

(C) APHIS user fees collected from international passengers pursuant to paragraph (f) of this section shall be held in trust for the United States by the person collecting such fees, by any person holding such fees, or by the person who is ultimately responsible for remittance of such fees to APHIS. APHIS user fees collected from international passengers shall be accounted for separately and shall be regarded as trust funds held by the person possessing such fees as agents, for the beneficial interest of the United States. All such user fees held by any person shall be property in which the person holds only a possessory interest and not an equitable interest. As compensation for collecting, handling, and remitting the APHIS user fees for international passengers, the person holding such user fees shall be entitled to any interest or other investment return earned on the user fees between the time of collection and the time the user fees are due to be remitted to APHIS under this section. Nothing in this section shall affect APHIS' right to collect interest for late remittance.

* * * * *

Done in Washington, DC, this 18th day of July 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229, 230, 232, 239, 240, and 249

[Release Nos. 33-7431 and 34-38850; S7-15-96]

RIN 3235-AG80

Phase Two Recommendations of Task Force on Disclosure Simplification

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: In response to the Report of the Task Force on Disclosure Simplification, the Commission proposed for comment the elimination and amendment of certain forms and rules to simplify the disclosure process. After reviewing the comment letters received on the Commission's proposals, the Commission is rescinding two forms and one rule that are no longer necessary or appropriate for the protection of investors. The Commission also is adopting one rule and amending

a number of rules and forms in order to eliminate unnecessary requirements and to streamline the disclosure process.

EFFECTIVE DATE: The new rule and amendments will become effective September 2, 1997. If the EDGAR programming on the amendments affecting Form 8-A (17 CFR 249.208a) and Rule 462(d) (17 CFR 230.462(d)) is not completed by this date, the Commission will select a later effective date for these two amendments and issue an appropriate notice of that date.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Division of Corporation Finance, at (202) 942-2990.

SUPPLEMENTARY INFORMATION: After considering certain recommendations of the Task Force on Disclosure Simplification, as well as the comment letters received by the Commission on its proposals to implement these recommendations, the Commission today is adopting amendments to Item 701¹ of Regulation S-B,² Item 701³ of Regulation S-K,⁴ Rule 401,⁵ Rule 404,⁶ Rule 424,⁷ Rule 462,⁸ Rule 463,⁹ and Rule 497¹⁰ under the Securities Act of 1933 ("Securities Act").¹¹ In addition, the Commission is rescinding Rule 101(c)(5) under Regulation S-T.¹² Amendments are being adopted to Form D,¹³ Form SB-1,¹⁴ Form SB-2,¹⁵ Form S-1,¹⁶ Form S-2,¹⁷ Form S-3,¹⁸ Form S-11,¹⁹ Form S-4,²⁰ Form F-1,²¹ Form F-2,²² and Form F-4²³ under the Securities Act. In addition, the Commission is rescinding Form SR²⁴ under the Securities Act, and Rule 13a-2²⁵ and Form 8-B²⁶ under the Securities Exchange Act of 1934 ("Exchange Act").²⁷ The Commission is

¹ 17 CFR 228.701.

² 17 CFR part 228.

³ 17 CFR 229.701.

⁴ 17 CFR part 229.

⁵ 17 CFR 230.401.

⁶ 17 CFR 230.404.

⁷ 17 CFR 230.424.

⁸ 17 CFR 230.462.

⁹ 17 CFR 230.463.

¹⁰ 17 CFR 230.497.

¹¹ 15 U.S.C. 77a *et seq.*

¹² 17 CFR 232.101(c)(5).

¹³ 17 CFR 239.500.

¹⁴ 17 CFR 239.9.

¹⁵ 17 CFR 239.10.

¹⁶ 17 CFR 239.11.

¹⁷ 17 CFR 239.12.

¹⁸ 17 CFR 239.13.

¹⁹ 17 CFR 239.18.

²⁰ 17 CFR 239.25.

²¹ 17 CFR 239.31.

²² 17 CFR 239.32.

²³ 17 CFR 239.34.

²⁴ 17 CFR 239.61.

²⁵ 17 CFR 240.13a-2.

²⁶ 17 CFR 249.208b.

