

## **SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 229, 230, 232, 239, 240 and 249**

**[Release Nos. 33-9002; 34-59324; 39-2461; IC-28609; File No. S7-11-08]**

**RIN 3235-AJ71**

### **Interactive Data to Improve Financial Reporting**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** We are adopting rules requiring companies to provide financial statement information in a form that is intended to improve its usefulness to investors. In this format, financial statement information could be downloaded directly into spreadsheets, analyzed in a variety of ways using commercial off-the-shelf software, and used within investment models in other software formats. The rules will apply to public companies and foreign private issuers that prepare their financial statements in accordance with U.S. generally accepted accounting principles (U.S. GAAP), and foreign private issuers that prepare their financial statements using International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB). Companies will provide their financial statements to the Commission and on their corporate Web sites in interactive data format using the eXtensible Business Reporting Language (XBRL). The interactive data will be provided as an exhibit to periodic and current reports and registration statements, as well as to transition reports for a change in fiscal year. The new rules are intended not only to make financial information easier for investors to analyze, but also to assist in automating regulatory filings and business information processing. Interactive data has the potential to increase the speed, accuracy and usability of financial disclosure, and eventually reduce costs.

**EFFECTIVE DATE:** April 13, 2009 except §232.406T is effective from April 13, 2009 until October 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Green, Senior Special Counsel (Regulatory Policy), Division of Corporation Finance at (202) 551-3430; Craig E. Slivka, Special Counsel, Division of Corporation Finance at (202) 551-3430; Jeffrey W. Naumann, Assistant Director, Office of Interactive Disclosure at (202) 551-5352; or Jeffrey Ellis, Professional Accounting Fellow, Office of the Chief Accountant at (202) 551-5300, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-3628.

**SUPPLEMENTARY INFORMATION:** We are adding Rules 405 and 406T to Regulation S-T,<sup>1</sup> and revising Item 601<sup>2</sup> of Regulation S-K,<sup>3</sup> Rules 11,<sup>4</sup> 201,<sup>5</sup> 202,<sup>6</sup> 305,<sup>7</sup> 401,<sup>8</sup> and 402<sup>9</sup> of

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<sup>1</sup> 17 CFR 232.10 et seq.

<sup>2</sup> 17 CFR 229.601.

<sup>3</sup> 17 CFR 229.10 et seq.

<sup>4</sup> 17 CFR 232.11.

<sup>5</sup> 17 CFR 232.201.

<sup>6</sup> 17 CFR 232.202.

<sup>7</sup> 17 CFR 232.305.

<sup>8</sup> 17 CFR 232.401.

<sup>9</sup> 17 CFR 232.402.

Regulation S-T, Rule 144<sup>10</sup> under the Securities Act of 1933 (Securities Act),<sup>11</sup> and Rules 12b-25,<sup>12</sup> 13a-14<sup>13</sup> and 15d-14<sup>14</sup> under the Securities Exchange Act of 1934 (Exchange Act).<sup>15</sup> We also are revising Forms S-3,<sup>16</sup> S-8,<sup>17</sup> F-3,<sup>18</sup> F-9<sup>19</sup> and F-10<sup>20</sup> under the Securities Act and Forms 10-Q,<sup>21</sup> 10-K,<sup>22</sup> 12b-25,<sup>23</sup> 20-F,<sup>24</sup> 40-F<sup>25</sup> and 6-K<sup>26</sup> under the Exchange Act.

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<sup>10</sup> 17 CFR 230.144.

<sup>11</sup> 15 U.S.C. 77a et seq.

<sup>12</sup> 17 CFR 240.12b-25.

<sup>13</sup> 17 CFR 240.13a-14.

<sup>14</sup> 17 CFR 240.15d-14.

<sup>15</sup> 15 U.S.C. 78a et seq.

<sup>16</sup> 17 CFR 239.13.

<sup>17</sup> 17 CFR 239.16b.

<sup>18</sup> 17 CFR 239.33.

<sup>19</sup> 17 CFR 239.39.

<sup>20</sup> 17 CFR 239.40.

<sup>21</sup> 17 CFR 249.308a.

<sup>22</sup> 17 CFR 249.310.

<sup>23</sup> 17 CFR 249.322.

<sup>24</sup> 17 CFR 249.220f.

<sup>25</sup> 17 CFR 249.240f.

<sup>26</sup> 17 CFR 249.306.

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### **I. INTRODUCTION AND BACKGROUND**

#### **A. Introduction**

On May 30, 2008, we issued a release in which we proposed for public comment amendments requiring companies to provide their financial statements to the Commission and on their corporate Web sites in interactive data format using XBRL.<sup>27</sup> In this release, we are adopting the amendments substantially as proposed, but with the modifications discussed below.

Over the last several decades, developments in technology and electronic data communication have facilitated greater transparency in the form of easier access to, and analysis of, financial reporting and disclosures. Technological developments also have significantly decreased the time and cost of filing disclosure documents with us. Most notably, in 1993 we began to require electronic filing on our Electronic Data Gathering, Analysis and Retrieval

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<sup>27</sup> We proposed the amendments in Release No. 33-8924 (May 30, 2008) [73 FR 32794]. The comment letters we received in response to the proposing release were filed in File Number S7-11-08 and are available at <http://www.sec.gov/comments/s7-11-08/s71108.shtml> or from our Public Reference Room at 100 F Street, NE, Washington, DC 20549.

System (EDGAR).<sup>28</sup> Since then, widespread use of the Internet has vastly decreased the time and expense of accessing disclosure filed with us.

We continue to update our filing standards and systems as technologies improve. These developments assist us in our goal to promote efficient and transparent capital markets. For example, since 2003 we have required electronic filing of certain ownership reports<sup>29</sup> filed on Forms 3,<sup>30</sup> 4,<sup>31</sup> and 5<sup>32</sup> in a format that provides interactive data, and recently we adopted similar rules governing the filing of Form D.<sup>33</sup> In addition, recently we have encouraged, and in some cases required, public reporting companies and mutual funds to provide disclosures and communicate with investors using the Internet.<sup>34</sup> Now, as part of our continuing efforts to assist investors who use Commission disclosures, as well as filers of that disclosure, we are adopting

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<sup>28</sup> In 1993, we began to require domestic issuers to file most documents electronically. Release No. 33-6977 (Feb. 23, 1993) [58 FR 14628]. Electronic filing began with a pilot program in 1984. Release No. 33-6539 (June 27, 1984) [49 FR 28044].

<sup>29</sup> Release No. 33-8230 (May 7, 2003) [68 FR 25788 and 37044 (correction)] (required electronic filing of ownership reports) and Release No. 33-8891 (Feb. 6, 2008) [73 FR 10592] (required electronic filing of Form D [17 CFR 239.500]).

<sup>30</sup> 17 CFR 249.103 and 274.202.

<sup>31</sup> 17 CFR 249.104 and 274.203.

<sup>32</sup> 17 CFR 249.105.

<sup>33</sup> 17 CFR 239.500.

<sup>34</sup> See, e.g., Release No. 34-56135 (July 26, 2007) [72 FR 42222]; Release No. 34-55146 (Jan. 22, 2007) [72 FR 4148]; Release No. 34-52056 (July 19, 2005) [70 FR 44722]; Release No. 33-8861 (November 21, 2007) [72 FR 67790]; and Release No. 34-57172 (Jan. 18, 2008) [73 FR 4450].

rules to require that financial statements be provided in a format that makes the information they contain interactive.

Our adoption of the new rules is consistent with the recently announced plan to replace the EDGAR system with the Interactive Data Electronic Applications (IDEA) system. Based on a completely new architecture being built from the ground up, it will at first supplement and then eventually replace the EDGAR system. IDEA will facilitate the use and analysis of information submitted to the Commission in interactive data format.<sup>35</sup>

The new rules build on our voluntary filer program, started in 2005,<sup>36</sup> that allowed us to evaluate certain uses of interactive data. The Commission has evaluated interactive data from an investor's perspective in several ways, including holding a roundtable focused on investor/analyst needs from interactive data, meeting with various investor focused data service providers to understand the ways in which interactive data could improve their ability to serve investors, and, at the staff level, experimenting with analysis capabilities using the Commission's viewer and other existing XBRL software. The voluntary program allows companies to submit financial statements on a supplemental basis in interactive format as exhibits to specified filings under the Exchange Act and the Investment Company Act of 1940 (Investment Company Act).<sup>37</sup>

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<sup>35</sup> Press Release No. 2008-179 (Aug. 19, 2008).

<sup>36</sup> Release No. 33-8529 (Feb. 3, 2005) [70 FR 6556].

<sup>37</sup> 15 U.S.C. 80a-1 et seq.

Companies that participate in the program still are required to file their financial statements in American Standard Code for Information Interchange (ASCII) or HyperText Markup Language (HTML).<sup>38</sup> In 2007, we extended the program to enable mutual funds voluntarily to submit in interactive data format supplemental information contained in the risk/return summary section of their prospectuses.<sup>39</sup> Over 100 companies have participated in the voluntary program. These companies span a wide range of industries and company characteristics, and have a total public float of over \$2 trillion.

Interactive data can create new ways for investors, analysts, and others to retrieve and use financial information in documents filed with us. For example, users of financial information will be able to download it directly into spreadsheets, analyze it using commercial off-the-shelf software, or use it within investment models in other software formats. Through interactive data, what is currently static, text-based information can be dynamically searched and analyzed, facilitating the comparison of financial and business performance across companies, reporting periods, and industries.

Interactive data also provide a significant opportunity to automate regulatory filings and business information processing, with the potential to increase the speed, accuracy, and usability of financial disclosure. Such automation could eventually reduce costs. A company that uses a

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<sup>38</sup> HTML is a standardized language commonly used to present text and other information on Web sites.

<sup>39</sup> Release No. 33-8823 (July 11, 2007) [72 FR 39290].

standardized interactive data format at earlier stages of its reporting cycle could reduce the need for repetitive data entry and, therefore, the likelihood of human error. In this way, interactive data may improve the quality of information while reducing its cost.

Also, to the extent investors currently are required to pay for access to annual or quarterly report disclosure that has been extracted and reformatted into an interactive data format by third-party sources, the availability of interactive data in Commission filings will allow investors to avoid additional costs associated with third party sources.

We believe that requiring issuers to file their financial statements using interactive data format will enable investors, analysts, and the Commission staff to capture and analyze that information more quickly and at less cost than is possible using the same financial information provided in a static format. Any investor with a computer and an internet connection will have the ability to acquire and download interactive financial data that have generally been available only to large institutional users. The new interactive data requirements will not change disclosure requirements under the federal securities laws and regulations, but will add a requirement to include financial statements in a new interactive data format as an exhibit. Thus, the requirement that filers provide financial statements using interactive data will not otherwise alter at all the disclosure or formatting standards of periodic or other reports,<sup>40</sup> registration

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<sup>40</sup> These reports include reports on Forms 8-K and 6-K that either are required to be filed as a result of information regarding specified events or are filed voluntarily to disclose other information.

statements,<sup>41</sup> or transition reports.<sup>42</sup> These filings will continue to be available as they are today for those who prefer to view the traditional text-based document.

We received 79 comment letters relating to the proposing release from domestic and foreign commenters including investor groups, pension funds, corporations, accounting and law firms, vendors and service providers, individuals, and corporate, professional and trade associations. Many commenters generally supported the proposed requirement to submit financial information in interactive data format, but many also expressed concern about specific aspects of the proposed rules including, in particular, the proposed phase-in requirement, detailed tagging of footnotes and liability related to the interactive data file. The final amendments adopt the rules substantially as proposed, with some changes to address issues expressed in the comment letters. We discuss specific comments where applicable throughout this release.

## **B. Current Filing Technology and Interactive Data**

Companies filing electronically are required to file their registration statements, quarterly, annual and current reports, and transition reports in ASCII or HTML format.<sup>43</sup> Also, to a limited

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<sup>41</sup> Unless otherwise stated, when we refer to registration statements, we mean registration statements filed under the Securities Act.

<sup>42</sup> Transition reports generally must be filed when an issuer changes its fiscal closing date. The transition report covers the resulting transition period between the closing date of its most recent fiscal year and the opening date of its new fiscal year. See Rules 13a-10 [17 CFR 240.13a-10] and 15d-10 [17 CFR 240.15d-10]. Unless otherwise stated, when we refer to Exchange Act reports, periodic reports, or “reports,” we mean quarterly and annual periodic reports as well as transition reports.

<sup>43</sup> Rule 301 under Regulation S-T [17 CFR 232.301] requires electronic filings to comply with the EDGAR Filer Manual, and Section 5.1 of the Filer Manual requires that electronic filings be in ASCII or HTML format. Rule 104

degree, our electronic filing system uses other formats for internal processing and document-type identification. For example, our system uses eXtensible Markup Language (XML) to process reports of beneficial ownership of equity securities on Forms 3, 4, and 5 under Section 16(a) of the Exchange Act.<sup>44</sup>

Electronic formats such as HTML, XML, and XBRL are open standards<sup>45</sup> that define or “tag” data using standard definitions. The tags establish a consistent structure of identity and context. This consistent structure can be recognized and processed by a variety of different software applications. In the case of HTML, the standardized tags enable Web browsers to present Web sites’ embedded text and information in predictable format. In the case of XBRL, software applications, such as databases, financial reporting systems, and spreadsheets, recognize and process tagged financial information. XBRL was derived from the XML standard. It was developed and continues to be supported by XBRL International, a consortium of approximately 550 organizations representing many elements of the financial reporting community worldwide. XBRL U.S., the international organization’s U.S. jurisdiction representative, is a non-profit

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under Regulation S-T [17 CFR 232.104] permits filers to submit voluntarily as an adjunct to their official filings in ASCII or HTML unofficial PDF copies of filed documents. Unless otherwise stated, we refer to filings in ASCII or HTML as traditional format filings.

<sup>44</sup> 15 U.S.C. 78p(a).

<sup>45</sup> The term “open standard” is generally applied to technological specifications that are widely available to the public, royalty-free, at minimal or no cost.

organization<sup>46</sup> that includes companies, public accounting firms, software developers, filing agents, data aggregators, stock exchanges, regulators, financial services companies, and industry associations.<sup>47</sup> In 2006, the Commission contracted with XBRL U.S. to develop the taxonomy or standard list of tags necessary for financial reporting in interactive format consistent with U.S. GAAP and Commission regulations.<sup>48</sup> In developing the taxonomy, XBRL US, which is responsible for the content of the taxonomy, included items required by US GAAP and the Commission's regulations, however they also included other items that are commonly used by companies in their financial statements. In addition to undergoing a public review and comment period, the taxonomy was reviewed by the staff of the Financial Accounting Standards Board (FASB) and the Commission. The FASB staff is involved in the process for creating and reviewing tags for new accounting pronouncements as they are published and in the future the draft tags may even be published with the accounting standard. Currently, the Commission has a contract with XBRL U.S. to develop the standard list of tags for the risk/return summary section of mutual fund prospectuses and the schedule of investments for investment companies.

Financial reporting in interactive format requires a standard list of tags. These tags are

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<sup>46</sup> XBRL U.S. is a 501(c)(6) organization. Internal Revenue Code section 501(c)(6) applies to “Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.” See 26 U.S.C 501(c)(6).

<sup>47</sup> XBRL U.S. supports efforts to promote interactive financial and business data specific to the U.S., including U.S. GAAP.

<sup>48</sup> That contract has been completed.

similar to definitions in an ordinary dictionary, and they cover a variety of financial concepts that can be read and understood by software applications. For financial statements prepared in accordance with U.S. GAAP, a filer will use the list of tags for U.S. financial statement reporting.<sup>49</sup> This list of tags contains descriptive labels, definitions, authoritative references to U.S. GAAP and Commission regulations where applicable, and other elements, all of which provide the contextual information necessary for interactive data<sup>50</sup> to be recognized and processed by software.<sup>51</sup>

Data tags are applied to financial statements by using commercially available software that guides a preparer to tag information in the financial statements with the appropriate tags in the standard list. Each element in the standard list of tags has a standard label. A company can therefore match the standard labels to each caption in its financial statements. Occasionally, because filers have considerable flexibility in how financial information is reported under U.S. reporting standards, it is possible that a company may wish to use a non-standard financial

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<sup>49</sup> Unless stated otherwise, when we refer to the “list of tags for U.S. financial statement reporting” we mean the interactive data taxonomy as approved by XBRL U.S. that is based on U.S. GAAP, Commission regulations, and common financial reporting practices used in the preparation of financial statements in the U.S.

<sup>50</sup> The new rules define the interactive data in machine-readable format required to be submitted as the “interactive data file,” which will be required with every interactive data submission. See §232.11 of Regulation S-T.

<sup>51</sup> For example, contextual information will identify the entity to which it relates, usually by using the filer’s CIK number. A hypothetical filer converting its traditional electronic disclosure of \$1,000,000 of net sales would have to create interactive data that identify what the 1,000,000 represents, net sales, and the currency in which it is disclosed, dollars. The contextual information will include other information as necessary; for example, whether it

statement line item that is not included in the standard list of tags. In this situation, a company will create a company-specific element, called an extension.<sup>52</sup> For example, what a company identifies in its traditional format financial statements as “operating revenues” may be associated with an element that has “net revenues” as the standard label. In this si -2.

data-formatted financial statements.<sup>55</sup> The IFRS list of tags contains descriptive labels, authoritative references to IFRS where applicable, and other elements and concepts that provide the contextual information necessary for interactive data to be recognized and processed by software. The IASCF has developed the IFRS list of tags. To create interactive data using the IFRS list of tags, an issuer generally will need to follow the same mapping, extension and

As noted above, software also is able to process interactive data so as to automate and, as a result, facilitate access to and analysis of tagged data. In addition, we are aware of other applications under development that may provide additional and advanced functionality.

**C. The Commission's Multiyear Evaluation of Interactive Data and Overview of New Rules**

In 2004, we began to assess the benefits of interactive data and its potential to improve the timeliness and accuracy of financial disclosure and analysis of Commission filings.<sup>56</sup> As part of this evaluation, we adopted rules in 2005 that permitted filers, on a voluntary basis, to provide financial disclosure in interactive data format as an exhibit to certain filings on our electronic filing system. The voluntary program has been based on an earlier version of the list of tags for U.S. financial statement reporting, which does not include a full array of standard elements for financial statement footnotes and schedules. After more than two years of increasing participation, 100 companies have chosen to provide interactive data financial reporting.<sup>57</sup>

During this time, we have kept informed of technology advances and other interactive data developments. We note that several U.S. and foreign regulators have begun to incorporate

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prepared in accordance with IFRS as issued by the IASB.

<sup>56</sup> Press Release No. 2004-97 (July 22, 2004).

