * * The periods for which such financial statements are to be filed shall be determined using the conditions specified in the definition of significant subsidiary in § 210.1-02(w) as follows:

* * * * *

(c) *Financial statements of foreign business.* If the business acquired or to be acquired is a foreign business, financial statements of the business meeting the requirements of Item 17 of Form 20-F (§ 249.220f of this chapter) will satisfy this section.

4. By amending § 210.3-09 by revising the last sentence of paragraph (a), revising the last two sentences of paragraph (b) and adding paragraph (d) to read as follows:

§ 210.3-09 Separate financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

(a) * * * Similarly, if either the first or third condition set forth in § 210.1-02(w), substituting 20 percent for 10 percent, is met by a 50 percent or less owned person accounted for by the equity method either by the registrant or a subsidiary of the registrant, separate financial statements of such 50 percent or less owned person shall be filed.

(b) * * * However, these separate financial statements are required to be audited only for those fiscal years in which either the first or third condition set forth in § 210.1-02(w), substituting 20 percent for 10 percent, is met. For purposes of a filing on Form 10-K (§ 249.310 of this chapter), if the fiscal year of any 50 percent or less owned person ends within 90 days before the date of the filing, or if the fiscal year ends after the date of the filing, the required financial statements may be filed as an amendment to the report within 90 days, or within six months if the 50 percent or less owned person is a foreign business, after the end of such subsidiary's or person's fiscal year.

(c) * * *

(d) If the 50 percent or less owned person is a foreign business, financial statements of the business meeting the requirements of Item 17 of Form 20-F (§ 249.220f of this chapter) will satisfy this section.

5. By amending § 210.3-12 by adding a second sentence to paragraph (f) to read as follows:

§ 210.3-12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

* * * * *

(f) * * * Financial statements of a foreign business which are furnished pursuant to §§ 210.3-05 or 210.3-09 because it is an acquired business or a 50 percent or less owned person may be of the age specified in § 210.3-19.

6. By amending § 210.4-08 by revising paragraph (g) to read as follows:

§ 210.4-08 General notes to financial statements.

* * * * *

(g) *Summarized financial information of subsidiaries not consolidated and 50 percent or less owned persons.* (1) The summarized information as to assets, liabilities and results of operations as detailed in § 210.1-02(bb) shall be presented in notes to the financial statements on an individual or group basis for:

(i) Subsidiaries not consolidated; or

(ii) For 50 percent or less owned persons accounted for by the equity method by the registrant or by a subsidiary of the registrant, if the criteria in § 210.1-02(w) for a significant subsidiary are met:

(A) Individually by any subsidiary not consolidated or any 50% or less owned person; or

(B) On an aggregated basis by any combination of such subsidiaries and persons.

(2) Summarized financial information shall be presented insofar as is practicable as of the same dates and for the same periods as the audited consolidated financial statements provided and shall include the disclosures prescribed by § 210.1-02(bb). Summarized information of subsidiaries not consolidated shall not be combined for disclosure purposes with the summarized information of 50 percent or less owned persons.

* * * * *

7. By amending § 210.5-02 by adding a sentence following the first sentence to paragraph 19.(b) to read as follows:

§ 210.5-02 Balance sheets.

* * * * *

19. Accounts and notes payable * * *

(b) * * * The weighted average interest rate on short term borrowings outstanding as of the date of each balance sheet presented shall be furnished in a note. * * *

* * * * *

8. By amending § 210.5-04: Revise paragraph (a); remove Schedule I, Schedule II, Schedule IV, Schedule V, Schedule VI, Schedule VII, Schedule IX, Schedule X, and Schedule XIII of paragraph (c) and redesignate the remaining schedules in paragraph (c) to read as follows: Schedule III as Schedule I, Schedule VIII as Schedule II, Schedule XI as Schedule III, Schedule XII as Schedule IV, and Schedule XIV as Schedule V.

§ 219.5-04 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 II and III shall be filed as of the date of the most recent audited balanced sheet for each person or group.

(2) Schedule II shall be filed for each period for which an audited income statement is required to be filed for each person or group.

(3) Schedules I and IV shall be filed as of the date and for periods specified in the schedule.

* * * * *

9. By amending § 210.6-07 by adding the following sentence to paragraph 3. to read as follows:

§ 210.6-07 Statements of operations.

* * * * *

3. *Interest and amortization of debt discount and expense.* Provide in the body of the statements or in the footnotes, the average dollar amount of borrowings and the average interest rate.

§ 210.6-10 [Amended]

10. By amending § 210.6-10 by: Removing Schedule IV and Schedule VII from paragraph (c) and redesignating the remaining schedules in paragraph (c) as follows: Schedule V as Schedule IV and Schedule VI as Schedule V; remove Schedule VI, Schedule VII, Schedule VIII, Schedule IX, and Schedule X in paragraph (e)(2) and redesignate Schedule XI as Schedule VI and Schedule XII as Schedule VII.