²⁷ 15 U.S.C. 78a *et seq.*

adopting Rule 12a-8²⁸ under the Exchange Act. In addition, amendments are being adopted with respect to the following Exchange Act rules and forms: Rule 12d1-2,²⁹ Rule 12g-3,³⁰ Rule 13a1,³¹ Rule 15d-3,³² Rule 15d-5,³³ Form 8-A,³⁴ Form 10,³⁵ Form 20-F,³⁶ Form 10-Q,³⁷ Form 10-QSB,³⁸ Form 10-K,³⁹ and Form 10-KSB.⁴⁰

I. Background

In March 1996, the Commission's Task Force on Disclosure Simplification ("Task Force") presented its Report⁴¹ recommending the elimination or modification of many rules and forms, and proposing suggestions for simplifying significant aspects of securities offerings to the Commission. As a result of the Task Force Report, the Commission eliminated 44 rules and four forms last May.⁴²

At the same time that the Commission adopted those changes, it issued a release proposing for comment the elimination or streamlining of additional requirements.⁴³ The proposals contained in that release were based on the Commission's further consideration of the Task Force recommendations.

After reviewing the comment letters received⁴⁴ and further considering the proposals, the Commission has determined to adopt most of the proposals, with certain modifications discussed below. Two of the proposals are not being adopted. First, the Commission had proposed that the Form D federal filing requirement be eliminated for the Regulation D and Section 4(6) exemptions. Filers would have had to continue to prepare Form D and retain it, but not file it with the

²⁸ 17 CFR 240.12a-8.

²⁹ 17 CFR 240.12d1-2.

³⁰ 17 CFR 240.12g-3.

³¹ 17 CFR 240.13a-1.

³² 17 CFR 240.15d-3.

³³ 17 CFR 240.15d-5.

³⁴ 17 CFR 249.208a.

³⁵ 17 CFR 249.210.

³⁶ 17 CFR 249.220f.

³⁷ 17 CFR 249.308a.

³⁸ 17 CFR 249.308b.

³⁹ 17 CFR 249.310.

⁴⁰ 17 CFR 249.310b.

⁴¹ The Task Force Report is available for inspection and copying in the Commission's public reference room. The Report also is posted on the Commission's Internet web site (<http://www.sec.gov>).

⁴² Release No. 33-7300 (May 31, 1996) [61 FR 30397].

⁴³ Release No. 33-7301 (May 31, 1996) [61 FR 30405] ("Proposing Release").

⁴⁴ The eight comment letters received are available for inspection and copying in the Commission's public reference room. Refer to file number S7-15-96. Comment letters that were submitted via electronic mail may be viewed at the Commission's web site: <http://www.sec.gov>.

Commission. After further consideration, the Commission has determined that the information contained in Form D is still useful to the Commission in conducting economic and other analyses of the private placement market. Since the burden of having to file the Form with the Commission is minimal once the filer has prepared the Form, the Commission has determined to retain this requirement.⁴⁵ Second, the Commission has decided to defer consideration of the proposal to permit concurrent registration of a public offering under the Securities Act and a class of securities under the Exchange Act by filing a single form pending consideration of programming issues affecting the Commission's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") computer system and modifications to the Commission's record-keeping system that would be required. Nevertheless, the amendments to the short form Exchange Act registration statement, Form 8-A, that are being adopted today (as outlined below) should substantially reduce burdens on issuers. Action may be taken at a later date on the concurrent registration proposal.

The following summarizes the Commission's principal actions contained in this release:⁴⁶

⁴⁵ The Commission is making a conforming change to the text of Form D that became necessary as a result of the revisions to Regulation A in 1992 (Release No. 33-6949 (July 30, 1992) [57 FR 36442]). Those revisions moved, without textual change, the disqualification provisions of the exemption from Rule 252(c), (d), (e) and (f), to Rule 262. The text of the first question in Part E of Form D is being revised to reflect this change.

⁴⁶ The Commission also is adopting two technical amendments that result from the elimination of the cross-reference sheet required by former Item 501(b) of Regulation S-K. Release No. 33-7300. Rule 404 [17 CFR 230.404] under the Securities Act and General Instruction II.B. of Form S-3 [17 CFR 239.13] under the Securities Act are being amended to eliminate references to the cross-reference sheet.

Regulation S-K. Release No. 33-7300. Rule 404 (17 CFR 230.404) under the Securities Act and General Instruction II.B. of Form S-3 (17 CFR 239.13) under the Securities Act are being amended to eliminate references to the cross-reference sheet.