<sup>57</sup> A viewer for the voluntary program is available at <http://www.sec.gov/spotlight/xbrl/xbrlwebapp.shtml>. This viewer maintains a running total of companies and filers submitting data as part of the voluntary program. As of January 2, 2009, 125 companies had submitted over 540 interactive data reports.

interactive data into their financial reporting systems.<sup>58</sup> In the U.S., the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve, and the Office of the Comptroller of the Currency (OCC) require the use of XBRL.<sup>59</sup> Since 2006, approximately 8,200 U.S. financial institutions have been using XBRL to s

Office of Interactive Disclosure,<sup>63</sup> and meeting with international securities regulators to discuss, among other items, timetables for implementation of interactive data initiatives for financial reporting.<sup>64</sup> Also, staff of the Commission attended meetings of the Advisory Committee on ImprT.52 Fcial

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data, and are now adopting those rules with the modifications discussed below. The rules will apply to domestic and foreign public companies that prepare their financial statements in accordance with U.S. GAAP, and foreign private issuers that prepare their financial statements in accordance with IFRS as issued by the IASB. Filers will be required to include an exhibit containing interactive data with their Securities Act registration statements, quarterly, if applicable, and annual reports, and transition reports, as well as reports on Forms 8-K<sup>67</sup> or 6-K that contain specified financial statements.<sup>68</sup> Filers also will be required to provide it on their company Web sites.<sup>69</sup> We believe requiring the submission and posting of interactive data has the potential to provide advantages for the investing public by making financial data more accessible, timely, inexpensive and easier to analyze.

By enabling filers to further automate their financial processes, interactive data may eventually help filers improve the timeliness of, and speed at which they generate, financial information, while reducing the cost of filing and potentially increasing the accuracy of the information. For example, with standardized interactive data tags, registration statements and

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<sup>67</sup> 17 CFR 249.308.

<sup>68</sup> The specified financial statements are discussed in detail in n. 74.

<sup>69</sup> The new rules will not include any investment company that is registered under the Investment Company Act or any “business development company,” as defined in Section 2(a)(48) of that Act [15 U.S.C. 80a-2(a)(48)]. Business development companies are a category of closed-end investment companies that are not required to register under that Act. The new rules also will not include any entity that reports under the Exchange Act and prepares its financial statements in accordance with Article 6 of Regulation S-X [17 CFR 210.6-01 et seq.]. The new rules will not apply to these entities because the standard list of tags for investment management is under development.

periodic and current reports may require less time for information gathering and review. Also, standardized interactive data tagging may enhance the ability of an issuer's in-house financial professionals to identify and correct errors in the issuer's registration statements and periodic and current reports filed in traditional electronic format. Filers also may gain benefits not directly related to public financial disclosures. For example, filers that use interactive data may be able

Commission a new exhibit.<sup>73</sup> The exhibit will be required with such filers' Securities Act registration statements, quarterly, if applicable, and annual reports, and transition reports, as well as reports on Form 8-K or Form 6-K that contain revised or updated financial statements.<sup>74</sup> The exhibit will contain the financial statements<sup>75</sup> and any applicable financial statement schedules in interactive data format. The requirement

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will apply beginning with a periodic report on Form 10-Q, Form 20-F or Form 40-F containing financial statements for a fiscal period ending on or after June 15, 2009.

- All other domestic and foreign large accelerated filers using U.S. GAAP will be subject to the same interactive data reporting requirements the following year, beginning with a periodic report on Form 10-Q, Form 20-F or Form 40-F containing financial statements for a fiscal period ending on or after June 15, 2010.

first periodic report on Form 10-Q or first annual report on Form 20-F or Form 40-F, as applicable.

- The amendments will not alter the requirements to provide financial statements and any required financial statement schedules with the traditional format filings.
  - Financial statements in interactive data format will be provided as exhibits identified in Item 601(b) of Regulation S-K and Forms F-9, F-10, 20-F, 6-K and 40-F.<sup>78</sup>
  - Financial statement footnotes and financial statement schedules initially will be tagged individually as a block of text. After a year of such tagging, a filer also will be required to tag the detailed quantitative disclosures within the footnotes and schedules and will be permitted, but not required, to the extent they choose, to tag each narrative disclosure.
  - The amendments will require the financial information and document and entity identifier elements, such as the form type, company name, and public float, to be tagged according to Regulation S-T and the EDGAR Filer Manual.<sup>79</sup>
  - Interactive data exhibits will be required at the same time as the rest of the related
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report or Securities Act registration statement, except for the following two circumstances. The initial interactive data exhibit of a filer will be required within 30 days after the earlier of the due date or filing date of the related report or registration statement, as applicable. In year two, a filer will have a similar 30 day grace period for its first interactive data exhibit that includes detailed tagging of its footnotes and schedules.

- Filer required to provide statement of interactive data exhibit (the "Statement") within 30 days of the earlier of the due date or filing date of the related report or registration statement, as applicable. In year two, a filer will have a similar 30 day grace period for its first interactive data exhibit that includes detailed tagging of its footnotes and schedules.

of the resale exemption safe harbor provided by Rule 144.<sup>81</sup> A filer that is deemed not current solely as a result of not providing or posting an interactive data exhibit when required will be deemed current upon providing or posting the interactive data. Therefore it will regain current status for purposes of short form registration statement eligibility, and determining adequate current public information under Rule 144. As such, it will not lose its status as having “timely” filed its Exchange Act

- The voluntary program rules will be modified to permit investment companies to participate, but to exclude non-investment company participation. As a result, the voluntary program will continue for the financial statements of investment companies that are registered under the Investment Company Act, and business development companies and other entities that report under the Exchange Act and prepare their financial statements in accordance

occurred despite the filer's good faith effort and the filer corrected the failure promptly after becoming aware of it.<sup>84</sup>

- Also similar to the voluntary program, interactive data files will be excluded from the officer certification requirements under Rules 13a-14 and 15d-14 of the Exchange Act.

The principal changes from the proposing release include:

- Modified treatment of liability for the interactive data files under the federal securities laws only will be available for interactive data files that a filer submits within 24 months of the time the filer first is required to submit interactive data files and no later than October 31, 2014.
- The phase-in schedule has been changed from the proposal. The filers that will be phased in during year one will first be required to submit an interactive data file for a periodic report on Form 10-Q, Form 20-F or Form 40-F containing financial statements for a fiscal period ended on or after June 15, 2009. Filers that are phased in during years two and three will be treated in a similar manner. Filers that first become subject to the requirement to submit interactive data after year three will first

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<sup>84</sup> Although the interactive data formatted version of the financial statements will be provided in a separate exhibit and subject to modified liability during the specified period, the financial statements themselves will, of course, continue to be part of the registration statement or report and therefore subject to the full panoply of the federal securities laws, including, without limitation, Sections 11, 12(a)(2) and 17 of the Securities Act and Sections 10(b), 13 and 18 of the Exchange Act.

be required to submit an interactive data file for a quarterly report on Form 10-Q or annual report on Form 20-F or Form 40-F, as applicable.

- The amendments will require that interactive data be submitted with a Securities Act registration statement filing only after a price or price range has been determined and any later time when the financial statements are changed, rather than requiring interactive data submissions with each filing.
- The amendments will require companies to submit interactive data for financial statements contained in additional forms - Securities Act registration statements on Forms F-9 and F-10 and periodic reports on Forms 40-F<sup>85</sup> as well as reports on Forms 8-K and Form 6-K that contain revised or updated financial statements.<sup>86</sup>
- The timing of the required Web site posting has been eased. A filer must post the interactive data exhibit on its corporate Web site not later than the end of the calendar day it submitted or was required to submit the interactive data exhibit, whichever is earlier. As proposed, Web site posting would have been required by the end of the business rather than calendar day.
- Interactive data will be required to be posted for at least 12 months on an issuer's

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<sup>85</sup> Similar to Form 20-F, Form 40-F may be used either as a periodic report or a registration statement under the Exchange Act. As adopted, the amendments will require interactive data for Form 40-F only when used as a periodic report.

<sup>86</sup> See note 74 above.

Web site. The proposing release did not specify this, but commenters requested clarification.

- While the amendments will require filers to tag separately each amount within a footnote or schedule (i.e., monetary value, percentage, and number), the rules will permit, but not require, filers to tag, to the extent they choose, each narrative disclosure.

reporting has expanded significantly since the original version available for the voluntary program.<sup>88</sup> During this period, there has been a continuous increase in both the number and capabilities of software products and applications for users of interactive data, as well as of the services to assist companies to tag their financial statements using interactive data.<sup>89</sup> The

With respect to the list of tags for IFRS financial reporting, the IASCF has, over several years, developed a list of tags designed to classify and define financial information in accordance with international accounting standards as issued by the IASB. Over the course of the past year, the IASCF has worked to strengthen the development of its list of tags by forming an XBRL Advisory Committee and an XBRL Quality Reporting Team, both consisting of international representatives from investors, auditors, accountants, regulators and others. On March 31, 2008, the IASCF published a near final version of the list of tags for IFRS financial reporting,<sup>91</sup> which was subject to public comment through May 30, 2008.<sup>92</sup> On June 24, 2008, the IASCF published the final version.<sup>93</sup> In addition, the IASCF is collaborating with XBRL U.S., other foreign regulators, accounting industry members, analyst/investor groups, XBRL technology/software service providers, and others to align practices designed to improve and broaden the IFRS list of tags. This collaboration involves the development of the appropriate scope for the IFRS list of tags' content and technology architecture. On this basis, we believe that the updated IFRS list of tags will be sufficiently advanced te issuers that prepare their financial statements in accordance with IFRS as issued by the IASB

provide their financial statements in interactive data format under the phase-in schedule we are adopting.

As discussed in more detail below, the new rules set forth a phase-in period that begins with domestic and foreign large accelerated U.S. GAAP filers with a worldwide public common equity float above \$5 billion as of the end of the second fiscal quarter of their most recently completed fiscal year. These large accelerated filers will be subject to the new rules beginning with their first quarterly report on Form 10-Q, or

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following items: the footnotes to the financial statements; any applicable schedules to the financial statements; and document and entity identifier tags, such as company name and public float. As is the case in the voluntary program, the new requirement for interactive data reporting is intended to be disclosure neutral in that we do not intend the rules to result in companies providing more, less, or different disclosure for a given disclosure item depending upon the format whether ASCII, HTML, or XBRL.

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anticipate that these will become widely available and increasingly useful to investors.

We expect that the open standard feature of the XBRL format will facilitate the development of applications and software, and that some of these applications may be made available to the public for free or at a relatively low cost. The expected continued improvement in this software should give the public increasingly useful ways to view and analyze company financial information. As we continue to evaluate the use of the new interactive data technologies, software, and lists of tags, we may consider proposing rules to require a filing format that integrates HTML with XBRL or eliminate financial statement reporting in ASCII or HTML format.

We believe XBRL is the appropriate interactive data format with which to supplement ASCII and HTML. Our experience with the voluntary program and feedback from company, accounting, and software communities point to XBRL as the appropriate open standard for the purposes of this rule. XBRL data will be compatible with a wide range of open source and proprietary XBRL software applications. As discussed above, many XBRL-related products exist for analysts, investors, public and private companies, and others to create and compare financial data more easily; still others are in development, and that process will likely be hastened by increased public company reporting using interactive data.

Most commenters generally supported the required submission of interactive data,<sup>98</sup> but a significant number did not.<sup>99</sup> Some commenters that supported the required submission of interactive data believed it would improve the usefulness of financial information to companies and investors, and that mandated interactive data use would provide the incentives to drive sufficient investment in software to enable

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Commenters that provide interactive data only

with the proposed requirements.

<sup>101</sup> One commenter stated that

it expected that costs would fall quickly, especially for small companies, as interactive data became part of standard corporate accounting software packages.<sup>102</sup> Another commenter stated that, based on its experience in the voluntary program, costs would fall significantly for

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subsequent submissions.<sup>103</sup> One commenter stated that it expected that preparing financial information in interactive data format would result in less manual effort and provide the foundation to improve business processes.<sup>104</sup> Similarly, comments on our 2004 concept release and proposed rules in 2004 and 2007 generally supported interactive data and XBRL in particular.<sup>105</sup>

would not reduce the likelihood of human error or would not reduce costs for issuers.<sup>108</sup> In this regard, one commenter stated that the additional costs would make the U.S. market less attractive to foreign issuers.<sup>109</sup>

Some commenters that objected to the required submission of interactive data believed that interactive data would not at this point improve the usefulness of financial information to

availability of adequate software products<sup>113</sup> to the potential that customized taxonomy extensions could grow so common that they would directly interfere with the comparability of inter-company data.<sup>114</sup> A significant number of commenters suggested ways to facilitate interactive data tagging, including exposing for comment the Commission's maintenance and support agreement for XBRL,<sup>115</sup> as well as monitoring,<sup>116</sup> cataloging,<sup>117</sup> providing guidance on<sup>118</sup> and discouraging<sup>119</sup> extension use. We acknowledge these concerns and suggestions and believe that the rules as adopted will address many of them. Widespread, mandatory adoption is expected to foster a network effect and encourage development of cost reducing and improved analytical products. Additionally, we believe that the taxonomy will become even more comprehensive over time as common extensions are incorporated into the base in annual releases thus minimizing any interference that common extensions might have with data comparability.

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<sup>113</sup> See, 12 598.5601 Tm( catalog tht44 0 1 Tf2.4375 Tw 14..g.ability. )T10Tc 00.02.02 0.0017 6.484 144 0.6, letted fro 2 3-12 -1.15ri

## **B. Phase-in under the New Rules**

### **1. Overview**

The new rules initially will require interactive data reporting only by domestic and foreign large accelerated filers that prepare their financial statements in accordance with U.S. GAAP and have a worldwide public common equity float above \$5 billion as of the end of the second fiscal quarter of their most recently completed fiscal year.<sup>120</sup>

deeper level of detail will be phased in the following year.

We did not propose, and are not adopting, a requirement that filers provide interactive data for their Management's Discussion and Analysis (MD&A), executive compensation, or other financial, statistical or narrative disclosure.<sup>122</sup> Many commenters supported this position.<sup>123</sup> Some commenters supported the idea of

the commenters who believed that more experience with interactive data and a greater understanding of the costs and time associated with compliance with the requirements as proposed is needed before expanding the requirement to other information. We will continue to consider, however, the advisability of permissible optional or required interactive data for disclosures made outside a set of financial statements prepared in accordance with U.S. GAAP or IFRS as issued by the IASB or related financial statement schedules required under Commission rules.

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| Domestic and Foreign Large Accelerated Filers Using U.S. GAAP with Worldwide Public Common Equity Float above \$5 Billion as of the End of the Second Fiscal Quarter of Their Most Recently Completed Fiscal Year | Quarterly report on Form 10-Q or annual report on Form 20-F or Form 40-F containing financial statements for a fiscal period ending on or after June 15, 2009. |
| All Other Large Accelerated Filers Using U.S. GAAP  | Quarterly report on Form 10-Q or annual report on Form 20-F or Form 40-F containing financial statements for a fiscal period ending on or after June 15, 2010. |
| All Remaining Filers Using U.S. GAAP  | Quarterly report on Form 10-Q or annual report on Form 20-F or Form 40-F containing financial statements for a fiscal period ending on or after June 15, 2011. |
| Foreign Private Issuers with Financial Statements Prepared in Accordance with IFRS as Issued By the IASB  | Annual reports on Form 20-F or Form 40-F for fiscal periods ending on or after June 15, 2011.  |

## **2. Companies Covered by New Rules and Phase-in**

The new rules will cover all companies that report either in U.S. GAAP, including smaller reporting companies and foreign private issuers that report in U.S. GAAP or, in the case of foreign private issuers, in accordance with IFRS as issued by the IASB.<sup>129</sup> On November 14, 2008, we issued a release proposing to allow certain domestic issuers to prepare financial statements in accordance with

three of the phase-in period.

The additional phase-in time for all but the largest accelerated filers is intended to permit companies to plan and implement their data tagging with the benefit of the experience of year one filers. It also is intended to enable us to monitor implementation and, if necessary, make appropriate adjustments during the phase-in period. With respect to foreign private issuers that report using IFRS as issued by the IASB, the additional phase-in time for these issuers is to allow greater development of the IFRS filing tags.

Our multiyear experience with the voluntary program has helped us to better understand the extent to which a filer will incur additional costs to create and submit its existing financial disclosures in interactive data format. We believe that the process of

preparing an interactive data file will not impose a significant burden on filers. Our voluntary program clearly demonstrated, although that program was limited to face of the balance sheet and income statement only and not footnotes, that companies can, if they

been implemented. We also believe that these costs will be justified by interactive data's benefits. As with domestic registrants, we believe foreign private issuers that report in U.S. GAAP or prepare their financial statements in accordance with IFRS as issued by the IASB will be able to comply with the rules without incurring significant costs.

We expect that smaller companies, which generally are disproportionately affected by regulatory costs, also will be able to provide their reports in interactive data format without undue effort or expense. While interactive

of the earlier filers. It will also give them a longer period of time over which to spread first-year data tagging costs.

As noted above,<sup>132</sup> CIFI<sup>2</sup>R issued its final report recommending that the Commission, over the long term, phase in the requirement that companies file financial statements using interactive data after the satisfaction of specified preconditions:

statements and, in block-tagged form,<sup>134</sup> the footnotes to the financial statements. The Final Report also recommends that, one year after we impose this requirement on the first group of registrants, we impose the same requirement on the remaining domestic registrants that fall within the definition of “large accelerated filer.” Finally, the Final Report recommends that, once the specified conditions have been satisfied and the second phase-in period has been

the voluntary program in submissions to us.<sup>137</sup> We understand that the list also is being used by companies that are tagging their financial statements outside of the voluntary program, including experimenting with footnote tagging. The tags also will be updated in an expected January 2009 version. The updated list is expected to contain improvements such as the reflection of new accounting pronouncements. The Commission's IDEA system into which companies actually will submit interactive data has been effectively implemented and the ability of companies to do so is now established. Finally, the Commission has developed a viewer to provide an accurate human-readable version of interactive data. Both the filing and viewing capabilities are fundamentally enhanced versions of applications and processes that were already in place for the voluntary program.

We have also carefully considered the Committee's thoughtful recommendation, including the recommended phase-in of 500 initial companies and delayed consideration of non-accelerated and other filers until after two years. We are adopting a phase-in schedule similar to that suggested by the Committee.<sup>138</sup>

that will begin in the third year. Based on comments received on the proposing release, participants' experience with the voluntary program and our consultations with filers, software providers and filing intermediaries, we believe the new rules will accelerate the improvement and availability of inexpensive software. This, in turn, should generate more options and assistance for non-accelerated filers in general and, in particular, smaller reporting companies and foreign private issuers that prepare their financial statements in accordance with IFRS as issued by the IASB in particular so that they co

data without undue burden.