11. By amending § 210.7–05 by: Revising paragraph (a), removing Schedule II, Schedule IV, Schedule VII, and Schedule IX of paragraph (c) and redesignating the remaining schedules in paragraph (c) as follows: Schedule III as Schedule II, Schedule V as Schedule III, Schedule VI as Schedule IV, Schedule VIII as Schedule V, and Schedule X as Schedule VI.

§ 210.7–05 What Schedules are to be filed.

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

(1) The schedule specified below in this section as Schedules I shall be as of the date of the most recent audited balance sheet for each person or group.

(2) The schedules specified below in this section as Schedule IV and V shall be filed for each period for which an audited income statement is required to be filed for each person or group.

(3) Schedules II, III and V shall be filed as of the date and for periods specified in the schedule.

* * * * *

§ 210.9–07 [Removed and Reserved]

12. By removing and reserving § 210.9–07.

13. By revising § 210.12–01 to read as follows:

§ 210.12–01 Application of §§ 210.12–01 to 210.12–29.

These sections prescribe the form and content of the schedules required by §§ 210.5–04, 210.6–10, 210.6A–05, and 210.7–05.

§§ 210.12–02, 210.12–03, 210.12–05, 210.12–06, 210.12–07, 210.12–08, 210.12–10, and 210.12–11 [Removed and Reserved]

14. By removing and reserving §§ 210.12–02, 210.12–03, 210.12–05, 210.12–06, 210.12–07, 210.12–08, 210.12–10, and 210.12–11.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

15. The authority citation for Part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78*o*, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

16. By revising instructions 2.C and 3 C of the Instructions to Paragraph (b) of § 229.404 to read as follows:

§ 229.404 (Item 404) Certain relationships and related transactions.

Instructions to Paragraph (b) of Item 404

* * * * *

2. * * *

C. Payments made or received by subsidiaries other than significant subsidiaries as defined in Rule 1–02(w) of Regulation S–X [§ 210.1–02(w) of this chapter], provided that all such subsidiaries making or receiving payments, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in Rule 1–02(w).

3. * * *

C. Indebtedness incurred by subsidiaries other than significant subsidiaries as defined in Rule 1–02(w) of Regulation S–X [§ 210.1–02(w) of this chapter], provided that all such subsidiaries incurring indebtedness, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in Rule 1–02(w).

* * * * *

17. By revising the second sentence in paragraph (b)(21)(ii) of § 229.601 to read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) * * *

(21) *Subsidiaries of the registrant.*

(i) * * *

(ii) * * * (See the definition of "significant subsidiary" in Rule 1–02(w) (17 CFR 210.1–02(w)) of Regulation S–X.) * * *

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

18. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

§ 249.220f [Amended]

19. amending Form 20–F (referenced in § 249.220f) by revising paragraph (a) to Item 17 and paragraph (a) to item 18 to read as follows:

Note: The text of Form 20–F is not and the amendments will not appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Item 17. Financial Statements

(a) The registrant shall furnish financial statements for the same fiscal years and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10–K. Schedules designated by §§ 210.12–04, 210.12–09, 210.12–15, 210.12–16, 210.12–17, 210.12–18, 210.12–28, and 210.12–29 of this chapter shall be furnished if applicable to the registrant.

* * * * *

Item 18. Financial Statements

(a) The registrant shall furnish financial statements for the same fiscal years and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10–K. Schedules designated by §§ 210.12–04, 210.12–09, 210.12–15, 210.12–16, 210.12–17, 210.12–18, 210.12–28, and 210.12–29 of this chapter shall be furnished if applicable to the registrant.

* * * * *

By the Commission.

Dated: December 13, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–31036 Filed 12–19–94; 8:45 am]

BILLING CODE 8010–01–P

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17 CFR Part 249

[Release Nos. 33–7119; 34–35095; FR 45; International Series Release No. 759; File No. S7–13–94]

RIN 3235–AG16

Reconciliation of the Accounting by Foreign Private Issuers for Business Combinations

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is announcing the adoption of amendments to Form 20–F to streamline the financial statement reconciliation requirements for foreign private issuers that have entered into business combinations. The amendments eliminate the requirement to reconcile to U.S. generally accepted accounting principles certain differences attributable to the method of accounting for a business combination or the amortization period of goodwill and negative goodwill, provided the financial statements comply with *International Accounting Standard No. 22*, "Business Combinations," as amended, regarding those items.

EFFECTIVE DATE: December 20, 1994.

FOR FURTHER INFORMATION CONTACT: Wayne E. Carnall, Deputy Chief Accountant, Division of Corporation Finance at (202) 942–2960 U.S. Securities and Exchange Commission, Mail Stop 3–13, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to