Additionally, the Commission is making technical corrections to Forms 10-K, 10-KSB and 20-F to remove the "Fee Required" caption on the cover page of these Forms. The Commission eliminated the fees associated with these Forms in September 1996. Release No. 33-7331 (September 17, 1996) (61 FR 49957). A technical amendment to General Instruction I of Form 10-K also is being adopted to correct an inaccurate reference to former General Instruction J of that Form.

The Commission also is adopting technical amendments to Forms S-4 and F-4 to clarify that an issuer may use these Forms to increase the size of a previously registered offering. As with other forms, the issuer files an abbreviated registration statement to register additional securities in an amount and at a price that together represent no more than a 20% increase in the maximum

- ◆ Form SR, the use of proceeds report for initial public offerings, is eliminated, and the information currently required by Form SR is required in Exchange Act periodic reports;
- ◆ Form 8-A, the short-form registration statement used by reporting companies to register a class of securities under the Exchange Act, is amended to permit automatic effectiveness for *all* such forms filed and to eliminate certain exhibit requirements;
- ◆ Form 8-B, which pertains to the registration of the securities of successor issuers, is eliminated;
- ◆ American Depositary Receipts ("ADRs") listed on a national securities exchange and registered on Form F-6⁴⁷ under the Securities Act are exempted from the registration requirements of Section 12(b)⁴⁸ of the Exchange Act, although the underlying class of securities is not;
- ◆ Rule 401(c) under the Securities Act is amended to permit an issuer to switch to a shorter Securities Act form at the time any amendment is filed if the issuer has become eligible to use the shorter form;
- ◆ The special filing requirements for radio and television broadcast prospectuses are being eliminated, so that such prospectuses will be filed according to the same requirements applicable to all other prospectuses; and
- ◆ Post-effective amendments to Securities Act registration statements filed solely to add exhibits will become effective automatically upon filing.

II. Forms

A. Form SR

The Commission is eliminating Form SR, the form used by issuers to report their use of proceeds following an initial public offering. Instead, this information will be included in the issuer's Exchange Act periodic reports. The Commission believes that this will make the use of proceeds information more accessible to investors, as these reports are more commonly monitored by the public than Form SR. This information will continue to be required only of first-time registrants.

Currently, Securities Act Rule 463 requires issuers to report on Form SR

aggregate offering price set forth in the earlier effective registration statement. These amendments were adopted to other Securities Act registration forms in May 1995 (Release No. 33-7168 (May 11, 1995) [60 FR 26604]) and should have been adopted with respect to Forms S-4 and F-4.

⁴⁷ 17 CFR 239.36.

⁴⁸ 15 U.S.C. 78l(b).

their use of proceeds following an initial public offering within ten days of the first three months following the effective date of the registration statement, and every six months thereafter, until the later of the termination of the offering or the application of all the offering proceeds.⁴⁹ This Rule is amended to require a first-time registrant to report the use of proceeds in its first periodic Exchange Act report (quarterly report or annual report, whichever is filed first) after effectiveness, and thereafter in each of its periodic Exchange Act reports until the registrant has disclosed the use of all of the proceeds or disclosed the termination of the offering, whichever is later.⁵⁰ Although reporting issuers will now be required to report use of proceeds information on a more frequent basis, the elimination of Form SR and the consolidation of disclosure requirements into the periodic reporting forms should ease reporting burdens on issuers by reducing the number of forms they will be required to file.⁵¹

In addition, the Commission is adopting amendments to Form 20-F, the Exchange Act annual report form applicable to foreign private issuers,⁵² to require disclosure of the use of proceeds information previously contained in Form SR. Foreign private issuers, unlike domestic issuers, are not required to file quarterly reports under the Exchange Act, but are required to submit to the Commission periodic reports prepared in accordance with home jurisdiction requirements. As a result, foreign private issuers will be reporting the use of proceeds information on an annual, rather than quarterly, basis.

Although the disclosure requirements of Form SR are otherwise incorporated into the periodic reports without change, the Commission is adjusting the

⁴⁹ Issuers filed 1,753 Forms SR in fiscal year 1995 and 1,654 Forms SR in fiscal year 1996.

⁵⁰ The Commission also is adopting amendments to Item 701 of Regulation S-K and Item 701 of Regulation S-B that require all of the information currently required by Form SR, and amendments to certain periodic reporting forms under the Exchange Act (Forms 10-Q, 10-QSB, 10-K, and 10-KSB) to cross-reference these disclosure items.