One commenter expressed concern about whether the initial phase-in of 500 issuers would involve enough companies to create a “network effect” so users of financial reporting obtain the benefits of interactive data in peer comparisons that are most useful and likely to occur if many or all filers provide financial reporting using interactive data.<sup>139</sup> Although including a larger number of filers in the initial phase-in might increase the overall commercial and analytical value of the data, it also might increase the cost of providing the data to users.

domestic companies.<sup>140</sup> Other commenters recommended that the phase-in commence with filings made for fiscal periods<sup>141</sup> or years<sup>142</sup> beginning on or after December 15, 2008 or fiscal years beginning after December 31, 2008,<sup>143</sup> as opposed to fiscal periods ending on or after December 15, 2008, as proposed. The reasons cited by commenters included assuring that

template on which to build for subsequent filings.<sup>147</sup> At least one commenter acknowledged, however, that despite the greater initial effort posed by tagging an annual report, the comprehensiveness of this report would cause companies to address most of the issues in quarterly reports.<sup>148</sup> Some service providers commented that although a complete annual report is more effort for preparers, creating a related

Many of the commenters that suggested that the phase-in be slower had concerns related to the potential costs and burden of detailed footnote tagging.<sup>151</sup> Some commenters suggesting a different initial phase-in period than what was proposed cited the ability to assess costs and technology advancements.<sup>152</sup> Commenters also were concerned that such detailed tagging could result in more company specific extensions th

issuers because of the possibility that there might be a disproportionate burden on these issuers.<sup>156</sup> As to foreign private issuers reporting in accordance with U.S. GAAP and who meet the criteria for the first phase-in period in particular, several commenters stated that these issuers could face extra burdens potentially due to less access to service provider help, language barriers, a need to address both the U.S. GAAP list of tags and, possibly, relatively soon after, the IFRS IASB list of tags (such as those issuers that have signaled an intention to report in accordance with IFRS as issued by the IASB and discontinue reporting in U.S. GAAP), and have a potential competitive disadvantage in comparison to foreign private issuers already reporting in accordance with IFRS as issued by the IASB who would not have to tag until the third year.<sup>157</sup> One commenter suggested treating all foreign private issuers the same and placing them on the later phase-in schedule (or at least the ones that have announced an intention to switch to IFRS as their sole reporting standard).<sup>158</sup>

One commenter expressed the desire that the phase-in not be delayed due to a possible conversion away from U.S. GAAP to IFRS. The commenter noted in this regard that it believed interactive data could facilitate such a conversion if similar items were to receive similar tags.<sup>159</sup>

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<sup>156</sup> See, e.g., letters from CSG, Nippon Keidanren (NK), Philips International B.V. (Philips) and Sullivan & Cromwell (S&C).

<sup>157</sup> See, e.g., letters from Credit Suisse Group (CSG), NK, Philips, S&C, and J.P Morgan (JPM).

<sup>158</sup> See letter from Philips.

<sup>159</sup> See letter from CFA.

In light of the differing opinions among commenters, the experience of those in the voluntary program, the size and resources of those issuers in the first group, and our ability to monitor the experiences of those larger first phase companies, we believe that the phase-in period as modified from the proposal generally addresses the burden and expense concerns expressed by some commenters. In this regard, as noted above, a filer first will be required to submit an interactive data file for a Form 10-Q, Form 20-F

data regardless of whether reporting in U.S. GAAP in order to avoid placing such issuers at a competitive disadvantage to other issuers permitted or required to submit interactive data.<sup>162</sup>

The commenter stated that if it would not be feasible to enable such issuers to submit interactive data using a Canadian GAAP taxonomy, then the Commission should permit such issuers to tag a U.S. GAAP reconciliation. Consistent with f

occurs in the case of other types of issuers is not present for investment company and similar issuers.<sup>163</sup>

**3. Information and Documents Covered by the New Rules**

**a. Financial Statements, Footnotes, and Financial Statement Schedules**

The rules will require interactive data tagging of a filer's complete financial statements

and amounts presented on the face of the financial statements in the traditional format filing be the same as in the interactive data format. Also, the rules will prohibit partial presentation of face financial statements in interactive data format. For example, filers will not be permitted to exclude comparative financial information for prior periods.

Unlike the voluntary program, our new rules require companies using U.S. GAAP or foreign private issuers using IFRS as issued by the IASB to provide tagged data for the footnotes and schedules to the financial statements. The 2005 adopting release for the voluntary program stated that we recognized that technical issues made it difficult to tag the notes to the financial statements. We did, however, provide volunteers with the option of tagging the notes to the financial statements.<sup>168</sup> Since the time of the adopting release, the necessary list of tags has been completed and the available software has advanced sufficiently to require that the financial statement footnotes and schedules be included in the new rules.

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benefit. If filers tag each footnote separately, however, users will be able to compare footnote disclosure between periods and across filers while minimizing the burden on preparers. We are therefore adopting the requirement that footnotes be tagged using four different levels of detail:

- (i) each complete footnote tagged as a single block of text;
- (ii) each significant accounting policy within the significant accounting policies footnote tagged as a single block of text;
- (iii) each table within each footnote tagged as a separate block of text; and
- (iv) within each footnote, each amount (i.e., monetary value, percentage, and number) separately tagged.

To allow filers time to become familiar with tagging footnotes, in each filer's first year of interactive data reporting, only level (i) will be required. All four levels will be required starting one year from the filer's initial required submission in interactive data. In year two, for the first filing required to have detailed tagging of footnotes and schedules, the filer will have an additional 30 days to submit the interactive data exhibit. This is similar to the grace period provided for a filer's first required filing with interactive data. Subsequent interactive data exhibits using all of the levels will be required at the same time as the rest of the related report or registration statement. We believe the 30 day grace period will help a filer comply with the more detailed tagging requirements.

The requirement that in the second year a filer tag separately each amount within a footnote (i.e., monetary value, percentage, and number) should not affect a filer's decisions regarding what to disclose. We are aware of questions as to whether the contextual information or data elements chosen from the standard list of tags could potentially reveal information that

the rest of the related registration statement or periodic report would not otherwise make known. However, we do not believe that the contextual information or data elements chosen should provide any additional substantive disclosure.

To clarify the intent of the interactive data requirements, new Rule 405 of Regulation S-T, that sets forth tagging requirements, includes an instruction that states that the rule requires a disclosure format, but does not change substantive disclosure requirements. As proposed and as adopted, the rules also state clear[(a) dl4, t/rr)-7(m)8(ai(ai( and )TJ0.0004 Tc 0.00092w -3.085 0 (e interactive

inconsistency among filers due to varying footnote formats.<sup>172</sup> Other criticisms included assertions that the effort required would be greater than the Commission estimated,<sup>173</sup> overly burdensome<sup>174</sup> and duplicative,<sup>175</sup> would result in so many extensions that the information would not be comparable among issuers,

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Other commenters reacted more favorably, with some suggesting alternatives to the proposed rules. For instance, a number of commenters recommended that the detailed tagging of footnotes be gradually phased in to provide more time for issuers to get acclimated to the process and for the development of standard taxonomies.<sup>178</sup> Other commenters suggested that the required detail tagging of footnotes should focus on the most useful and used footnote data rather than on a broad array of data that would require issuers to apply thousands of additional tags for detailed financial and narrative information.<sup>179</sup> Similarly, another commenter suggested that

detail tagging only be required as to the more standardized types of footnotes.<sup>180</sup>

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<sup>180</sup> See letter from USS.

While we are adopting the proposed requirement to tag separately each amount within a footnote (i.e., monetary value, percentage, and number), we will permit, but not require, filers to tag, to the extent they choose, each narrative disclosure. We believe that adopting the footnote tagging requirements substantially as proposed strikes an appropriate balance between satisfying investors' needs and not imposing undue burden on issuers. We believe the block-text tagging required under levels (i) through (iii) will satisfy the needs of those who desire information within the context of an entire footnote or an entire table. We also believe that requiring the detail tagging of individual amounts but permitting the detail tagging of narrative disclosures within the footnotes as provided under level (iv) will satisfy the needs of those who desire to analyze specific pieces of information or data. Further, we believe that by permitting filers to choose whether and which elements to tag in the narrative disclosures of the footnotes and schedules, they are granted a degree of flexibility and relieved of the uncertainty as to which narrative elements to tag, some of which are placed into footnotes and schedules voluntarily. We also believe that not requiring detailed tagging of narratives would not result in the loss of information due to block text tagging. Finally, we believe that taxonomy and software advances, combined with the rules' grace period, will avoid placing an undue burden on issuers. We will, however, monitor the implementation of these amendments and, if necessary, consider making appropriate adjustments to the requirements.

Apart from footnote disclosures, filers may be required under existing financial reporting

requirements to include certain supplementary financial statement schedules with their financial statements. The form and content of these schedules are governed by Article 12 of Regulation S-X.<sup>181</sup> The list of tags for U.S. financial statement reporting enables companies to tag individual facts in these financial statement schedules, or to block tag each entire schedule.

Filers also will be required to include with their interactive data any financial statement schedules prescribed by Article 12 of Regulation S-X. These financial statement schedules will be presented at two different levels: (i) a summary level and (ii) a detailed level. The summary level will be presented in a table format, and the detailed level will be presented in a narrative format. The summary level will be presented in a table format, and the detailed level will be presented in a narrative format. The summary level will be presented in a table format, and the detailed level will be presented in a narrative format.

pre-effective registration statement. The new rules require a filer to provide revised interactive data at the same time it files the restated or revised traditional format financial statements as an exhibit to the registration statement or report containing those financial statements.<sup>182</sup> If a filer decides to change a tag it used previously that was not inappropriate at the time used, it would

whether to require interactive data in connection with Forms 40-F, one commenter urged us to at least permit filers to submit interactive data in order to avoid placing filers of that form at a competitive disadvantage.<sup>184</sup>

As discussed above, we are extending the interactive data requirements to Forms 8-K and 6-K that contain updated interim financial statements or financial statements that have been revised to reflect the effects of certain subsequent events. These financial statements typically are not filed as amendments to forms for which we proposed to require interactive data, but they provide timely financial information comparable to that contained in such forms and may be incorporated by reference into registration statements for which interactive data requirements generally apply.<sup>185</sup> In this regard, several commenters noted that registrants use Form 8-K to file financial statements that reflect changes for reasons other than to correct accounting errors.<sup>186</sup>

**c. Registration Statements under the Securities Act Covered by the Rules**

We are adopting substantially as proposed a requirement that, subject to the phase-in period described above, registration statements filed under the Securities Act,<sup>187</sup>

interactive data when financial statements are included directly in the registration statement, rather than being incorporated by reference. This requirement will apply to the issuer's financial statements for all periods included in the registration statement as required by Regulation S-X and our other rules. As proposed, the rules would apply from the first filing of a registration statement. The rules as adopted, however, require that interactive data be submitted only after a price or price range has been de

registration statements or both.<sup>190</sup> Some commenters recommended that interactive data be required to be submitted only after the registration statement becomes effective, given the effort in preparing an initial public offering and the frequency with which initial public offering efforts never come to fruition.<sup>191</sup>

We believe that the interactive data requirements for Securities Act registration statements in general and, in particular, as limited to filings only after a price or price range has been determined and any time thereafter when the financial statements are changed, strike an appropriate balance between the alternatives of requiring interactive data submissions with each pre-effective amendment or waiting until a registration statement has been declared effective. In our experience, most issues related to the staff's review of offerings typically are resolved or near resolution by the time a price range is determined, and, as a result, there typically would be relatively few changes to the financial statements contained in additional amendments. As a result, issuers would be required to tag information that likely is in substantially final form. Consequently, the information would be useful to investors and issuers would be unlikely to need to revise the information significantly in a way that would trigger multiple submissions of interactive data. As each submission would be tagged to indicate that the [information in the submission](#) has been revised, we believe investors should be able to monitor changes in the

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<sup>190</sup> See, e.g., letters from AICPA, Grant Thornton, PricewaterhouseCoopers LLP (PWC), CAQ, CalPERS, CFA, UTC, Morgan Stanley, and E&Y.

<sup>191</sup> See, e.g., letters from BDO, CAQ, and PWC.

interactive data efficiently. Further, the rules as adopted provide that a company's first filing to be subject to the interactive data requirement would be a quarterly report or, for a foreign private issuer not required to file quarterly reports, an annual report. Accordingly, interactive data exhibits will not be required for initial public offerings.

**d. Registration Statements under the Exchange Act Covered by the Rules**

10, 20-F or 40-F when used as Exchange Act registration statements. However, a filer is permitted to voluntarily submit an interactive data exhibit with these registration statements.

#### **4. Initial Filing Grace Period**

As noted above, interactive data will be required at the same time as the rest of the filing to which it relates. However, each company's initial interactive data submission, regardless of filing type, will have a 30 day gr

transition report or Form 6-K, as applicable.

In the voluntary program, filers were permitted to provide the interactive data at the time of filing or at any later time, without a deadline.<sup>195</sup> We believe that, consistent with our view regarding the potential value of widespread market use of the interactive data, companies should be required to provide the interactive data at the time the registration statement or report is filed

submissions during the first two years of the phase-in period,<sup>197</sup> or for every submission made during the entire phase-in period.<sup>198</sup> These commenters generally reasoned that during the time specified, companies and service providers still would be familiarizing themselves and developing expertise related to the tagging process and, as a result, would need time to complete the tagging process. Some of those that supported additional grace periods noted that the tagging process will be an additional step to financial statement preparation for years to come and that it will take time to integrate the interactive data process with the financial statement preparation process.<sup>199</sup> One commenter noted that the grace period following the filing of a Form 10-K offers little relief for smaller companies due to the number of filings prepared shortly thereafter. Specifically, this commenter noted that at many smaller companies, the staff responsible for the preparation of a Form 10-K immediately turn their time and attention to the preparation of the company's proxy statement after filing the Form

A few commenters suggested a grace period for submissions after the phase-in period. Some stated that technical difficulties and the limited availability of support services would necessitate the permanent or temporary extension of a grace period and proposed, on an on-going basis after the initial phase-in period, that interactive data files be due within 4 or more days after the related official filing is filed. Further, these commenters believed that this type of extension would not ultimately impair the usefulness of

8-K or 6-K rather than as exhibits to amendments to Exchange Act periodic reports, so as to avoid negative connotations associated with the filing of an amendment.<sup>203</sup> One commenter even suggested the creation of new forms for these amendments to distinguish them from substantive amendments to periodic reports.<sup>204</sup> We acknowledge these concerns, but note that grace period submissions filed with amended periodic reports need contain only the relevant interactive data as an exhibit and therefore there should not be any confusion that the amended report is being filed for any other reason. In this regard we note that Rule 12b-15 under the Exchange Act<sup>205</sup> generally provides that any amendment to a filing that required a certification must contain another certification; however, we clarify that, consistent with the exclusion of interactive data from the disclosure certification requirements discussed in part II.C.4 below, an amendment whose sole purposes is to submit interactive data as an exhibit is not subject to the certification requirements of Rule 12b-15 under the Exchange Act. We therefore adopt the rules as proposed as they relate to submitting interactive data as part of an amendment to the form containing the related traditional format financial statements.

## **5. Web Site Posting of Interactive Data**

We believe interactive data, consistent with our new rules, should be easily accessible for

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<sup>203</sup> See, e.g., letters from AICPA, Constellation, Institute of Management Accountants (IMA), NAREIT, Purnhagen, and Teva Pharmaceutical Industries Limited (Teva).

<sup>204</sup> See letter from IBM.

<sup>205</sup> 17 CFR 240.12b-15.

all investors and other market participants. As such disclosure becomes more widely available, advances in interactive data software, online viewers, search engines and other Web tools may in turn facilitate improved access to and usability of the data, promoting its awareness and use. Encouraging widespread accessibility to filers' financial information furthers our mission to promote fair, orderly, and efficient markets, and facilitate capital formation. We believe Web

be required to be posted for at least 12 months, which is consistent with issuers' full one year reporting cycle.

We believe that access to the interactive data on corporate Web sites will enable search engines and other data aggregators to more quickly and cheaply aggregate the data and make them available to investors because the data will be available directly from the filer, instead of through third-party sources that may charge a fee. It could also transfer reliability costs of data availability to the public sector by reducing the likelihood that investors cannot access the data through the Commission's Web site due to down-time for maintenance or to increased network traffic. We also believe that availability of interactive data on corporate Web sites will make it easier and faster for investors to collect information on a particular filer if the interactive data is on the filer's Web site already, rather than if investors would be required to visit separately (for example, by hyperlink) and search the Commission's Web site for information, particularly if the investor is already searching the issuer's Web site. To help further our goals of decreasing user cost and increasing availability, we will not allow companies to comply with the Web posting requirement by including a hyperlink to the Commission's Web site.

We believe this requirement will be consistent with the increasing role that corporate Web sites perform in supplementing the information filed electronically with the Commission by delivering financial and other disclosure directly to investors. We also believe that this requirement can provide an incentive for corporations to add content to or otherwise enhance their Web sites, thereby improving investor experience. For example, we note that since 2003 issuers with corporate Web sites have been required to post on their Web sites, directly or by hyper linking to a third-party Web site such as the Commission's Web site, beneficial ownership

reports filed with respect to their securities on Forms 3, 4, and 5. We also note that many companies provide on their Web sites access to their periodic reports, proxy statements, and other Commission filings.<sup>208</sup> The new rules will expand such Web site posting by requiring companies with Web sites to post their interactive data as well.<sup>209</sup>

Commenters had miA reviews on the proposed Web site posting requirement. Some commenters stated that it would be appropriate for a company to post interactive data on its Web site because, for example, many users of financial statements access such types of information through corporate Web sites.<sup>210</sup> Other commenters objected to the Web site posting requirement, citing reasons including cost,<sup>211</sup> lack of investor benefit,<sup>212</sup> and facilitating use of information out of context.<sup>213</sup> Finally, some commenters addressed posting details such as when the interactive data must be posted and for how long it must remain accessible.

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<sup>208</sup> Companies filing registration statements and accelerated filers and large accelerated filers in their periodic reports are required to disclose whether or not they make available free of charge on or through their Web site, if

We believe that issuers that already have corporate Web sites can post interactive data at a reasonable cost<sup>214</sup> and that such posting can benefit investors by facilitating their access to interactive data<sup>215</sup> and, as a result, facilitating their automated parsing and analysis of financial information. Investors and analysts routinely parse information out of filed financial statements, whether in paper or electronic format. Interactive data merely facilitates the parsing.<sup>216</sup> In this regard, an issuer that wishes to provide access to context beyond the posted interactive data would be free to indicate on its Web site where a user could access the Commission filing to which the interactive data is an exhibit. Similarly, an issuer could provide access to the remainder of the filing directly on its Web site or by hyperlink to the Commission's Web site.

Several commenters suggested that issuers not be required to post interactive data on corporate Web sites on the same day they are submitted to the Commission because that would be too burdensome.<sup>217</sup> Commenters suggested grace periods to post such data such as 24

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<sup>214</sup> See Part IV.

<sup>215</sup> One commenter stated that an issuer should be able to satisfy its posting requirement through a hyperlink. See letter from IBM. Similarly, another commenter suggested dropping the posting requirement because the information would be available on the Commission's Web site and the requirement would be difficult to monitor. See letter from E&Y. We believe, however, that search engines and other data aggregators might be better able to access the posted information directly from issuers' Web sites.