⁵¹ The Commission had proposed incorporating all of the requirements of Form SR into each form of Exchange Act periodic report. In the Proposing Release, however, the Commission solicited comment on whether to streamline the periodic report forms by amending Regulations S-B and S-K to include Item 701(f), which incorporates the Form SR requirements, and amending each Exchange Act periodic report to cross-reference this Item. The latter approach has been implemented for all of the relevant Exchange Act periodic reporting forms except Form 20-F, which does not contain cross-references to Regulation S-K.

⁵² "Foreign private issuer" is defined in Exchange Act Rule 3b-4(c) (17 CFR 240.3b-4(c)).

reporting threshold that triggers disclosure of use of proceeds information to account for inflation. The previous reporting thresholds used in Form SR, the lesser of five percent of the issuer's total offering proceeds or \$50,000, were established in 1971. The Commission is raising the reporting threshold under Item 701 to the lesser of five percent of the issuer's total offering proceeds or \$100,000.⁵³

B. Form 8-A

The Commission is adopting amendments to permit automatic effectiveness of all registration statements made on Form 8-A, the short form registration statement used by a currently reporting company to register a class of securities under Section 12 of the Exchange Act.⁵⁴ The amendments should reduce burdens on filers, and eliminate the current disparate treatment of debt and equity securities registered on that Form. The Commission also is adopting certain technical amendments to streamline the Form and further minimize burdens on filers. Form 8-A requires only a description of the registrant's securities pursuant to Item 202 of Regulation S-K⁵⁵ and the filing of certain exhibits.⁵⁶

Consistent with current staff practice, an issuer registering an initial public offering will be permitted to use Form 8-A even though it will not be subject to reporting until after the effectiveness of that Securities Act registration statement.

Currently, a Form 8-A that is filed to register debt securities is effective automatically. The Commission has determined that there is no reason to differentiate in this respect between debt and equity securities. Staff review of these filings is redundant, given that the Form largely incorporates by

reference information contained in other Commission filings that are subject to staff review. Because the quality of the disclosure available to the public will not be compromised, the Commission is adopting amendments today to make all registration statements filed on Form 8-A effective automatically.⁵⁷

In addition, after soliciting comments from the national securities exchanges and considering the responses received, the Commission has determined that the copy of Form 8-A filed with each relevant national securities exchange need no longer contain certain exhibits because issuers must provide the same information as part of the listing application to the national securities exchanges. As a result, the Commission is eliminating the requirement to file these exhibits with the exchanges.⁵⁸

The amendments adopted today will render the Form 8-A merely a notice of Section 12 registration that becomes effective automatically. The Commission has determined that the Form better serves its purpose as a notice if the Commission is notified separately of each national securities exchange on which a class of securities is registered. As a result, if an issuer is registering a class of securities on two or more national securities exchanges, it should file a separate Form 8-A for each exchange listing.

As noted above, the Commission has deferred action on its proposal to permit concurrent Securities Act and Exchange Act registration without the filing of Form 8-A. The Commission will continue to review Exchange Act registration and the circumstances in which Form 8-A is filed in the context of its ongoing efforts to streamline the registration process.

⁵⁷ See amendments to Rule 12d1-2. Acceleration requests will no longer be required for Forms 8-A, and no effectiveness orders will be issued with respect to such Forms. A Form 8-A filed to register a class of securities under Section 12(b) will become effective upon the later of the filing of the Form 8-A, the Commission's receipt of certification from the national securities exchange, or (if the class of securities is concurrently being registered under the Securities Act) the effectiveness of the related Securities Act registration statement. With respect to a class of securities registered under Section 12(g) of the Exchange Act, the Form 8-A will become effective upon filing, or if the class of securities is concurrently being registered under the Securities Act, the effectiveness of the related Securities Act registration statement, whichever is later. Filers will check the cover page of the Form indicating whether registration is sought under Section 12(b) or 12(g), and also will use the appropriate EDGAR form type.

⁵⁸ These exhibits include, for example, copies of the last annual report filed pursuant to Sections 13 or 15(d) of the Exchange Act, copies of the latest definitive proxy statement filed with the Commission, and copies of the issuer's charter and by-laws. Accordingly, the exhibits are already publicly available.