<sup>216</sup> We believe that parsing information in a filing is useful but we continue to emphasize the need to evaluate the entirety of a filing.

<sup>217</sup> See, e.g., letters from Foley, Liberty Global, Intel, NYCPA, Southern, and Teva.

hours<sup>218</sup> or, in the case of foreign private issuers, two business days<sup>219</sup> after the related form has been filed with the Commission. As proposed, issuers would have been required to post the interactive data by the end of the business day on the earlier of the date the interactive data is submitted or is required to be submitted to the Commission. In order to make it easier for issuers

## **C. Accuracy and Reliability of Interactive Data**

### **1. Voluntary Program**

Data must be accurate to be useful to investors. To help assure the accuracy of interactive data in the voluntary program, the data, upon receipt by our electronic filing system, undergoes a validation separate from the normal validation of the traditional format filing.<sup>223</sup> Potential liability also helps ensure the accuracy and reliability of the data. Although the voluntary program has provided limited protections from liability under the federal securities laws<sup>224</sup> and excluded interactive data from being subject to officer certification requirements under Exchange Act Rules 13a-14 and 15d-14,<sup>225</sup> interactive data in the voluntary program are subject to the anti-fraud provisions of the federal securities laws. The voluntary program also encourages participants' efforts to create accurate and reliable interactive data that is the same as the corresponding disclosure in the traditional electronic format filing by providing that a participant is not liable for information in its in

or misleading. To further encourage reasonable efforts to provide accurate interactive data, the voluntary program treats interactive data that do not reflect the same information as the official version as reflecting the official version if the volunteer meets several conditions. The volunteer must have made a good faith and reasonable attempt to reflect the same information as appears in the traditional format filing and, as soon as reasonably practicable after becoming aware of any difference, the volunteer must amend the interactive data to cause them to reflect the same information.

of the applicable technical requirements and to help the Commission identify data that may be problematic. For example, we expect the Commission's technology to:

- check if required conventions (such as the use of angle brackets to separate data) are applied properly for standard and, in particular, non-standard special labels and tags;
- identify, count, and provide the staff with easy access to non-standard special labels

The availability of interactive data to the staff may also enhance its review of company filings. After the FDIC required submission of interactive data, it reported that its analysts were able to increase the number of banks they reviewed by 10% to 33%, and that the number of bank reports that failed to fully meet filing requirements fell from 30% to 0%.<sup>230</sup>

We believe analysts, individual investors and others outside the Commission that use the interactive data will also benefit from the increased availability of this information. We encourage

such devices to search for and detect any changes made to the standard list of tags. The ability of analysts and other users to discover mistakes or alterations not consistent with the desired use of interactive data may give filers an additional incentive to prepare such data with care and promptly to correct any errors.

### **3. Application of Federal Securities Laws**

An interactive data file generally will be subject to the federal securities laws in a modified manner similar to that of the voluntary program under new Rule 406T if the filer submits the interactive data file within 24 months of the time the filer first is required to submit interactive data files<sup>231</sup> but no later than October 31, 2014.<sup>232</sup> Rule 406T provides that during the time a filer's interactive data files are treated in this modified manner, they will be

- subject to specified anti-fraud provisions<sup>233</sup> except in connection with a failure to comply with the tagging requirements that occurs despite a good faith attempt to comply and is corrected promptly after the filer becomes aware of the failure;

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<sup>231</sup> The 24-month period would be exclusive of a grace period. For example, a large accelerated filer first required to submit interactive data for financial statements in a Form 10-Q for the fiscal period ended June 30, 2009, would be required to submit the interactive data by 30 days after the Form 10-Q's August 10, 2009 due date but its 24-month period would end August 10, 2011.

<sup>232</sup> In regard to liability and also similar to the voluntary program, we are adopting as proposed an exclusion for interactive data files from the officer certification requirements of Rules 13a-14 and 15d-14 of the Exchange Act. That exclusion is discussed further below in Part II.C.4.

<sup>233</sup> The specified anti-fraud provisions are Section 17(a)(1) of the Securities Act [15 U.S.C. 77q(a)(1)], Section 10(b) [15 U.S.C. 78j(b)] of and Rule 10b-5 [17 CFR 240.10 b-5] under the Exchange Act and Section 206(1) [15 U.S.C. 80b-6(1)] of the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.].

- deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act and not otherwise subject to liability under these sections;
- deemed not filed for purposes of Section 18 of the Exchange Act or Section 34(b) of the Investment Company Act and not otherwise subject to liability under these sections; and
- deemed filed for purposes of (and, as a result, benefit from) Rule 103 under Regulation S-T. wTd [ ar[ addtioiies ngtio 0 Tdterm "pbene9ent Ctly"e su0 Tdlist purposes of terms infrom1 Rule 1-2.3 Td (Regular

timeframe, the filer still may have corrected promptly depending on the applicable facts and circumstances.

Despite the modified treatment of interactive data files under the federal securities laws, a filer would be subject to actions under circumstances where the protections of new Rule 406T do not apply. For example, the Commission could bring an action against a filer under Section 13(a) of the Exchange Act if the filer submits an interactive data file with a periodic report and the interactive data file fails to comply with the tagging requirements despite a good faith attempt, where the filer fails to correct the interactive data file promptly after it discovers the failure. On the other hand, the Commission would not be able to bring an action against a filer under Sections 17(a)(2) and (3) under the Securities Act if the filer submits an interactive data file with a Securities Act registration statement if the interactive data file fails to comply despite a good faith effort but the filer acted negligently.

New Rule 406T differs from proposed Rule 406 primarily by omitting reference to interactive data in viewable form and applying only for a specified time.

We believe that interactive data in viewable form are best addressed in relation to interactive data files and traditional concepts of liability. Interactive data in viewable form that are displayed on the Commission's Web site will reflect the related interactive data file and, as a result, such interactive data in viewable form should be treated in the same manner as the related interactive data file in regard to a filer's failure to correctly tag an interactive data file that results

in a failure of the interactive data in viewable form to reflect the related official filing.

Interactive data in viewable form that are displayed on other Web sites would be subject to general anti-fraud principles applicable to republication of another person's statements.<sup>235</sup>

Consistent with traditional concepts of liability, a filer would incur no additional liability for a failure that occurs in both an interactive data file and the related interactive data in viewable form.

We believe that limiting the modified application of the federal securities laws to a specified period improves the balance between avoiding unnecessary cost and expense and encouraging accuracy in regard to interactive data because it recognizes that issuers and service providers likely will grow increasingly skilled at and comfortable with the tagging requirements.

In the proposing release, the Commission sought comment on modified treatment of interactive data under the federal securities laws. Commenters overwhelmingly supported limiting liability,<sup>236</sup> with a fair number of commenters supporting the proposed approach, and a fair number suggesting that the proposed approach be made less stringent. One expressed the concern that the proposed approach should be made more stringent.

stated that the regulatory text was confusing or unclear, especially as to viewable interactive data. Finally, a few commenters made other liability-related suggestions, sought clarification of the liability applicable to situations not intended to be addressed expressly by the proposed rules or expressed other concerns.

Commenters supporting the proposed approach generally supported having interactive data files be deemed furnished rather than filed.<sup>238</sup> New Rule 406T is consistent with the

comply with the tagging requirements rather than the proposed “good faith and reasonable attempt.” We believe that omission of the reference to “reasonable” should not result in a lesser degree of effort by issuers but should help to avoid litigation over fulfillment of the requirement. As discussed in detail above, under new Rule 406T additional liability protection occurs when a filer makes a good faith attempt and corrects any failure to comply with the tagging requirements promptly after the filer becomes aware of the failure.

differences would be transparent. Similarly, one commenter stated there should be no liability attributable to the posting of an interactive data file because the information would be out of context.<sup>244</sup> We acknowledge these comments but, in general, believe the measured level of liability that would apply at the outset of the mandated program is appropriate in light of the current level of development in tagging processes and the effect this level of liability should have on helping to assure that interactive data are reliable.<sup>245</sup>

Some commenters that supported limited liability at least at the outset of the interactive data submission requirement suggested that liability be revisited<sup>246</sup> or increased<sup>247</sup> later. Similarly, one commenter suggested that the imposition of liability on viewable interactive data be conditioned on the maturity of the tagging and rendering technology.<sup>248</sup> In that regard, three commenters suggested that the good faith exception proposed for the interactive data file in part could form the basis for an exemption for viewable interactive data.<sup>249</sup> As discussed above, we have decided to limit liability of viewable interactive data.

on our Web site in a manner analogous to the treatment of the related interactive data file for liability purposes is appropriate in light of the maturity of tagging and rendering technology. Similarly, we believe that treatment of interactive data in viewable form that appears on other Web sites under general anti-fraud principles applicable to republication of another person's statements also is appropriate in light of the maturity of such technology.

Commenters stated that the regulatory text was confusing or unclear in various ways, specifically in light of,

reference in the rule to one particular situation in favor of addressing viewable interactive data in general under traditional legal and liability concepts as discussed in detail above.

We did not propose to permit or require legends for interactive data files. One commenter expressly approved the absence of a legend requirement,<sup>252</sup> but four commenters suggested variously that the Commission require a legend that states people should not rely on the interactive data,<sup>253</sup> that they should not rely on it because of limited liability,<sup>254</sup> or that people should not use the interactive data in isolation.<sup>255</sup> We believe that attempting to place in interactive data legends of the type suggested would be impracticable because interactive data will often be accessed in their machine-readable form and, even if they were accessed in viewable form, might not be accessed in a place where the legend would appear. As to a legend that states people should not rely on the interactive data in particular, such a legend would be unnecessary because there is no reason the data should not be reliable and, were they not reliable,

To assist filers in ensuring the accuracy of their interactive data submissions, we plan to make available to filers the opportunity to make a test submission with the Commission. The test submission will enable the filer to learn how the validation system would respond if the test submission were a live submission and then, if the filer wishes, use the Commission's pre-viewer to see the viewable interactive data that would be displayed on the Commission Web site if the interactive data were accepted and disseminated.<sup>256</sup>

Some commenters sought clarifications on whether there might be auditor liability on interactive data files.<sup>257</sup> There is no additional basis for auditor liability based on data tagging. Also, an auditor will not be required to apply AU Sections 550, 711 or 722 to interactive data provided in an exhibit or to the related viewable interactive data.<sup>258</sup>

XBRL International, and Commission resources for preparers of tagged data;<sup>260</sup>

- the advances in rendering/presentation software and validation tools for use by preparers of tagged data that can identify the existence of certain tagging errors;
- the expectation that preparers of tagged data will take the initiative to develop practices to promote accurate and consistent tagging; and

concerns of the commenters that believe we should require assurance on interactive data. For the reasons discussed above, however, we believe an assurance requirement is not now necessary.

A number of commenters, including many representing the auditing profession, recommended that the Commission and the PCAOB provide guidance to issuers and auditors for situations where an issuer wanted to voluntarily obtain some form of auditor assurance on interactive data.<sup>264</sup> We note that issuers can obtain third-party assurance under the PCAOB Interim Attestation Standard—AT sec. 101, Attest Engagements on interactive data, and can start and stop obtaining assurance whenever they choose.<sup>265</sup> We understand that the PCAOB is aware of sentiment in favor of interactive data-specific attestation standards.

Auditing firms generally did not support requiring issuers to obtain auditor assurance on data tagging, and stated their concern that users of interactive data financial statements may incorrectly assume that auditor assurance has been provided on the data tagging.<sup>266</sup> These auditing firms recommended:

- requiring issuers' filings to specify clearly the extent of auditor involvement with the interactive data exhibit;<sup>267</sup>

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<sup>264</sup> These included tagging in general (see, e.g., letters from AICPA and UTC); extensions (see, e.g., letters from AICPA and UTC); and correct associated data (see, e.g., letter from UTC).

<sup>265</sup> If an issuer wishes to refer in a filing to third party assurance voluntarily obtained from an auditor or other party, the issuer must comply with applicable consent requirements.

<sup>266</sup> See, e.g., letters from CAQ, Deloitte, E&Y, Grant Thornton, KPMG, and PWC.

<sup>267</sup> See, e.g., letters from Deloitte, Grant Thornton, and PWC.

- requiring the interactive data submission to state that it is not subject to assurance when no assurance has been provided;<sup>268</sup>
- prohibiting tagging the auditor's report;<sup>269</sup> and
- revising the standard audit report to clarify the extent to which, if any, the audit extends to interactive data.<sup>270</sup>

#### **4. Officer Certifications and Integration of Interactive Data and Business Information Processing**

Rules 13a-14 and 15d-14 generally require officers to certify in periodic reports to various matters relating to internal control over financial reporting<sup>272</sup> and disclosure controls and procedures.<sup>273</sup>

We are adopting amendments that exclude interactive data from the officer certification requirements of Rules 13a-14 and 15d-14. We believe that adopting these amendments is part of striking an appropriate balance between avoiding unnecessary cost and expense and encouraging accuracy in regard to interactive data. A number of commenters stated that interactive data submissions should not be included within the scope of officer certifications,<sup>274</sup> but two commenters expressed concern about the exclusion<sup>275</sup> and one commenter recommended that

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<sup>272</sup> Exchange Act Rules 13a-15(f) [17 CFR 240.13a-15(f)] and 15d-15(f) [17 CFR 240.15d-15(f)] define the term “internal control over financial reporting,” in general, as a process designed by or under the supervision of specified persons and effected by the issuer’s board of directors, management and other personnel “to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with [GAAP] and includes [specified] policies and procedures.” Rules 13a-15 and 15d-15 generally require specified i6(fin)--2(ud)-n

they be included after the two-year phase-in period.<sup>276</sup> The commenters supporting the exclusion cited varying reasons including, for example, that an officer should not be required to certify to data that is not human-readable<sup>277</sup> and that inclusion would result in increased expense and exposure without commensurate investor benefit.

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their reporting on internal control over financial reporting. However, this evaluation is separate from the preparation and submission of the interactive data file, and as such the results of the evaluation would not require management to assess or an auditor to separately report on the issuer's interactive data file provided as an exhibit to a filer's reports or registration statements.

Some commenters sought clarification of whether the basis for the proposed exclusion of interactive data from officer certification is th

consideration of information in addition to audited financial statements and the independent auditor's report on the audited financial statements included in documents that are published by an entity (e.g., an annual periodic report). Similarly, paragraph 18(f) of SAS 100 (AU Section 722) addresses an auditor's consideration of other information that accompanies interim financial statements included in quarterly periodic reports. With respect to registration statements, SAS 100 (AU Section 711) was issued with filing to apply AU Sections 550, 720, and 722. As stated in the proposing interaction, the registrant is not required to file an exhibit to the

## 5. Continued Traditional Format

The new rules will not eliminate or alter existing filing requirements that financial statements and financial statement schedules be filed in traditional format. We believe investors and analysts may wish to use the traditional format to obtain an electronic or printed copy of the entire registration statement or report either in addition to or instead of disclosure formatted using interactive data.

The vast majority of commenters stated that the Commission should continue to require human-readable financial statements (and associated filings) with interactive data.

released by XBRL U.S. and required by the EDGAR Filer Manual.<sup>283</sup> Each company will be required to use one or more of the five standard industry-specific lists identified in the EDGAR Filer Manual, as is appropriate for its business.<sup>284</sup>

Regular updates to the list of tags for U.S. financial statement reporting will likely be posted annually and be available for downloading. d

filings using the IFRS taxonomy.

One of the principal benefits of interactive data is its extensibility—that is, the ability to add to the standard list of tags in order to accommodate unique circumstances in a filer’s particular disclosures. The use of customized tags, however, may also serve to reduce the ability of users to compare similar information across companies. This was the source of a significant amount of comment. Some commenters were concerned that currently available standard taxonomies do not cover many company specific extension needs and any increase in customized taxonomy extensions would directly interfere with the comparability of inter-company data.<sup>286</sup> A number of commenters suggested ways to facilitate interactive data tagging, which included monitoring,<sup>287</sup> cataloging,<sup>288</sup> and discouraging<sup>289</sup> extension use as well as revising the Preparers Guide to put it in plain English.<sup>290</sup>

We acknowledge these concerns. In order to pro.0002 Tw BDog20 Tc eooparabatiornom,parers

also require that wherever possible and when a standard element is appropriate, preparers change the label for a financial statement element that exists in the standard list of tags, instead of creating a new customized tag. For example, the standard list of tags for U.S. GAAP includes the financial statement element “gross profit.” The list does not include “gross margin,” because this is definitionally the same as “gross profit”—both are generally used to mean “excess of

Regulation S-T<sup>293</sup> and the EDGAR Filer Manual. The EDGAR Filer Manual is available on our Web site. It includes technical information for making electronic filings with the Commission. Volume II of this manual includes guidance on the preparation, submission, and validation of interactive data submitted under the voluntary program.

In addition to both Regulation S-T, which will include rules we are adopting, and the instructions in our EDGAR Filer Manual, filers may access other sources for guidance in tagging their financial information. These include the XBRL U.S. Preparers Guide; user guidance accompanying tagging software; and financial printers and other service providers. New software and other forms of third-party support for tagging financial statements using interactive data are also becoming widely available.

**E. Consequences of Non-Compliance and Hardship Exemption**

The new rules provide, as proposed, that if a filer does not make the required interactive data submission, or post the interactive data on the company Web site, by the required due date, the filer will be unable to use short form registration statements on Forms S-3, F-3, or S-8.<sup>294</sup>

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This disqualification will last until the interactive data are provided. During the period of disqualification, the filer also will be deemed not to have available adequate current public information for purposes of the resale exemption safe harbor provided by Rule 144.<sup>295</sup> Once a filer complies with the interactive data submission and posting requirements—provided it previously filed its financial statement informati

Regulation S-T provides for temporary hardship exemptions. Rule 202 under Regulation S-T provides for continuing hardship exemptions.<sup>296</sup>

Rule 201 generally provides a temporary hardship exemption from electronic submission of information, without staff or Commission action, when a filer experiences unanticipated technical difficulties that prevent timely preparation and submission of an electronic filing. The temporary hardship exemption permits the filer to initially submit

of interactive data. The revised temporary hardship exemption will cause the filer to be deemed current for purposes of incorporation by reference, short form registration, and Rule 144 for a period of up to six business days from the date the interactive data were required to be submitted.<sup>298</sup> If the filer does not electronically submit the interactive data by the end of that period, from the seventh business day forward the filer will not be deemed current until it does electronically submit the interactive data. Sim

the filer will be deemed current up to the end of that period. If the filer does not electronically submit the interactive data by the end of that period, from the next business day forward the filer will not be deemed current until it does electronically submit the interactive data. Similarly, we are revising Rule 202 to provide an essentially mirror-image exemption from the new requirement for an issuer that has a corporate Web site to post the interactive data on its Web site.

A few commenters generally supported the proposed consequences for late submissions and Web site postings of interactive data files,<sup>299</sup> but several objected.<sup>300</sup> Some commenters objected to all of the proposed consequences for late submissions and postings as, for example, unduly harsh in general<sup>301</sup> or inappropriate because the same information would be on file already in traditional format.<sup>302</sup> One commenter claimed that in analogous situations the Commission decided not to impose similar consequences. The commenter noted that in Release No. 34-49424,<sup>303</sup> the Commission decided not to impose short form eligibility or Rule 144 current public information loss for failure to provide timely certain disclosures required by Form

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<sup>299</sup> See, e.g., letters from CFA, E&Y, Grant Thornton, LG, and UTC.

<sup>300</sup> See, e.g., letters from ABA, CSG, LGI, NYCBA, SCS, Southern, and USS.

<sup>301</sup> See, e.g., letter from NYCBA.

<sup>302</sup> See, e.g., letter from CSG.

<sup>303</sup> Release No. 34-49424 (March 16, 2004) [69 FR 15594].

8-K.<sup>304</sup> The disclosures involved, however, were required by items that we stated “may require management to make rapid materiality and other judgments within the compressed Form 8-K filing timeframe” and issuers would not have been able to reestablish short form eligibility upon compliance because they would have been deemed not timely rather than not current.

We acknowledge these concerns, but in adopting the rules as proposed we believe that the consequences imposed will provide a useful compliance incentive and that commenters’ concerns are mitigated somewhat by the availability of the temporary and continuing hardship exemptions and the ability of filers to reestablish their current status upon complying with their interactive data requirements.

### **III. PAPERWORK REDUCTION ACT**

#### **A. Background**

The amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995, or PRA.<sup>305</sup> The purpose of the amendments is to make financial information easier for investors to analyze and to assist issuers in automating regulatory

Office of Management and Budget (OMB), for review in accordance with the PRA.<sup>306</sup> OMB responded that it will not act on the request until the Commission supplements the request at the adopting stage with a discussion that includes the Commission's response to comments received on the proposed rules. Our new estimates that take into account variations between what we proposed and what we are adopting reflect a burden that is not significantly different than the

The title for the new collection of information the amendments will establish is “Interactive Data” (OMB Control No. 3235-0645). This collection of information relates to already existing regulations and forms adopted under the Securities Act and the Exchange Act that set forth financial disclosure requirements for registration statements as well as periodic, current and transition reports and Forms 6-K. The amendments will require issuers to submit

under the Securities Act. Form F-1 (OMB Control No. 3235-0258), Form F-3 (OMB Control No. 3235-0256), Form F-4 (OMB Control No. 3235-0325), Form F-9 (OMB Control No. 3235-0377), and F-10 (OMB Control No. 3235-0380) prescribe information that a foreign private issuer must disclose to register certain offers and sales of securities under the Securities Act. Form 10-K (OMB Control No. 3235-0063) prescribes information that a filer must disclose annually to the market about its business. Form 10-Q (OMB Control No. 3235-0070) prescribes information that a filer must disclose quarterly to the market about its business. Form 10 (OMB No. 3235-0064) prescribes information that a filer must disclose when registering a class of securities pursuant to the Exchange Act. Form 8-K (OMB No. 3235-0060) prescribes information an issuer must disclose to the market upon the occurrence of certain specified events and enables an issuer to disclose other information voluntarily. Form 20-F (OMB Control No. 3235-0288) and Form 40-F (OMB No. 3235-0381) are used by a foreign private issuer both to register a class of securities under the Exchange Act as well as to provide its annual report required under the Exchange Act. Form 6-K (OMB No. 3235-0116) prescribes information that a foreign private issuer must disclose regarding certain specified changes to its business and securities pursuant to the Exchange Act and enables an issuer to disclose other information voluntarily.

As previously noted, we are adopting the amendments substantially as proposed. We

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expect the variations between what we proposed and what we adopted to lessen the collection of information burden, even after accounting for the amendments requiring companies to submit interactive data for financial statements contained in additional forms - Securities Act registration statements on Forms F-9 and F-10, periodic reports on Forms 40-F and current reports on Forms 8-K and reports on Forms 6-K that contain updated financial statements that have been revised to reflect a subsequent event rather than the correction of an error.

statements that have been revised to reflect a subsequent event rather than the correction of an error. The amendments expanding the forms subject to the interactive data requirements tend to increase the estimated collection of information burden but this increase is more than offset by the factors that tend to decrease the collection of information burden.

We expect the following variations from the proposal will not affect the collection of information burden in more than a negligible and non-quantifiable way.

- The amendments will require that interactive data be submitted with a Securities Act registration statement filing only after a price or price-range has been determined and any later time when the financial statements are changed rather than, as proposed, requiring interactive data submissions with each filing.
- The timing of the required Web site posting has been eased. A filer must post the interactive data exhibit on its corporate Web site not later than the end of the calendar day it submitted or was required to submit the interactive data exhibit, whichever is earlier. As proposed, Web site posting would have been required by the end of the business rather than calendar day.
- Interactive data will be required to be posted for at least 12 months on an issuer's Web site. The proposing release did not specify this, but commenters requested clarification.

The information required by the new collection of information we are adopting, will correspond to specified financial information now required by these forms and will be required to appear in exhibits to these forms and on filers' corporate Web sites. The compliance burden estimates for the collection of information are based on the phase-in, beginning with approximately 500 large accelerated filers subject to the rules in the first year, followed by approximately 1,000 more filers in year two and approximately 8,700 more filers in year three. These numbers are estimated using the public float measured on the last day of the second

Based on qualitative assessments of time and modifications to the proposed level four detailed tagging requirements that eliminate required tagging of the narrative, we estimate that interactive data filers would incur the following average internal burden hours:

- Footnotes
  - 7 hours to block tag for each filing made during the first year under the requirements;
  - 70 hours to detail tag for the first filing made in the second year under the requirements; and
  - 35 hours to detail tag for each subsequent filing.
- Schedules
  - 1 hour to block tag for each filing made during the first year under the requirements;
  - 7 hours to detail tag for the first filing made in the second year under the requirements; and
  - 3.5 hours to detail tag for each subsequent filing.
- Web site Posting: 4 hours to post all interactive data submissions made during each year.

In the proposing release, the number of hours to detail tag the footnotes in the second year of the requirements was estimated at 100 hours for the first filing, and 50 for subsequent

filings. Several commenters provided alternative estimates. For example, one commenter<sup>309</sup> suggested that detailed tagging initially would require 80 hours of time, while another commenter indicated that 40 hours would be required on an ongoing basis.<sup>310</sup> Although both of these estimates are below our estimate, other commenters suggested that the time required for detailed tagging of the footnotes would be hundreds of hours,

the first filing, and 35 hours for subsequent filings. Nevertheless, it is reasonable to assume that many filers, particularly the largest filers with the most complex filings, may require more than 70 hours to comply with the detailed tagging requirement. It is also reasonable to assume that many filers will require significantly less time than 70 hours, and 70 hours seems to fall within the range suggested by commenters and what is anticipated by Commission staff. We believe that the proposed requirement to tag each narrative disclosure within a footnote that, as adopted, will be optional, probably was a significant component of the higher estimates provided by commenters. As discussed in greater detail above, a significant number of commenters objected, in particular, to the proposed detailed footnote tagging requirement and several of those commenters argued that detailed footnote tagging would require significant effort by the issuer.<sup>314</sup>

Based on the number of filers we expect to be phased in each of the first three years under the requirements, the number of filings that we expect those filers to make that would require interactive data<sup>315</sup> and the internal burden hour and out-of-pocket cost estimates described, we estimate that the average yearly burden of the requirements over the first three years would be 916,846 internal hours per year and \$110.6 million in out-of-pocket expenses for

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<sup>314</sup> See Part II.B.3.a.

<sup>315</sup> We include in the number of filings that would require interactive data both initial filings and amended filings but we estimate that the burden incurred in connection with an amended filing would be one half the burden that would be incurred if the amended filing were an initial filing.

software and filing agent services per year and would be incurred by an average of 4,055 filers for an average yearly burden per filer of 226.1 internal hours and \$27,300 in out-of-pocket expenses. This estimate reflects a reduction in average yearly burden compared to the proposing release, where we estimated \$1,164,690 internal hours per year and \$129 million out-of-pocket expenses per year. This reduction is in part attributed to a smaller number of filers due to the elimination of issuers of asset-backed securities that inadvertently were included the estimate made in connection with the proposed rules, and in part due to a lower estimate for detailed tagging due to making optional the proposed requirement to detail tag the narrative disclosures in footnotes. Together, these cost reductions outweighed the increased cost of requiring that interactive data be submitted for the financial statements in additional forms.

By the fifth year under the requirements, filers generally will have been subject to the requirements for at least two years. As a result, filers generally would incur burdens applicable to interactive data filings made after the first filing in which the filer detail tagged footnotes and

to the average from years one through three reflects the completed phase-in of all filers and all requirements, including detailed tagging, by that time.

## **2. Regulation S-K and Regulation S-T**

Regulation S-K (OMB Control No. 3235-0071) specifies information that a registrant must provide in filings under both the Securities Act and the Exchange Act. Regulation S-T (OMB Control No. 3235-0424) specifies the requirements that govern the electronic submission of documents. The changes to these items that we are adopting will add and revise rules under Regulations S-K and S-T. The additional collection of information burden that will result from these changes, however, are included in the burden estimate for the new collection of information “Interactive Data.” The rules in Regulations S-K and S-T do not impose any separate burden. We assign one burden hour each to Regulations S-K and S-T for administrative convenience to reflect the fact that these regulations do not impose any direct burden on companies.

## **C. Comments on Collection of Information Burden**

We solicited comments in the proposing release on the PRA estimates we provided there. One commenter addressed the PRA directly, while others commented generally on the time and cost burden of the amendments. The commenter that addressed the PRA directly stated that our PRA cost estimates appeared low and that our estimates understated software and non-software

costs such as planning and ongoing quality assurance.<sup>317</sup> As discussed in detail above, other commenters provided their own estimates of the amount of time it would take to tag financial statements and footnotes.<sup>318</sup>

Some commenters who opposed the amendments generally asserted that interactive data would not improve the usefulness of financial information to analysts or investors<sup>319</sup> or that the Commission underestimated the complexity or cost of compliance in general<sup>320</sup> and implementing interactive data would add significant costs to purchase software, and pay for assistance and annual maintenance fees for that software and that the costs of using interactive data outweighed the benefits.<sup>321</sup>

In contrast, some commenters that supported the required submission of interactive data believed it would improve the usefulness of financial information to companies and investors, and that mandated interactive data would provide the incentives to drive sufficient

modest cost and effort to comply with the requirements.<sup>323</sup> One commenter stated that it expected that costs would fall quickly, especially for small companies, as interactive data became part of standard corporate accounting software packages.<sup>324</sup> Another commenter stated that, based on its experience in the voluntary program, costs would fall significantly for subsequent submissions.

information more quickly and at a lower cost than is possible using the same financial information provided in a static format.<sup>326</sup> Even though the new regime does not require any new information to be disclosed or reported, certain benefits may accrue when issuers use an interactive data format to provide their financial reports. These include the following.

- 1. More Financial Information Available to Investors**

cover approximately 70% of Commission filers.<sup>327</sup> For the large number of firms whose financial statements are not currently reported in these databases, their absence may reduce the likelihood that they receive coverage by financial analysts who use commercially available products to assess issuer performance. Consequently, if interactive data reporting increases coverage of smaller companies by commercially available financial information products, and this increases their exposure to an r search costs for capital could

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<sup>327</sup> Compustat and Thomson One Banker are two widely used, fee-based vendors of corporate financial data that is formatted for interactive data use. This analysis was performed by matching the unique Commission issued Central Index Key (CIK) numbers from all Forms 10-K, 10-KSB, 20-F, and 40-F filed in calendar year 2007, but not including issuers of asset backed securities within Standard Industrial Classification (SIC) code 6189, to the universe of companies covered by both Standard and Poor's Compustat and Thomson One Banker.

It is also possible that information quality in financial markets could be higher if interactive data reporting were required than if not, leading to more efficient capital allocation. Since financial tagging will include footnotes and supplemental tables, as well as the base financials reported in the standard tables, it is likely that as a result of interactive data tagging, there will be more information available to investors in a machine-readable format. That is, information not currently collected on a broad scale by data aggregators because of the costs of manual key entry, particularly data found in the footnotes and supplemental tables, will be available to investors in a tagged, machine-readable format. With more information readily available to investors on all filers, they may be able to better distinguish the merits of various investment choices, thereby facilitating capital flow into the favored investment prospects. This outcome is the main tenet of improved market efficiency, whereby providing more widespread access to information concerning the value of a financial asset, such as a company's shares, results in better market pricing. Consequently, reducing the costs of accessing, collecting and analyzing information about the value of a financial asset facilitates this end.

Finally, it is possible that requiring companies to provide interactive data could improve the quality of financial information available to end users, and help spur interactive data-related innovation in the supply of financial services products, resulting from a potential increased competition among suppliers of such products due to lower entry barriers as a result of lower data collection costs.

## **2. Less Costly and More Timely Financial Information**

It is likely that the new interactive data requirements will lower the cost of collecting corporate financial data in a machine-readable format and allow it to be analyzed by investors

and other end-users more quickly than without interactive data. At present, financial information is made available to investors in text formatted documents that require manual key-entry of the data into a format that allows statistical analysis and aggregation. Investors seeking broad financial coverage of companies must either spend considerable time manually collecting the data, or subscribe to a financial service provider that specializes in this data aggregation process, but passes on the expense of the data collection effort.

Requiring companies to report interactive data should lower both the time and expense for investors to access this data. Since company financial data will be tagged and immediately downloadable into a larger, more comprehensive database that includes other filers, there will be no need for manual key entry of the data, eliminating this expense. Moreover, with this manual key entry effort no longer necessary, the delay between when the financial data are first filed and when the data is available in machine-readable format will reduce substantially. For instance, one unpublished study reports that as recently as 2004, the average time required for one large data aggregator to make financial data available to investors was 10.8 days.<sup>328</sup>

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end-users, newly revealed information can be more quickly priced into the market by a larger number of investors, consistent with tenets of improved market efficiency.

If interactive data serves to lower the data aggregation costs as expected, then it is further expected that smaller investors will have greater access to financial data than before. In particular, many investors that had neither the time nor financial resources to procure broadly aggregated financial data prior to interactive financial data had greater access than before to interactive data. Lower data aggregation costs allow investors to either aggregate the data on their own, or purchase it at a lower price than they would have paid prior to interactive data. Hence, smaller investors face fewer informational barriers that separate them from larger investors with greater financial resources.

It is also likely that a filer that uses a standardized interactive data format at earlier stages of its reporting cycle also may increase the usability of its internal financial information. For example, filers that use interactive data may be able to consolidate enterprise financial information more quickly and potentially more reliably across operating units with different accounting systems.<sup>329</sup> It has been a growing development for filers to tag their financial statements using interactive data helping make interactive data increasingly useful.<sup>330</sup>

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<sup>329</sup> However, we recognize that at the outset, filers would most likely prepare their interactive data as an additional

Interactive data also could provide a significant opportunity for issuers to automate their regulatory filings and business information processing, with the potential to increase the speed, accuracy, and usability of financial disclosure. This reporting regime may in turn reduce filing and processing costs.

### **3. Fewer Errors**

Because a substantial portion of each financial report makes use of the same information, a filer that uses a standardized interactive data format at earlier stages of its reporting cycle may also increase the accuracy of its financial disclosure by reducing the need for repetitive data entry that could contribute human error and enhancing the ability of a filer's in-house financial professionals to identify and correct errors in the issuer's registration statements and periodic reports filed in traditional electronic format. It is also possible that there will be fewer errors in the aggregated financial data used by investors since manual key entry of data will no longer be required by either the investor or a data aggregating service.

### **4. Increased Comparability and Interpretation of Financial Data**

Another potential information consequence of the new requirements may be changes to the precision and comparability of the information disseminated by data service providers since the interactive data requirements would shift the source of data formatting that allows aggregation and facilitates comparison and analysis from end-users to issuers submitting

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interactive data. At present, data service providers manually key financial information into a format that allows aggregation. As a result, the data service provider makes interpretive decisions on how to aggregate reported financial items so that they can be compared across all companies. Consequently, when a subscriber of the commercial product offered by a data service provider uses this aggregated data, it can expect consistent interpretation of the reported financial items. In contrast, a requirement for issuers to submit interactive data information would require the issuers to independently decide within the confines of applicable requirements which financial “tag” best describes each financial item – lessening the amount of interpretation required by data service providers or end-users of the data. Once a standard tag is chosen, comparison to other companies is straightforward. However, since companies have some discretion in how to select tags, and can extend the taxonomy (create new tags) when an appropriate tag does not exist, unique interpretations by each company could result in reporting differences from what current data service providers and other end-users would have chosen. This view suggests that the issuer-submitted information disseminated by data service providers may be, on the one hand, less comparable because they have not normalized it across issuers but, on the other hand, more accurate because the risk of human error in the manual keying and interpretation of filed information would be eliminated and more precise because it will reflect decisions by the issuers themselves. Replicating prior methods would still be possible, however, because issuers would continue to be required to file financial information in traditional format. As a result, nothing would prohibit data service providers from continuing to provide data in the same manner that they did before. Nonetheless, interactive data benefits could diminish if other reporting formats are required for clarification in data aggregation.

## **B. Costs**

The primary cost of the rulemaking is the cost of filers' implementation of the rule, which includes the costs of submitting and posting interactive data. We discuss this cost element extensively below. In addition, because the rule allows an increase in the flow of financial information being reported directly to analysts and investors, there will be a cost of learning on the part of the investors in using and analyzing financial information at the interactive data level. Finally, because interactive data provides a standardized reporting format – a set of common tags from which filers can select – this might affect a company's ability to communicate its unique financial attributes to investors.

As for the cost of implementation of the rule, based on currently available data, we estimate the average direct costs of submitting and posting interactive data-formatted financial statements and other information for all issuers under the proposed rules would, based on certain assumptions, be as follows:

**Table 1.** Estimated direct costs of submitting interactive data-formatted financial statements and other information

|                  | First submission with block-text footnotes & schedules | Subsequent submission with block-text footnotes & schedules | First submission with detailed footnotes & schedules | Subsequent submission with detailed footnotes & schedules |
|------------------|--|---|--|---|
| Preparation face |  |   |  |   |

The above estimates are based in part on questionnaire responses from 22 issuers that have participated in the voluntary program. Thirty-five participants were sent questionnaires, corresponding to a response rate of 63%. These responses provided detail on the projected costs of preparing the face financials and for purchasing software or related filing agent services.<sup>335</sup>

The estimated total cost reported in Table 1 reflects expenditures on in

- Block tagging of footnotes is estimated at 7 hours for the first filing, with a 50% reduction in time for subsequent filings; and.
- Detailed tagging of footnotes is estimated at 70 hours for the first filing, with a 50% reduction in time for the subsequent filings.