C. Form 8-B

The Commission has determined that Exchange Act Form 8-B, the registration statement for certain successor issuers, is of limited usefulness. Most successor issuers do not need to file a new registration statement, since they come within the purview of Rule 12g-3. Under this Rule, successor issuers automatically inherit the Exchange Act reporting obligations of their predecessors, and file a Form 8-K to note the succession. As amended today, Rule 12g-3 will address *all* situations in which an issuer succeeds to an Exchange Act registered issuer, so that successor issuers will no longer need to file Form 8-B.

Adopted in 1936, Form 8-B is used by an issuer to register its securities when the issuer has no securities registered under Section 12 of the Exchange Act, but has succeeded to an issuer that has securities registered under Section 12 at the time of the succession.⁵⁹ In order to simplify the registration requirements for successor issuers and eliminate interpretive questions about this little-used Form, the Commission is rescinding Form 8-B today.⁶⁰

The Commission is adopting amendments to Rule 12g-3 to include any transactions or securities that were previously covered by Form 8-B, but not by Rule 12g-3. Pursuant to Rule 12g-3, the equity securities of a non-reporting issuer that succeeds an issuer with equity securities registered under Section 12 are automatically deemed to be registered under Section 12 if the succession occurred by means of merger, consolidation, exchange of securities or acquisition of assets. Rule 12g-3 is now being amended to include other transactions, such as the succession of a non-reporting issuer to more than one reporting issuer, either through consolidation into a new entity or a holding company formation. Currently, in this type of succession, both existing issuers must deregister their securities under the Exchange Act, and the successor must file a Form 8-B. As a result of the amendments adopted today, the securities of the successor issuer will be deemed

⁵⁹ 15 U.S.C. 78l. "Succession" is defined in Exchange Act Rule 12b-2 (17 CFR 240.12b-2). In the fiscal years 1995 and 1996, the Commission received only 57 and 58 Form 8-B filings, respectively.

⁶⁰ The Commission also is adopting certain technical amendments to account for the elimination of Form 8-B. Conforming language changes are adopted with respect to Rule 13a-1 of the Exchange Act, and Rule 13a-2 of the Exchange Act is eliminated. The Commission is adopting amendments to Rule 12g-3 to incorporate the substance of these Rules.

⁵³ This amendment raises the threshold from that suggested in the Proposing Release, which simply retained the threshold found in Form SR. The Commission solicited comment on raising the threshold.

⁵⁴ 15 U.S.C. 78l. In 1994, the Commission amended its rules to permit a Form 8-A filed with respect to a class of debt securities to be listed on a national securities exchange to become effective simultaneously with the effectiveness of the Securities Act registration statement pertaining to such debt securities. See Release No. 34-34922 (Nov. 1, 1994) [59 FR 55342]. The amendments to Rule 12d1-2 adopted today clarify the automatic effectiveness procedure applicable to debt securities.

⁵⁵ 17 CFR 229.202. The Commission has amended Form 8-A to require a description of the registrant's securities pursuant to Item 202 of Regulation S-B (17 CFR 228.202) for small business issuers that use Form 8-A.

⁵⁶ Form 8-A registration statements may incorporate by reference information that is contained in other filings made with the Commission.

automatically registered under Section 12 of the Exchange Act.

If the classes of securities issued by each of the predecessor issuers are registered under the same paragraph of Section 12,⁶¹ the class of securities issued by the successor issuer will be deemed registered under the same paragraph of Section 12. If the classes of securities issued by the predecessor issuers each are registered under different paragraphs of Section 12, then the class of securities issued by the successor issuer will be deemed registered under Section 12(g). Consistent with prior practice, the successor issuer will file a Form 8-K with respect to the succession transaction and subsequently comply with all of the applicable provisions of the Exchange Act.⁶²

In the situation where the classes of securities issued by the predecessor issuers each are registered under different paragraphs of Section 12, the Commission initially had proposed that the successor issuer would be able to elect the Section 12 paragraph under which it would be deemed registered. However, upon further consideration, the Commission has determined that deeming successor issuers to be registered under Section 12(g) would be preferable in case an issuer is late in filing its Form 8-K and designating the paragraph of Section 12 under which its securities should be deemed registered. If the successor decides to list its securities on a national securities exchange, it will register its securities under Section 12(b) by filing a Form 8-A, which has been streamlined into a simplified notice that will be automatically effective as a result of the amendments adopted today.

In addition to these changes, the Commission is amending Rule 12g-3 to clarify that it applies to issuers with securities registered under Section 12(b) of the Exchange Act,⁶³ as well as to those with securities registered under

Section 12(g).⁶⁴ Rule 12g-3 also is being amended to apply to any class of securities, whether exchange-listed, required to be registered under Section 12(g) of the Exchange Act, or voluntarily registered under Section 12(g) of the Exchange Act.⁶⁵

Consistent with some of the amendments being adopted with respect to Rule 12g-3, the Commission is adopting amendments to Exchange Act Rule 15d-5, which pertains to the automatic assumption of reporting obligations by a non-reporting issuer that succeeds to an issuer that has reporting obligations under Section 15(d) of the Exchange Act.⁶⁶ In connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, Rule 15d-5 automatically transfers the Section 15(d) reporting obligations of a predecessor issuer to equity securities issued by a non-reporting successor issuer in connection with the succession. As amended, Rule 15d-5 covers *all* securities issued by a non-reporting issuer, not just equity securities.

III. Registration Requirements

A. Registration Requirements for American Depositary Receipts

The Commission is eliminating the registration requirement under Section 12(b) of the Exchange Act for ADRs⁶⁷ registered on Form F-6⁶⁸ under the

⁶⁴ 15 U.S.C. 78j(g). The securities of a successor to an issuer whose securities are registered under Section 12(g) also will be deemed registered under Section 12(g). A successor issuer who wishes to list its securities on a national securities exchange will file a Form 8-A to register the securities under Section 12(b).

The Commission also is adopting technical amendments to Rule 12g-3 to accommodate the elimination of Form 8-B. Rule 12g-3 is being amended to incorporate the annual report requirements of Rule 13a-2 and the relevant portions of Rule 13a-1, both of which contain references to Form 8-B.

⁶⁵ Section 12(g) of the Exchange Act only requires the registration of equity securities. It is conceivable that Rule 12g-3 as amended could impose reporting obligations on a limited class of issuers not currently subjected by Rule 12g-3 to reporting following a succession because the predecessor issuer had a class of securities registered under Section 12 voluntarily. However, the amendment should not impose any undue burdens as a result of this situation because such an issuer will be able to terminate the registration under Section 12 immediately following the succession.

⁶⁶ 15 U.S.C. 78o(d).

⁶⁷ An American depositary share ("ADS") is the security that represents an ownership interest in deposited securities, and an ADR is the physical certificate that evidences ADSs. Because market participants do not appear to distinguish between ADRs and ADSs, the term "ADR" is used in this Release to refer to either the physical certificate or the security evidenced by such certificate.

⁶⁸ When an ADR facility is created by a Depositary, the Depositary files a Form F-6 to register the ADRs that will be issued from the

Securities Act. This will eliminate the current disparate treatment of ADRs that are listed on a national securities exchange, which must be registered under Section 12(b) of the Exchange Act, compared to ADRs that are traded on the Nasdaq stock market, which need not be registered under Section 12(g) of the Exchange Act.⁶⁹ The Commission is adopting Rule 12a-8⁷⁰ under the Exchange Act to exempt ADRs registered on Form F-6 from the registration requirements of Section 12(b). The Section 12(b) registration requirements, however, will continue to apply to the class of securities underlying the ADRs.

Exempting ADRs from Section 12(b) registration is consistent with the Commission's view of ADRs as separate securities that provide a mechanism for investing in the underlying securities,⁷¹ and will result in the equal treatment of listed and unlisted ADRs. Moreover, eliminating the Section 12(b) registration requirement for ADRs will eliminate unintentional technical violations of the Exchange Act by issuers that register the underlying shares, but neglect to register the ADRs under Section 12(b) by listing the ADRs on the cover page of the Exchange Act registration statement.

As a matter of common practice in Section 12(g) registration statements, issuers provide disclosure with respect to the ADRs even though the ADRs themselves are not being registered. Although it is likely that issuers would follow the same practice regardless of the elimination of Section 12(b) registration for ADRs, the Commission has, upon further consideration, decided to adopt technical amendments to Form 20-F and Form 10 to ensure that issuers continue to provide disclosure

facility. The transaction of offer and sale covered by the registration statement on Form F-6 is the deposit of securities into the facility. The securities so deposited must be separately registered or must be exempt from registration under the Securities Act.