### **1. Potential Variability in the Cost estimate**

We report an upper bound for the estimated total cost based on (1) the variation in responses from the voluntary program participants and the likelihood

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The upper bound reported in Table 1 is \$82,220 for the first filing compared to the average of \$40,510. This upper bound is calculated based on the 1% likelihood that costs are underestimated by 80%, and after removing responses from five participants in an interactive data-related business. These voluntary filer program participants, including filing agents, financial services providers, and other consulting agents, may have incentives and skill sets unrepresentative of the average issuer that may cause their costs to depart from the likely submission cost of the average issuer when interactive data is required.

The costs in Table 1 do not reflect the following factors that could also affect the total cost of compliance.

- Smaller financial issuers appear to have less complex financials and labor costs that tend to be 20-30% lower than for other issuers to submit interactive data information.
- There also is some evidence to suggest that the smallest (non-accelerated) issuers might have submission costs or compliance difficulties in excess of other issuers.
- The lists of tags used to prepare the face financial statements by those issuers that responded to the questionnaire for the voluntary program have been updated for the required program.<sup>339</sup>

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<sup>339</sup> For example, the related list of tags would differ between the voluntary and proposed required program. When we adopted the voluntary program, the list of tags for U.S. GAAP financial statement reporting contained approximately 4,000 data elements. The list of tags released on April 28, 2008 contains approximately 13,000 data elements, with the most significant additions relating to the development of elements for standard U.S. GAAP footnote disclosure.

The voluntary program questionnaire evidence is based on responses of predominantly large issuers, and their cost experience may not be representative of the smaller issuers or non-participating larger issuers. In particular, voluntary program participants that responded to the questionnaire are found among the largest of all issuers, with more than 88% considered large accelerated filers (measured as greater than \$700 million in public float). In contrast, only 1,529 of 10,229 filers (15%) expected to be subject to the rule were considered large accelerated filers in their fiscal year-end 2007.

A size bias is plausible, since [(0.00g issuers, ac float).] six ated n

The balance of evidence suggests that smaller filers will have, on average, lower submission costs than larger filers. Although the U.S. voluntary filer program contains data predominantly on larger filers, and as a result cannot directly address this issue, evidence from the Japanese interactive data pilot program reveals a 20 to 30% reduction in the time required to comply with their first interactive data filing for the smaller filers relative to the largest filers.<sup>340</sup>

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These risk factors motivate a phase-in schedule that allows smaller filers to lag larger filers in mandated reporting compliance.

## **2. Cost Estimates for Footnote Tagging and for Software**

While the required time to prepare face financials is estimated based on responses from the voluntary filer participants, the same is not true for tagging of footnotes. At the time of the questionnaire, footnote tagging was not prevalent among voluntary filers and a cost estimate from their experience could not be obtained. In the proposing release, block tagging was estimated at seven hours for the first filing, and detailed tagging estimated at 100 hours. In both cases, a 50% reduction in preparation time was assumed between the first and subsequent filings, which is a more conservative learning rate than what was observed for tagging of face financial (85% reduction). In the adopting release, detailed tagging of the narrative is no longer required, and as a result, the cost estimates for detailed tagging in the adopting release are reduced by 30%, to 70 hours for the first filing, and 35 hours for subsequent filings. Nevertheless, it is reasonable to assume that many filers, particularly the largest filers with the most complex filings, may require more than 70 hours to comply with the detailed tagging requirement. It is also reasonable to assume that many filers will require significantly less time than 70 hours, and 70 hours seems to fall within the range suggested by commenters and what is anticipated by Commission staff. As discussed in more detail above, we believe that the proposed requirement

to tag each narrative disclosure within a footnote that, as adopted, will be optional, probably was a significant component of the higher estimates provided by commenters.<sup>341</sup>

The software costs assumed in the cost estimate also include anticipated print agent and filing service fees. The experience of voluntary filer participants suggests that many filers have ~~not~~ yet determined the optimal compliance method, and several pursued simultaneous

commenter worried that third party vendors will not be ready in time for the proposed phase-in of the rule.<sup>344</sup>

Until the rule is phased in on a broad scale, it is hard to predict what equilibrium price of software, consulting, and filing agent services will prevail. The roles of each potential kind of service provider within the interactive data market are likely to develop further and are not yet clear, and there are many potential participants.

is currently reported by voluntary program participants. This price could be higher if the demand for interactive data services increases (from 76 voluntary program participants at the time of the cost analysis to more than 10,000 total participants) at a faster rate than the supply for these same services. More broadly, if an interactive data requirement resulted in clients subscribing for interactive data services faster than the rate at which these services can be supplied, then prices could increase. A phase-in schedule that limits the number of participants in the first year is likely to mitigate this concern to the extent that the rate of phase-in allows interactive data service suppliers to keep pace with demand.

### **3. Interpretability of Standardized Tagging**

Since interactive data formatting provides a standard set of tags from which companies select when they report their financial data, one potential consequence of the proposed requirements is that companies will be less able to communicate their unique financial attributes to investors. A standard set of tags helps facilitate easier comparability between companies, but this benefit might come at a cost of less precise information about a company if the selected tag is different from what the company would have labeled the information without interactive data reporting. While it is possible for a company to create an extension (a new tag) to reflect unique financial information when it is not otherwise described by a standard tag, this information will no longer be easily aggregated across other companies.

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Nevertheless, the risk of interpretability of reported financial data already exists in the current data aggregation process. According to current practices, financial data service providers manually key financial information into a format that allows aggregation so that they can resell it to investors. As a result, the data service provider makes interpretive decisions on how to aggregate reported financial items so that they can be compared across all companies. This is done so that a subscriber of the commercial product offered by a data service provider can expect consistent interpretation of the reported financial items, allowing comparability in the same way that it is intended with interactive data. Hence, from one perspective, adoption of interactive data will shift the burden of making the interpretive decision on how to label a financial item from financial service providers to the companies making the filings. To the extent that the company is better able to classify financial data for comparability to other companies through interactive data tagging than a financial data service provider who manually keys and classifies financial data from standard paper based filings, then interpretability of reported financial data should not worsen with adoption of interactive data reporting.

#### **4. Corporate Web Site Posting**

Filers must also post their interactive data files to their corporate Web site if they have one. The direct cost estimate of doing so is four hours of time, or \$1,000. In relation to the other costs of interactive data adoption, this cost is low. Although the estimated cost of mandatory posting is low compared to other costs of interactive data compliance and it is possible that many companies would post this data even if it were not mandatory, it is difficult to quantify specific benefits of mandatory posting beyond the benefit of having this same document posted on the

Commission's Web site. Nevertheless, potential benefits of required corporate Web site posting include the following:

- encouraging widespread accessibility and dissemination of interactive data, promoting its awareness and use;
- making it easier and faster for investors to collect information on a particular filer required to post, particularly if the investor is already searching the Web site;
- transferring reliability costs of data availability to the public companies by reducing the likelihood that investors cannot access the data through the Commission's Web site, due to down-time for maintenance or due to increased network traffic;
- enhancing access to corporate financial data by Web crawlers searching for such information that face access restrictions on EDGAR; and
- providing incentive for corporations to add content or enhance their Web site improving the investor experience.

Although there is potential to realize each of these stated benefits, there are also reasons why they may not manifest. The most likely reason that benefits will not accrue to investors from mandatory Web site posting is that a key feature of interactive data that makes them valuable to investors is the ability to aggregate financial data across companies. Since filers will use common tags that allow aggregation of firm financials, company performance can be compared in ways that are far less costly and time consuming than doing so without interactive data. Facilitating this comparison, however, is expected to be less likely to occur at a specific corporate Web site than it is at a third party Web site that provides a wide range of companies to analyze. Since companies are not required to post interactive data for other filers, this leaves

investors two options for assembling aggregated financial data. The investor can obtain the data from separate visits to each corporate Web site of interest, or the investor can visit a third party Web site – such as EDGAR or commercial sources – and obtain the necessary data from a single source. The latter option is far more efficient, not only because of time savings, but also because central depositories of financial information provide access to companies for which an investor might not otherwise know to look. In other words, a filer may only know to investigate a company by having it reside in a location adjacent to where the investor is already searching. For

For the same reason that an individual investor will find it easier to visit a central information depository for information rather than each individual corporate Web site, so will data aggregators and Web crawlers. Programming a Web crawling tool to search thousands of Web sites whose addresses and layouts are continually changing is more complex than doing the same for a single Web site. Moreover, investors face similar risks at corporate Web sites of restricted

the Investment Company Act require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The amendments requiring issuers to submit interactive data to the Commission and post it on their corporate Web sites are intended to make financial information easier for investors to analyze. In particular, we believe that the amendments will enable investors and others to search and analyze the financial information dynamically; facilitate comparison of financial and business performance across issuers, reporting periods and industries; and, possibly, provide a significant opportunity to automate regulatory filings and business information processing with the potential to increase the speed, accuracy, and usability of financial disclosure. Further, we believe that the amendments may lead to more efficient capital formation and allocation. As discussed in detail above, we suggest that smaller public companies could benefit from increased analyst and investor coverage if interactive data increases the availability, or reduces the cost of collecting and analyzing, corporate financial data. As a result, interactive data may reduce some of the information barriers that make it costly for companies to find appropriate sources of external finance, thus lowering their cost of capital and increasing the efficiency of capital formation.

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We understand that private sector businesses such as those that access financial information and aggregate, analyze, compare or convert it into interactive format have business models and, as a result, competitive strategies that the new interactive data requirements might affect. Since interactive data technology is designed to remove an informational barrier, business models within the financial services industry that are currently adapted to traditional format document reporting may change, with possible consequences for the revenue stream of current product offerings due to the competitive effects of such a change. The competitive effects may relate to changes in the accessibility of financial information to investors, the nature of the information that investors receive, and the potential from new entry or innovation in the markets through which financial reports are transmitted from filers to investors. For example, lower entry barriers that result from lower data collection costs may increase competition among suppliers of financial services products and help spur interactive data-related innovation. It is also possible, however, that, increased competition from new market entrants could reduce industry profit margins, and, as a result, the quality of financial services may suffer. For example – and illustration purposes only – assume that an Internet service company develops an interactive data-based tool that easily provides company base financial data for free to all subscribers, and it uses this product as a loss leader to increase viewership and advertising revenue. If the data provided is of the same quality as data provided through subscription to other available commercial products, then there should be no informational efficiency loss and the quality of financial data services should not be impaired. However, if the incumbent financial service providers provide a higher quality of information that improves investor interpretation beyond base financials, but they find that it is no longer profitable to produce this

information as a result of subsidized products from inferior providers, then these financial data service providers may reduce the supply of higher quality information to investors.

We requested comment on whether the amendments would promote efficiency, competition, and capital formation or have an impact or burden on competition.

A few commenters expressly addressed the amendments' competitive effects. One commenter argued that the amendments would harm competition and innovation in computer operating systems because interactive data are restricted on non-Windows operating systems. A

manner it was intended to be made part of the interactive data requirements because there would be a lack of comparability due to the Commission's permitting issuers to use taxonomies with thousands of standard elements and additional extensions.<sup>350</sup> We believe that the combination of a robust list of standard elements and the ability to add extensions where necessary, strikes an appropriate balance between comparability and specificity. We also believe that if certain enet was issbinatioan

A commenter argued for the expansion of interactive data's use in order to promote competition. Specifically, this commenter suggested that issuers be permitted to submit interactive data with MJDS forms to enable MJDS issuers to avoid a competitive disadvantage that would result from the inability to submit interactive data.<sup>352</sup> As discussed above, the new rules generally will

#### **A. Reasons for, and Objectives of, the Adopted Amendments**

The main purpose of the amendments is to make financial information easier for investors to analyze while assisting in automating regulatory filings and business information processing. Currently, issuers are required to file the financial statements in their registration statements, quarterly and annual reports, and transitional reports and revised or updated financial statements in their current reports on Form 8-K and reports on Form 6-K in a traditional format that provides static text-based information. We believe that providing these financial statements in interactive data format will:

- enable investors and others to search and analyze the information dynamically;
- facilitate comparison of financial and business performance across issuers, reporting periods and industries; and
- provide an opportunity to automate regulatory filings and business information processing with the potential to increase the speed, accuracy, and usability of financial disclosure.

#### **B. Significant Issues Raised by Public Comment**

The Initial Regulatory Flexibility Act Analysis appeared in the proposing release (IRFA). We requested comment on any aspect of the IRFA, including the number of small entities that may be affected by the amendments, the nature of the potential impact of the amendments on

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small entities, and how to quantify the impact of the amendments. We asked those submitting comments to provide empirical data supporting the extent of the impact.

One commenter, while acknowledging that the largest filers included in the first phase should be able to effectively deal with the amendments' requirements, expressed concern about the capacity of smaller filers to do so.<sup>355</sup> This filer suggested that the Commission thoroughly study the initial phase-in period to

We also note that commenters that provide interactive data services stated that issuers would need to expend only modest cost and effort to comply with the proposed requirements.<sup>357</sup> One commenter stated that it expected that costs would fall quickly, especially for small companies, as interactive data became part of standard corporate accounting software packages.<sup>358</sup> As noted throughout the release, we are sensitive to the impact of the amendments on small companies and while we recognize that requiring interactive data financial reporting will likely result in start-up expenses for such companies, these expenses may be substantially lower than those of larger filers, given that smaller filers tend to have simpler financial statements than larger companies, with fewer elements and disclosures to tag. We expect that the phase-in will foster the improvement and availability of inexpensive software. We also believe that the third year phase-in for smaller reporting companies will permit them to learn

organization” for purposes of the Regulatory Flexibility Act if it had total assets of \$5 million or less on the last day of its most recent fiscal year.<sup>360</sup> We estimate that there are approximately 1,100 issuers that file reports under the Exchange Act and may be considered small entities.<sup>361</sup> All of these issuers would become subject to the requirements of the phase-in.

- hiring and working with a consultant or filing agent.<sup>362</sup>

We believe that issuers will incur relatively little cost in connection with the requirement to post the interactive data on the issuer's corporate Web site because the requirement applies only to issuers that already have a corporate Web site.<sup>363</sup>

timetable requirements, a partial or complete exemption from the amendments or the use of performance rather than design standards would be inappropriate because these approaches would detract from the long-term completeness and uniformity of the interactive data format financial information database. Less long-term completeness and uniformity would reduce the extent to which the amendments would enable investors and others to search and analyze the information dynamically; facilitate comparison of financial and business performance across

future point, all filers should be required to submit their financial statements in interactive data.<sup>365</sup> This commenter also stated, however, that smaller filers should, for now, be able to opt out of the requirement to submit interactive data. In this regard, the commenter stated that it did not believe there would be sufficient analyst interest in these filers to justify the costs the filers would incur. We acknowledge the commenter's view. In the current statements in estimate, all interactive data is required to be submitted.

Sections 314 and 319 of the Trust Indenture Act<sup>368</sup> and Sections 6(c), 8, 24, 30, and 38 of the Investment Company Act<sup>369</sup> and Section 3(a) of the Sarbanes-Oxley Act.<sup>370</sup>

## List of Subjects

17 CFR Parts 229, 230, 232, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, we amend Title 17, Chapter II of the Code of Federal Regulations as follows:

### **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**

1. 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, 77z-2, 77z-3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u-5, 78w, 78ll, 78mm, 80a-8, 80a-9, 80a-20, 80a-29, 80a-30, 80a-31(c), 80a-37, 80a-38(a), 80a-39, 80b-11, and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

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2. Amend § 229.601 by revising the exhibit table in paragraph (a) and by revising

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<sup>368</sup> 15 U.S.C. 77nnn and 77sss.

<sup>369</sup> 15 U.S.C. 80a-6(c), 80a-8, 80a-24, 80a-29, and 80a-37.

<sup>370</sup> P.L. No. 107-204, 116 Stat. 745.

paragraph (b)(100) and adding paragraph (b)(101) to read as follows:

**§ 229.601 (Item 601) Exhibits.**

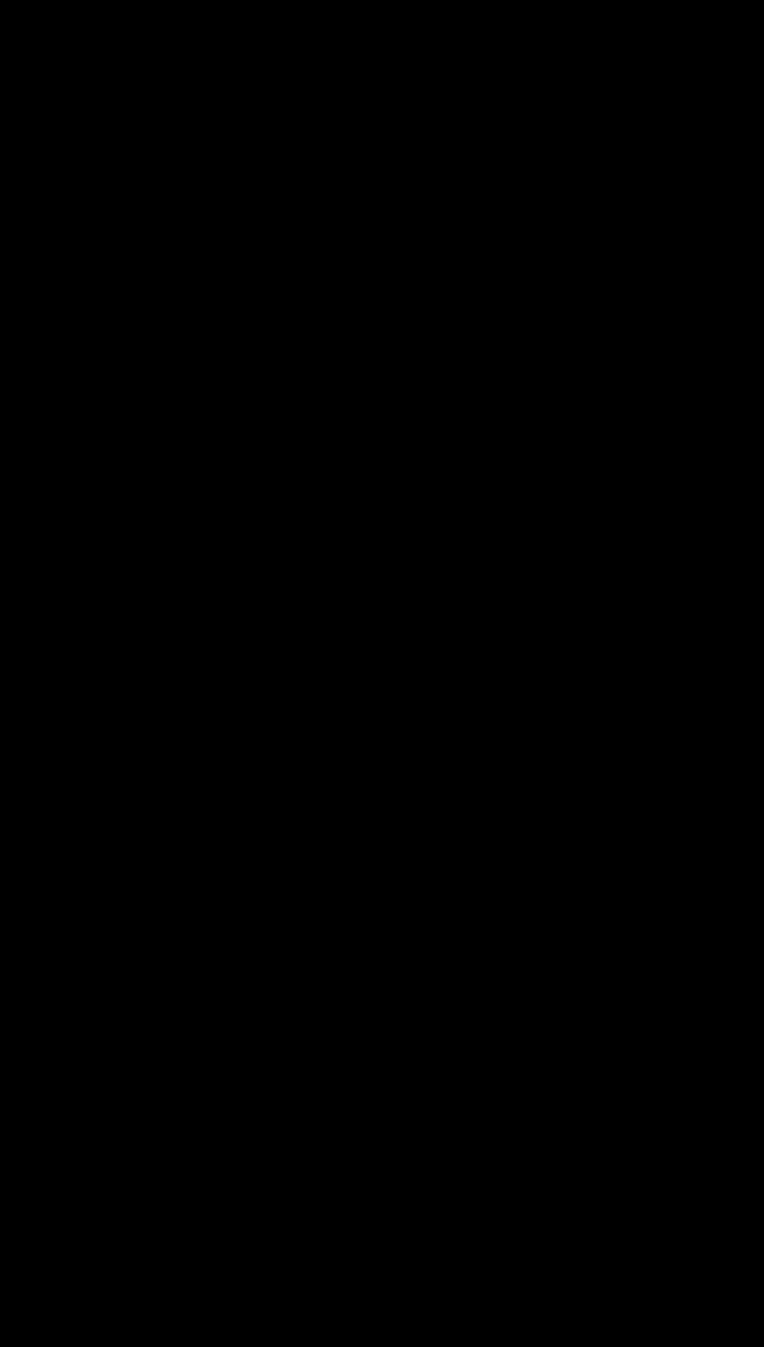
(a) \* \* \*

**Exhibit Table**

\* \* \* \* \*

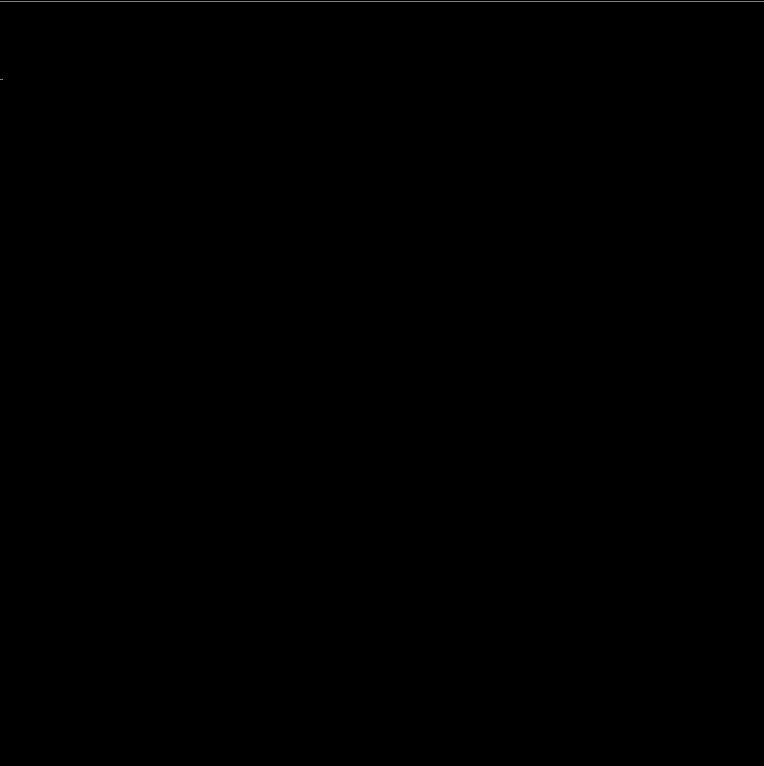
| <b>EXHIBIT TABLE</b>   |                      |            |                         |            |             |            |            |                         |                    |                         |                 |             |             |
|--|----------------------|------------|-------------------------|------------|-------------|------------|------------|-------------------------|--------------------|-------------------------|-----------------|-------------|-------------|
|  | Securities Act Forms |            |                         |            |             |            |            |                         | Exchange Act Forms |                         |                 |             |             |
|  | <u>S-1</u>           | <u>S-3</u> | <u>S-4</u> <sup>1</sup> | <u>S-8</u> | <u>S-11</u> | <u>F-1</u> | <u>F-3</u> | <u>F-4</u> <sup>1</sup> | <u>10</u>          | <u>8-K</u> <sup>2</sup> | <sup>10-D</sup> | <u>10-Q</u> | <u>10-K</u> |
| (1) Underwriting agreement   | X                    | X          | X                       | ---        | X           | X          | X          | X                       | ---                | X                       | ---             | ---         | ---         |
| (2) Plan of acquisition, reorganization, arrangement, liquidation or succession  | X                    | X          | X                       | ---        | X           | X          | X          | X                       | X                  | X                       | ---             | X           | X           |
| (3) (i) Articles of incorporation  | X                    | ---        | X                       | ---        | X           | X          | ---        | X                       | X                  | X                       | X               | X           | X           |
| (ii) Bylaws  | X                    | ---        | X                       | ---        | X           | X          | ---        | X                       | X                  | X                       | X               | X           | X           |
| (4) Instruments defining the rights of security holders, including indentures  | X                    | X          | X                       | X          | X           | X          | X          | X                       | X                  | X                       | X               | X           | X           |
| (5) Opinion re legality  | X                    | X          | X                       | X          | X           | X          | X          | X                       | ---                | ---                     | ---             | ---         | ---         |
| (6) [Reserved]   | N/A                  | N/A        | N/A                     | N/A        | N/A         | N/A        | N/A        | N/A                     | N/A                | N/A                     | N/A             | N/A         | N/A         |
| (7) Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review | ---                  | ---        | ---                     | ---        | ---         | ---        | ---        | ---                     | ---                | X                       | ---             | ---         | ---         |
| (8) Opinion re tax matters   | X                    | X          | X                       | ---        | X           | X          | X          | X                       | ---                | ---                     | ---             | ---         | ---         |
| (9) Voting trust agreement   | X                    | ---        | X                       | ---        | X           | X          | ---        | X                       | X                  | ---                     | ---             | ---         | X           |
| (10) Material contracts  | X                    | ---        | X                       | ---        | X           | X          | ---        | X                       | X                  | ---                     | X               | X           | X           |

|   |   |     |   |     |   |   |     |   |   |     |     |   |   |
|---|---|-----|---|-----|---|---|-----|---|---|-----|-----|---|---|
| (11) Statement re<br>computation of per share<br>earnings | X | --- | X | --- | X | X | --- | X | X | --- | --- | X | X |
|---|---|-----|---|-----|---|---|-----|---|---|-----|-----|---|---|



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<sup>5</sup> Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

<sup>6</sup> Pursuant to §§ 240.13a-13(b)(3) and 240.15d-13(b)(3) of this chapter, asset-backed issuers are not required to file reports on Form 10-Q.

(b) \* \* \*

(100) XBRL-Related Documents. Only an electronic filer that prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) is permitted to participate in the voluntary XBRL (eXtensible Business Reporting Language) program and, as a result, may submit XBRL-Related Documents (§232.11 of this chapter) in electronic format as an exhibit to: the filing to which they relate; an amendment to such filing; or a Form 8-K (§249.308 of this chapter) that references such filing, if the Form 8-K is submitted no earlier than the date of filing. Rule 401 of Regulation S-T (§232.401 of this chapter) sets forth further details regarding eligibility to participate in the voluntary XBRL program.

(101) Interactive Data File. An Interactive Data File (§232.11 of this chapter) is:

(i) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) and is described in paragraph (b)(101)(i)(A), (B) or (C) of this Item, except that an Interactive Data File: first is required for a periodic report on Form 10-Q (§249.308a of this chapter), Form 20-F (§249.220f of this chapter) or Form 40-F (§249.240f of this chapter), as applicable; is required for a registration statement under the Securities Act only if the registration statement contains a price or price range; and is required for a Form 8-K (§249.308 of this chapter) only when the

Form 8-K contains audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle, and, in such case, the Interactive Data File would be required only as to such revised financial statements regardless whether the Form 8-K contains other financial statements:

(A) A large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2009;

(B) A large accelerated filer not specified in paragraph (b)(101)(i)(A) of this Item that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(C) A filer not specified in paragraph (b)(101)(i)(A) or (B) of this Item that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(ii) Permitted to be submitted. Permitted to be submitted to the Commission in the

manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the:

(A) Registrant prepares its financial statements:

(1) In accordance with either:

(i) Generally accepted accounting principles as used in the United States; or

(ii) International Financial Reporting Standards as issued by the International Accounting Standards Board; and

(2) Not in accordance with Article

4. Amend § 230.144 by revising paragraph (c)(1) and the Note to paragraph (c) to read as follows:

**§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.**

\* \* \* \* \*

(c) \* \* \*

(1) Reporting issuers. The issuer is, and has been for a period of at least 90 days immediately before the sale, subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and has:

(i) Filed all required reports under section 13 or 15(d) of the Exchange Act, as applicable, during the 12 months preceding such sale (or for such shorter period that the issuer was required to file such reports), other than Form 8-K reports (§249.308 of this chapter); and

(ii) Submitted electronically and posted on its corporate Web site, if any, every Interactive Data File (§232.11 of this chapter) required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter), during the 12 months preceding such sale (or for such shorter period that the issuer was required to submit and post such files); or

\* \* \* \* \*

Note to paragraph (c). With respect to paragraph (c)(1), the person can rely upon:

1. A statement in whichever is the most recent report, quarterly or annual, required to be filed and filed by the issuer that such issuer has:

a. Filed all reports required under section 13 or 15(d) of the Exchange Act, as applicable, during the preceding 12 months (or for such shorter period that the issuer was required to file such reports), other than Form 8-K reports (§249.308 of this chapter), and has been subject to such filing requirements for the past 90 days; and

b. Submitted electronically and posted on its corporate Web site, if any, every Interactive Data File (§232.11 of this chapter) required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter), during the preceding 12 months (or for such shorter period that the issuer was required to submit and post such files); or

2. A written statement from the issuer that it has complied with such reporting, submission or posting requirements.

3. Neither type of statement may be relied upon, however, if the person knows or has reason to believe that the issuer has not complied with such requirements.

\* \* \* \* \*

## **PART 232 — REGULATION S-T — GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS**

5. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 et seq.; and 18 U.S.C. 1350.

\* \* \* \* \*

6. Amend §232.11 by adding definitions for “Interactive Data File,” “Promptly,” and

“Related Official Filing” in alphabetical order to read as follows:

\* \* \* \* \*

**§ 232.11 Definition of terms used in part 232.**

Interactive Data File. The term Interactive Data File means the machine-readable computer code that presents information in eXtensible Business Reporting Language (XBRL) electronic format pursuant to §232.405.

\* \* \* \* \*

Promptly. The term Promptly means as soon as reasonably practicable under the facts and circumstances at the time. An amendment to the Interactive Data File made by the later of 24 hours or 9:30 a.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, on the next business day after the electronic filer becomes aware of the need for such amendment shall be deemed to be “promptly” made.

\* \* \* \* \*

Related Official Filing. The term Related Official Filing means the ASCII or HTML format part of the official filing with which an Interactive Data File appears as an exhibit.

\* \* \* \* \*

7. Amend § 232.201 by:

- a. Revising paragraph (a) introductory text;
- b. Amending paragraph (b) by revising the headings to Notes 1 and 2; and
- c. Adding paragraph (c).

The revisions and addition read as follows:

**§ 232.201 Temporary hardship exemption.**

(a) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing, other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter), a Form 5 (§ 249.105 of this chapter), a Form ID (§§ 239.63, 249.446, 269.7 and 274.402 of this chapter), a Form TA-1 (§ 249.100 of this chapter), a Form TA-2 (§ 249.102 of this chapter), a Form TA-W (§ 249.101 of this chapter), a Form D (§ 239.500 of this chapter) or an Interactive Data File (§232.11 of this chapter), the electronic filer may file the subject fi

IN ACCORDANCE WITH THE TEMPORARY HARDSHIP EXEMPTION PROVIDED BY RULE 201 OF REGULATION S-T, THE DATE BY WHICH THE INTERACTIVE DATA FILE IS REQUIRED TO BE SUBMITTED HAS BEEN EXTENDED BY SIX BUSINESS DAYS; and

(ii) Submit the required Interactive Data File no later than six business days after the Interactive Data File originally was required to be submitted.

(2) Posting on its corporate Web site of an Interactive Data File as required pursuant to Rule 405 of Regulation S-T, the electronic filer still can timely satisfy the requirement to post the Interactive Data File by so posting the Interactive Data File within six business days after the Interactive Data File was required to be submitted to the Commission.

Note to paragraph (c): Electronic filers unable to submit or post, as applicable, the Interactive Data File under the circumstances specified by paragraph (c), must comply with the provisions of this section and cannot use Form 12b-25 (§249.322 of this chapter) as a notification of late filing. Failure to submit or post, as applicable, the Interactive Data File as required by the end of the six-business-day period specified by paragraph (c) of this section will result in ineligibility to use Forms S-3, S-8 and F-3 (§§239.13, 239.16b and 239.33 of this chapter) and constitute a failure to have filed all required reports for purposes of the current public information requirements of Rule 144(c)(1) (§230.144(c)(1) of this chapter).

8. Amend § 232.202 by:
  - a. Revising paragraphs (a) introductory text, (a)(2), (b)(2), and (b)(3);
  - b. Revising paragraph (c);
  - c. Revising paragraph (d);

- d. Revising the headings to Notes 1, 2, and 3 to the section; and
- e. Adding Note 4 to the section.

The revisions and addition read as follows:

**§ 232.202 Continuing hardship exemption.**

(a) An electronic filer may apply in writing for a continuing hardship exemption if all or part of a filing, group of filings or submission, other than a Form ID (§§ 239.63, 249.446, 269.7, and 274.402 of this chapter) or a Form D (§ 239.500 of this chapter), otherwise to be filed or submitted in electronic format or, in the case of an Interactive Data File (§232.11), to be posted on the electronic filer's corporate Web site, cannot be so filed, submitted or posted, as applicable, without undue burden or expense. Such written application shall be made at least ten business days before the required due date of the filing(s), submission(s) or posting of the proposed filing, submission or posting date, as appropriate, or within such shorter period as may be permitted. The written application shall contain the information set forth in paragraph (b) of this section.

\* \* \* \* \*

(2) If the Commission, or the staff acting pursuant to delegated authority, denies the application for a continuing hardship exemption, the electronic filer shall file or submit the required document or Interactive Data File in electronic format or post the Interactive Data File on its corporate Web site, as applicable, on the required due date or the proposed filing or submission date, or such other date as may be permitted.

\* \* \* \* \*

(b) \* \* \*

(2) The burden and expense to employ alternative means to make the electronic submission or posting, as applicable; and/or

(3) The reasons for not submitting electronically the document, group of documents or Interactive Data File or not posting the Interactive Data File, as well as the justification for the requested time period.

(c) If the request is granted with respect to:

(1) Electronic filing of a document or group of documents, not electronic submission or posting of an Interactive Data File, then the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate and the following legend shall be placed in capital letters at the top of the cover page of the paper format document(s):

IN ACCORDANCE WITH RULE 202 OF REGULATION S-T, THIS (specify document) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARDSHIP EXEMPTION.

(2) Electronic submission of an Interactive Data File, then the electronic filer shall substitute for the Interactive Data File in the exhibit in which it was required a document that sets forth one of the following legends, as appropriate:

IN ACCORDANCE WITH A CONTINUING HARDSHIP EXEMPTION OBTAINED UNDER RULE 202 OF REGULATION S-T, THE DATE BY WHICH THE INTERACTIVE DATA FILE IS REQUIRED TO BE SUBMITTED HAS BEEN EXTENDED TO (specify date);

or

IN ACCORDANCE WITH A CONTINUING HARDSHIP EXEMPTION OBTAINED UNDER RULE 202 OF REGULATION S-T, THE INTERACTIVE DATA FILE IS NOT REQUIRED TO BE SUBMITTED.

(3) Web site posting by an electronic filer of its Interactive Data File, the electronic filer need not post on its Web site any statement with regard to the grant of the request.

(d) If a continuing hardship exemption is granted for a limited period of time for:

(1) Electronic filing of a document or group of documents, not electronic submission or posting of an Interactive Data File, then the grant -3 -2. i0d2bmission or

period of time, will result in ineligibility to use Forms S-3, S-8, and F-3 (§§239.13, 239.16b and 239.33 of this chapter) and constitute a failure to have filed all required reports for purposes of the current public information requirements of Rule 144(c)(1) (§230.144(c)(1) of this chapter).

9. Amend §232.305 by revising paragraph (b) to read as follows:

**§ 232.305 Number of characters per line; tabular and columnar information.**

\* \* \* \* \*

(b) Paragraph (a) of this section does not apply to HTML documents, Interactive Data Files (§232.11) or XBRL-Related Documents (§232.11).

10. Amend §232.401, paragraph (a), by adding a new first sentence to read as follows:

**§ 232.401 XBRL-Related Document submissions.**

(a) Only an electronic filer that is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et. seq.), a “business development company” as defined in section 2(a)(48) of that Act, or an entity that reports under the Exchange Act and prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) is permitted to participate in the voluntary XBRL (eXtensible Business Reporting Language) program. \* \* \*

\* \* \* \* \*

11. Amend §232.402 by removing the phrase “Public Utility Act,” from the first sentence of paragraph (b).

**§§ 232.403 and §232.404 [Reserved].**

12. Reserve §232.403 and §232.404.

13. Add §232.405 and §232.406T to read as follows:

## **§ 232.405 Interactive Data File submissions and postings.**

Preliminary Note 1. Sections 405 and 406T of Regulation S-T (§§232.405 and 232.406T) apply to electronic filers that submit or post Interactive Data Files. Item 601(b)(101) of Regulation S-K (§229.601(b)(101) of this chapter), paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of both Form F-9 (§239.39 of this chapter) and Form F-10 (§239.40 of this chapter), Item 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of this chapter), paragraph B.7 of the General Instructions to Form 40-F (§249.240f of this chapter) and paragraph C.6 of the General Instructions to Form 6-K (§249.306 of this chapter) specify when electronic filers are required or permitted to submit or post an Interactive Data File (§232.11), as further described in the Note to §232.405.

Preliminary Note 2. Section 405 imposes content, format, submission and Web site posting requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§232.11).

Preliminary Note 3. Section 406T addresses liability related to Interactive Data Files.

(a) Content, format, submission and posting requirements – General. An Interactive Data File must:

(1) Comply with the content, format, submission and Web site posting requirements of this section;

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General

Instructions to Form 40-F or paragraph C.6 of the General Instructions to Form 6-K, as applicable, as an exhibit to:

(i) A form that contains the disclosure required by this section or

(ii) An amendment to a form that contains the disclosure required by this section if the amendment is filed no more than 30 days after the earlier of the due date or filing date of the form and the Interactive Data File is the first Interactive Data File the electronic filer submits or the first Interactive Data File the electronic filer submits that complies or is required to comply, whichever occurs first, with paragraphs (d)(1) through (d)(4), (e)(1) and (e)(2) of this section;

(3) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General Instructions to Form 40-F or paragraph C.6 of the General Instructions to Form 6-K; and

(4) Be posted on the electronic filer's corporate Web site, if any, in accordance with, as applicable, either Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General Instructions to Form 40-F or paragraph C.6 of the General Instructions to Form 6-K.

(b) Content - categories of information presented. An Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

(1) The complete set of the electronic filer's financial statements (which includes the face of the financial statements and all footnotes); and

(2) All schedules set forth in Article 12 of Regulation S-X (§§210.12-01 - 210.12-29) related to the electronic filer's financial statements.

Note to paragraph (b): It is not permissible for the Interactive Data File to present only partial face financial statements, such as by excluding comparative financial information for prior periods.

(c)

(A) Labels. An electronic filer must create and use a new special label to modify a tag's existing standard label when that tag is an appropriate tag in all other respects (i.e., in order to use a tag from the standard list of tags only its label needs to be changed); and

(B) Elements. An electronic filer must create and use a new special element if and only if an appropriate tag does not exist in the standard list of tags for reasons other than or in addition to an inappropriate standard label; and

(2) Additional mark-up related content. The Interactive Data File contains any additional mark-up related content (e.g., the eXtensible Business Reporting Language tags themselves, identification of the core XML documents used and other technology related content) not found in the corresponding data in the Related Official Filing that is necessary to comply with the EDGAR Filer Manual requirements.