⁶⁹ A foreign issuer whose ADRs trade on Nasdaq must register the common stock underlying the ADRs under Section 12(g) of the Exchange Act.

⁷⁰ Rule 12a-8 refers to the registration requirements of Section 12(a) of the Exchange Act, which is technically correct, rather than Section 12(b), which contains the listing application requirements for securities registered on a national securities exchange. However, registration under Section 12(a) is commonly referred to as Section 12(b) registration.

⁷¹ This view of ADRs as a means of investing in the underlying securities is consistent with the way that ADRs are treated for reporting purposes by institutional investment managers under Section 13(f) of the Exchange Act (15 U.S.C. 78m(f)). The shares of a foreign issuer that are held through ADRs, as well as the shares of such issuer held directly, are reported pursuant to Section 13(f) and Rule 13f-1 (17 CFR 240.13f-1).

⁶¹ A class of securities listed on a national securities exchange must be registered under Section 12(b) (15 U.S.C. 78j(b)). An issuer with total assets of \$10 million or more and a class of equity securities held by at least 500 shareholders of record must register such class of securities pursuant to Section 12(g) [15 U.S.C. 78j(g)]. See also Rule 12g-1 (17 CFR 240.12g-1).

⁶² Items 1 and 2 of Form 8-K [17 CFR 249.308].

⁶³ Under Rule 12g-3 as amended, the securities of a successor to an issuer whose securities are registered under Section 12(b) also will be deemed registered under Section 12(b) and listed on the same national securities exchange. However, the exchange may deregister the securities by filing a Form 25 (17 CFR 249.25) if that is not the case. By operation of Rule 12g-2 (17 CFR 240.12g-2), the securities of the successor issuer will automatically be deemed registered under Section 12(g) of the Exchange Act.

about ADRs in their Exchange Act registration statements.⁷² Because the actual disclosure provided to investors will not be affected by the elimination of Section 12(b) registration, the elimination of such registration requirements should not compromise investor protection.⁷³

B. Securities Act Form Eligibility

The Commission is adopting amendments to Rule 401(c) under the Securities Act to permit an issuer to switch to a shorter Securities Act form at the time of filing any amendment if it has become eligible to use the shorter form since filing its initial registration statement. These amendments should ease filing burdens on issuers without affecting the quality of the disclosure available to investors.

Currently, the form and content of a registration statement and prospectus are determined on the initial filing date. An issuer is not permitted to reevaluate its status until it files a post-effective amendment pursuant to Section 10(a)(3)⁷⁴ of the Securities Act. As amended, Rule 401(c) will permit issuers to determine the appropriate form upon filing any amendment, including pre-effective and post-effective amendments. To ensure that the amendment does not impose new burdens on issuers, the Rule provides that if an issuer files an amendment other than for the purposes of Section 10(a)(3), an issuer is not required to use a form that is different from the one used for its last Section 10(a)(3) amendment, or if none has been filed, its initial registration statement.

C. Rule 424(d)—Radio and Television Broadcast Prospectuses

Today, the Commission is adopting amendments to Rule 424(d) to eliminate the special filing requirements for radio and television broadcast prospectuses.⁷⁵ The Commission has determined that the previous requirement that such

prospectuses be filed at least five days before they were broadcast or otherwise issued to the public was not necessary for investor protection. This is especially true in light of the increasing use of electronic media in securities offerings.⁷⁶ As amended, Rule 424(d) still requires that radio and television broadcast prospectuses be reduced to writing, but such prospectuses will be filed with the Commission according to the requirements applicable to other types of prospectuses. As a result of the amendments adopted today, radio and television broadcast prospectuses must be filed according to the timing specified in rule 424 (between two to five days after use depending on the subject matter of the prospectus).⁷⁷

D. Exhibits

The Commission is adopting Rule 462(d) to permit automatic effectiveness of a post-effective amendment filed solely to add an exhibit, where the exhibit will not affect the disclosure in the prospectus. Adoption of this Rule will eliminate an unnecessary difference in the treatment of issuers that file on Forms S-3/F-3 and all other issuers. Currently, issuers that file on Forms S-3/F-3 can file updated exhibits post-effectively on Form 8-K, which are then automatically incorporated by reference into their prospectuses. However, registrants not filing on Form S-3/F-3 can only file updated exhibits by filing post-effective amendments, which are subject to possible staff review. Even if such amendments are not selected for review, registrants face possible delay between the time the amendments are filed and when they are declared effective. The Commission has determined that automatic effectiveness of certain exhibits is appropriate because staff review before effectiveness is unnecessary, given the generally routine nature of these filings. Rule 462(d) also would be available to foreign governmental issuers that register debt securities on Schedule B using shelf registration procedures.⁷⁸