(d) Format – Footnotes - Generally. The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of footnotes to financial statements must comply with the requirements of paragraphs (c)(1) and (c)(2) of this section, as modified by this paragraph (d), unless the electronic filer is within one of the categories specified in paragraph (f) of this section. Footnotes to financial statements must be tagged as follows:

- (1) Each complete footnote must be block-text tagged;
- (2) Each significant accounting policy within the significant accounting policies footnote must be block-text tagged;
- (3) Each table within each footnote must be block-text tagged; and
- (4) Within each footnote,

(i) Each amount (i.e., monetary value, percentage, and number) must be tagged separately; and

(ii) Each narrative disclosure may be tagged separately to the extent the electronic filer chooses.

(e) Format – Schedules - Generally. The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of financial statement schedules as set forth in Article 12 of Regulation S-X must comply with the requirements of paragraphs (c)(1) and (c)(2) of this section, as modified by this paragraph (e), unless the electronic filer is within one of the categories specified in paragraph (f) of this section. Financial statement schedules as set forth in Article 12 of Regulation S-X must be tagged as follows:

(1) Each complete financial statement schedule must be block-text tagged; and

(2) Within each financial statement schedule,

(i) Each amount (i.e., monetary value, percentage and number) must be tagged separately; and

(ii) Each narrative disclosure may be tagged separately to the extent the electronic filer chooses.

(f) Format – Footnotes and Schedules Eligible for Phased-In Detail. The following electronic filers must comply with paragraphs (c)(1) and (c)(2) of this section as modified by paragraphs (d) and (e) of this section, except that they may choose to comply with paragraph (d)(1) of this section rather than paragraphs (d)(1) through (d)(4) of this section and may choose to comply with paragraph (e)(1) of this section rather than paragraphs (e)(1) and (e)(2) of this section:

(1) Any large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States, if none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after June 15, 2010;

(2) Any large accelerated filer not specified in paragraph (f)(1) of this section that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States, if none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after June 15, 2011; and

(3) Any filer not specified in paragraph (f)(1) or (f)(2) of this section that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, if none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after June 15, 2012.

(g) Posting. Any electronic filer that maintains a corporate Web site and is required to submit an Interactive Data File must post that Interactive Data File on that Web site by the end of the calendar day on the earlier of the date the Interactive Data File is submitted or is required to be submitted and the Interactive Data File must remain accessible on that Web site for at least a 12-month period.

Note to §232.405: Item 601(b)(101) of Regulation S-K specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the



Interactive Data File by an issuer that prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.).

**§ 232.406T Temporary rule related to Interactive Data Files.**

(a) Scope. Section 232.406T addresses the liability for the Interactive Data File. An Interactive Data File is subject to the same liability provisions as the Related Official Filing except as provided in paragraphs (b) and (c) of this section.

(b) In general. The Interactive Data File, regardless of whether it is an exhibit to a document incorporated by reference into filings:

(1) Is subject to the anti-fraud provisions of section 17(a)(1) of the Securities Act, section 10(b) of the Exchange Act, §240.10b-5 of this chapter, and section 206(1) of the Investment Advisers Act except as provided in paragraph (c) of this section;

(2) Is deemed not filed or part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act, is deemed not filed for purposes of section 18 of the Exchange Act or section 34(b) of the Investment Company Act, and otherwise is not subject to liability under these sections; and

(3) Is deemed filed for purposes of §232.103.

(c) Good faith attempts and prompt correction. Subject to paragraph (b) of this section, the Interactive Data File shall be subject to liability for a failure to comply with §232.405, but shall be deemed to have complied with §232.405 and would not be subject to liability under the anti-fraud provisions set forth in paragraph (b)(1) of this section or under any other liability provision if the electronic filer:

(1) Makes a good faith attempt to comply with §232.405; and

(2) After the electronic filer becomes aware that the Interactive Data File fails to comply with §232.405, promptly amends the Interactive Data File to comply with §232.405.

(d) Temporary section. Section 232.406T is a temporary section that applies to an Interactive Data File submitted to the Commission less than 24 months after the electronic filer first was required to submit an Interactive Data File to the Commission pursuant to § 232.405, not taking into account any grace period, but no later than October 31, 2014. After these dates, an Interactive Data File is subject to the same liability provisions as the Related Official Filing. This temporary section will expire on October 31, 2014.

### **PART 239 – FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

14. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

\* \* \* \* \*

15. Amend §239.13 by revising paragraph (a)(8) to read as follows:

**§ 239.13 Form S-3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.**

\* \* \* \* \*

(a) \* \* \*

(8) Electronic filings. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S-T (§232.101 of this chapter) shall have:

(i) Filed with the Commission all required electronic filings, including electronic copies of documents submitted in paper pursuant to a hardship exemption as provided by Rule 201 or Rule 202(d) of Regulation S-T (§232.201 or §232.202(d) of this chapter); and

(ii) Submitted electronically to the Commission and posted on its corporate Web site, if any, all Interactive Data Files required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit and post such files).

16. Amend Form S-3 (referenced in §239.13) by revising paragraph I.A.8 of the General Instructions to read as follows:

**Note – The text of Form S-3 does not and this amendment will not appear in the Code of Federal Regulations.**

Form S-3

\* \* \* \* \*

#### GENERAL INSTRUCTIONS

I. \* \* \*

A. \* \* \*

8. Electronic filings. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S-T (§232.101 of this chapter) shall have:

(a) Filed with the Commission all required electronic filings, including electronic copies of documents submitted in paper pursuant to a hardship exemption as provided by Rule

201 or Rule 202(d) of Regulation S-T (§232.201 or §232.202(d) of this chapter); and

(b) Submitted electronically to the Commission and posted on its corporate Web site, if any, all Interactive Data Files required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit and post such files).

\* \* \* \* \*

18. Amend Form S-8 (referenced in §239.16b) by revising paragraph A.3 of the General Instructions to read as follows:

**Note – The text of Form S-8 does not and this amendment will not appear in the Code of Federal Regulations.**

Form S-8

\* \* \* \* \*

#### GENERAL INSTRUCTIONS

A. \* \* \*

3. Electronic filings. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S-T (§232.101 of this chapter) shall have:

(a) Filed with the Commission all required electronic filings, including electronic copies of documents submitted in paper pursuant to a hardship exemption as provided by Rule 201 or Rule 202(d) of Regulation S-T (§232.201 or §232.202(d) of this chapter); and

(b) Submitted electronically to the Commission and posted on its corporate Web site, if any, all Interactive Data Files required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit and post such files).

\* \* \* \* \*

19. Amend §239.33 by revising paragraph (a)(6) to read as follows:

**§ 239.33 Form F-3, for registration under the Securities Act of 1933 of securities of certain**

**foreign private issuers offered pursuant to certain types of transactions.**

\* \* \* \* \*

(a) \* \* \*

(6) Electronic filings. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S-T (§232.101 of this chapter) shall have:

(i) Filed with the Commission all required electronic filings, including electronic copies of documents submitted in paper pursuant to a hardship exemption as provided by Rule 201 or Rule 202(d) of Regulation S-T (§232.201 or §232.202(d) of this chapter); and

(ii) Submitted electronically to the Commission and posted on its corporate Web site, if any, all Interactive Data Files required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit and post such files).

\* \* \* \* \*

20. Amend Form F-3 (referenced in §239.33) by revising paragraph I.A.6 of the General Instructions to read as follows:

**Note – The text of Form F-3 does not and this amendment will not appear in the Code of Federal Regulations.**

Form F-3

\* \* \* \* \*

#### GENERAL INSTRUCTIONS

I. \* \* \*

A. \* \* \*

6. Electronic filings. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S-T (§232.101 of this chapter) shall have:

(i) Filed with the Commission all required electronic filings, including electronic copies of documents submitted in paper pursuant to a hardship exemption as provided by Rule 201 or Rule 202(d) of Regulation S-T (§232.201 or §232.202(d) of this chapter); and

(ii) Submitted electronically to the Commission and posted on its corporate Web site, if any, all Interactive Data Files required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit and post such files).

\* \* \* \* \*

21. Amend Form F-9 (referenced in §239.39) by reserving paragraphs (8) through (100) and adding paragraph 101 at the end of “Part II – Information Not Required to be Delivered to Offerees or Purchasers” to read as follows:

**Note – The text of Form F-9 does not and this amendment will not appear in the Code of Federal Regulations.**

Form F-9

\* \* \* \* \*

PART II – INFORMATION NOT REQUIRED TO BE DELIVERED TO OFFEREES OR PURCHASERS

\* \* \* \* \*

(101) An Interactive Data File (§232.11 of this chapter) is:

(a) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) and is described in paragraph (a)(i),(ii), (iii) of this Instruction 101, except that an Interactive Data File: first is required for a periodic report on Form 10-Q (§249.308a of this chapter), Form 20-F (§249.220f of this chapter) or Form 40-F (§249.240f of this chapter), as applicable; and is required for a registration statement under the Securities Act only if the registration statement contains a price or price range:

(i) a large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2009;

(ii) a large accelerated filer not specified in paragraph (a)(i) of this Instruction (101) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) a filer not specified in paragraph (a)(i) or (a)(ii) of this Instruction (101) that prepares its financial statements in accordance with either generally accepted accounting

principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) Permitted to be submitted. Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the:

(i) Registrant prepares its financial statements:

(A) In accordance with either:

(1) Generally accepted accounting principles as used in the United States; or

(2) International Financial Reporting Standards as issued by the International Accounting Standards Board; and

(B) Not in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.); and

(ii) Interactive Data File is not required to be submitted to the Commission under paragraph (a) of this Instruction 101.

(c) Not permitted to be submitted. Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.).

\* \* \* \* \*

22 Amend Form F-10 (referenced in §239.40) by reserving paragraphs (8) through (100) and adding paragraph 101 at the end of “Part II – Information Not Required to be Delivered to Offerees or Purchasers” to read as follows:

**Note – The text of Form F-10 does not and this amendment will not appear in the Code of Federal Regulations.**

Form F-10

\* \* \* \* \*

PART II – INFORMATION NOT REQUIRED TO BE DELIVERED TO OFFEREES OR  
PURCHASERS

\* \* \* \* \*

(8) through (100) [Reserved]

(101) An Interactive Data File (§232.11 of this chapter) is:

(a) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant’s corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) and is described in paragraph (a)(i),(ii), (iii) of this Instruction 101, except that an Interactive Data File: first is required for a periodic report on Form 10-Q (§249.308a of this chapter), Form 20-F (§249.220f of this chapter) or Form 40-F (§249.240f of this chapter), as applicable; and is required for a registration statement under the Securities Act only if the registration statement contains a price or price range:

(i) a large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2009;

(ii) a large accelerated filer not specified in paragraph (a)(i) of this Instruction 101 that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) a filer not specified in paragraph (a)(i) or (a)(ii) of this Instruction 101 that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(c) Not permitted to be submitted. Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.).

\* \* \* \* \*

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

23 The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 80b-11, and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

24. Amend §240.12b-25 by adding paragraph (h) to read as follows:

**§ 240.12b-25 Notification of inability to timely file all or any required portion of a Form 10-K, 20-F, 11-K, N-SAR, N-CSR, 10-Q, or 10-D.**

\* \* \* \* \*

(h) Interactive data submissions. The provisions of this section shall not apply to the submission or posting of an Interactive Data File (§232.11 of this chapter). Filers unable to submit or post an Interactive Data File within the time period prescribed should comply with either Rule 201 or 202 of Regulation S-T (§232.201 and §232.202 of this chapter).

25. Amend §240.13a-14 by revising paragraph (f) to read as follows:

**§ 240.13a-14 Certification of disclosure in annual and quarterly reports.**

\* \* \* \* \*

(f) The certification requirements of this section do not apply to:

(1) An Interactive Data File, as defined in Rule 11 of Regulation S-T (§232.11 of this chapter); or

(2) XBRL-Related Documents, as defined in Rule 11 of Regulation S-T.

26. Amend §240.15d-14 by revising paragraph (f) to read as follows:

**§ 240.15d-14 Certification of disclosure in annual and quarterly reports.**

\* \* \* \* \*

(f) The certification requirements of this section do not apply to:

(1) An Interactive Data File, as defined in Rule 11 of Regulation S-T (§232.11 of this chapter); or

(2) XBRL-Related Documents, as defined in Rule 11 of Regulation S-T.

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

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

Authority: 15 U.S.C. 78a et seq. and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

28. Amend Form 10-Q (referenced in § 249.308a) by adding a paragraph with two check boxes to the cover page after the paragraph with two check boxes that starts “Indicate by check

mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months \* \* \*

**Note: The text of Form 10-Q does not, and this amendment will not, appear in the Code of Federal Regulations.**

**FORM 10-Q**

\* \* \* \* \*

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes [ ]      No [ ]

\* \* \* \* \*

29. Amend Form 10-K (referenced in § 249.310) by adding a paragraph with two check boxes to the cover page after the paragraph with two check boxes that starts “Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months \* \* \*

**Note: The text of Form 10-K does not, and this amendment will not, appear in the Code of Federal Regulations.**

**FORM 10-K**

\* \* \* \* \*

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12

months (or for such shorter period that the registrant was required to submit and post such files).

Yes [ ]      No [ ]

\* \* \* \* \*

30. Amend Form 20-F (referenced in § 249.220f) by:

a. Adding a paragraph with two check boxes to the cover page after the paragraph with two check boxes that starts “Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months \* \* \*;” and

## INSTRUCTIONS AS TO EXHIBITS

\* \* \* \* \*

100. XBRL-Related Documents. Only a registrant that prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) is permitted to participate in the voluntary XBRL (eXtensible Business Reporting Language) program and, as a result, may submit XBRL-Related Documents (§232.11 of this chapter). Rule 401 of Regulation S –T (§232.401 of this chapter) sets forth further details regarding eligibility to participate in the voluntary XBRL program.

101. Interactive Data File. An Interactive Data File (§232.11 of this chapter) is:

(a) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant’s corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the Form 20-F is an annual report and the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) and is:

(i) a large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2009;

(ii) a large accelerated filer not specified in paragraph (a)(i) of this Instruction 101 that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) a filer not specified in paragraph (a)(i) or (a)(ii) of this Instruction 101 that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) Permitted to be submitted. Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the:

(i) Registrant prepares its financial statements:

(A) In accordance with either:

(1) Generally accepted accounting principles as used in the United States; or

(2) International Financial Reporting Standards as issued by the International Accounting Standards Board; and

(B) Not in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.);

and

(ii) Interactive Data File is not required to be submitted to the Commission under paragraph (a) of this Instruction 101.

(c) Not permitted to be submitted. Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S-X

(17 CFR 210.6-01 et. seq.).

\* \* \* \* \*

31. Amend Form 40-F (referenced in § 249.240f) by:

a. Adding a paragraph with two check boxes to the cover page after the paragraph with two check boxes that starts “Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months \* \* \*;” and

b. Add paragraph B.(7) to the General Instructions.

The additions read as follows:

**Note: The text of Form 40-F does not, and this amendment will not, appear in the Code of Federal Regulations.**

#### FORM 40-F

\* \* \* \* \*

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes [ ]      No [ ]

\* \* \* \* \*

#### General Instructions

\* \* \* \* \*

B. \* \* \*

(7) An Interactive Data File (§232.11 of this chapter) is:

(a) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter), and, as submitted, listed as exhibit 101, if the Form 40-F is an annual report and the registrant is does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et

(b) Permitted to be submitted. Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the registrant lists it as exhibit 101 and the:

(i) Registrant prepares its financial statements:

(A) In accordance with either:

(1) Generally accepted accounting principles as used in the United States; or

(2) International Financial Reporting Standards as issued by the International Accounting Standards Board; and

(B) Not in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.); and

(ii) Interactive Data File is not required to be submitted to the Commission under paragraph (a) of this Instruction 7.

(c) Not permitted to be submitted. Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.).

\* \* \* \* \*

32. Amend Form 6-K (referenced in §249.306) by revising paragraph (5) and paragraph (6) to General Instruction C to read as follows:

**Note – The text of Form 6-K does not and this amendment will not appear in the Code of Federal Regulations.**

FORM 6-K

\* \* \* \* \*

GENERAL INSTRUCTIONS

\* \* \* \* \*

C. \* \* \*

(5) XBRL-Related Documents. Only a registrant that prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) is permitted to participate in the voluntary XBRL (eXtensible Business Reporting Language) program and, as a result, may submit XBRL-Related Documents (§232.11 of this chapter). XBRL-Related Documents submitted as an exhibit to a Form 6-K must be listed as exhibit 100. Rule 401 of Regulation S –T (§232.401 of this chapter) sets forth further details regarding eligibility to participate in the voluntary XBRL program.

(6) Interactive Data File. An Interactive Data File (§232.11 of this chapter) is:

(a) Required to be submitted and posted. Required to be submitted to the Commission and posted on the registrant’s corporate Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) and, as submitted, listed as exhibit 101, if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 et. seq.) and is described in paragraph (a)(i), (ii) or (iii) of this Instruction (6), except that an Interactive Data File: first is required for a periodic report on Form 10-Q (§249.308a of this chapter), Form 20-F (§249.220f of this chapter) or Form 40-F (§249.240f of this chapter), as applicable; and is required for a Form 6-K (§249.306 of this chapter) only when the Form 6-K contains either of the following: audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a

change in accounting principle; or current interim financial statements included pursuant to the nine-month updating requirement of Item 8.A.5 of Form 20-F, and, in either such case, the Interactive Data File would be required only as to such revised financial statements current interim financial statements regardless whether the Form 6-K contains other financial statements:

(i) A large accelerated filer (§240.12b-2 of this chapter) that had an aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of more than \$5 billion as of the last business day of the second fiscal quarter of its most recently completed fiscal year that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2009;

(ii) A large accelerated filer not specified in paragraph (a)(i) of this Instruction (6) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in paragraph (a)(i) or (ii) of this Instruction (6) that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) Permitted to be submitted. Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter) if the:

(i) Registrant prepares its financial statements:

(A) In accordance with either:

(1) Generally accepted accounting principles as used in the United States; or

(2) International Financial Reporting Standards as issued by the International Accounting Standards Board; and

(B) Not in accordance with Arti

34. Amend Form 12b-25 (referenced in §249.322) by adding paragraph 6 to the General Instructions to read as follows:

**Note – The text of Form 12b-25 does not and this amendment will not appear in the Code of Federal Regulations.**

FORM 12b-25

\* \* \* \* \*

GENERAL INSTRUCTIONS

\* \* \* \* \*

6. Interactive data submissions. This form shall not be used by electronic filers with respect to the submission or posting of an Interactive Data File (§232.11 of this chapter). Electronic filers unable to submit or post an Interactive Data File within the time period prescribed should comply with either Rule 201 or 202 of Regulation S-T (§232.201 and §232.202 of this chapter).

\* \* \* \* \*

By the Commission.

Florence E. Harmon  
Deputy Secretary

Dated: January 30, 2009