An issuer will check a box on the cover page of its post-effective amendment to indicate that automatic

effectiveness is requested.⁷⁹ Exhibits that may be filed through this procedure include consents of experts and counsel, and other exhibits that generally would not require revisions to the disclosure in the prospectus.

The Rule adopted today is not intended to affect an issuer's disclosure obligations. Rule 462(d) cannot be used to file exhibits that would trigger the filing of a post-effective amendment to update the prospectus. The Rule also does not permit automatic effectiveness for post-effective amendments that include an exhibit that otherwise should have been filed pre-effectively. In either case, the issuer may not check the box for automatic effectiveness.

IV. Certain Findings

Section 23(a) of the Exchange Act⁸⁰ requires the Commission to consider the anti-competitive effects of any rules it adopts thereunder, if any, and the reasons for its determination that any burden on competition imposed by such rules is necessary or appropriate to further the purposes of the Exchange Act. Furthermore, Section 2 of the Securities Act⁸¹ and Section 3 of the Exchange Act,⁸² as amended by the recently enacted National Securities Markets Improvement Act of 1996,⁸³ provide that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. The Commission has considered the amendments discussed in this release in light of the comments received in response to the Proposing Release and the standards in Section 23(a) of the Exchange Act. Because the amendments do not effect any substantive change in the information that would be disclosed by issuers, they do not have any anti-competitive effects. Furthermore, the amendments eliminate unnecessary disclosure requirements and streamline the disclosure process,

⁷⁹ Forms SB-1, SB-2, S-1/F-1, S-2/F-2, S-4/F-4, and S-11 have been amended to include a new check box on the cover page that will permit automatic effectiveness for certain exhibits that have been filed post-effectively. In addition to checking the box, filers should use a new EDGAR form type: POS EX instead of POS AM. Schedule B filers should simply place a checked box on the facing page of the amendment to indicate that automatic effectiveness is requested.

⁸⁰ 15 U.S.C. 78w(a).

⁸¹ 15 U.S.C. 77b.

⁸² 15 U.S.C. 78c.

⁸³ Pub. L. No. 104-290, § 106, 110 Stat. 3416 (1996).

⁷² Item 14(c) of Form 20-F and Item 11 of Form 10.

⁷³ The Commission also is adopting a technical amendment to Rule 15d-3 of the Exchange Act. Although ADRs are no longer subject to registration under the Exchange Act, a reporting obligation may arise with respect to such securities under Section 15(d). Rule 15d-3 previously suspended such reporting obligation if the depositor complied with former Item 4(a) of Form F-6. Because former Item 4(a) no longer exists, see Release No. 33-7300, the Commission is adopting amendments to Rule 15d-3 to clarify that reporting obligations are suspended for all ADRs registered on Form F-6.

⁷⁴ 15 U.S.C. 77j(a)(3).

⁷⁵ Under Section 10(f) of the Securities Act [15 U.S.C. 77j(f)], the Commission is granted the authority to require radio and television broadcast prospectuses to be filed along with other forms of prospectuses used in connection with the sale of the registered securities.

⁷⁶ The amendments adopted today are consistent with the positions set forth in Securities Act Release No. 33-7233 (October 6, 1995) (60 FR 53458) concerning the use of electronic media for delivery purposes.

⁷⁷ Comparable amendments also are being adopted to Rule 497(f), which pertains to the radio and television broadcast prospectuses of investment companies.

⁷⁸ Release Nos. 33-6240 (September 10, 1980) [45 FR 61609] and 33-6424 (September 2, 1982) (47 FR 39809).

thereby promoting efficiency, competition and capital formation.

V. Cost-Benefit Analysis

The amendments adopted in this release represent the second phase of the Commission's consideration of the recommendations of the Task Force on Disclosure Simplification. The Task Force undertook to review Commission rules and forms with the goal of simplifying and modernizing disclosure and filing requirements to reduce the costs of capital raising, without compromising investor protection. The Commission sought and considered input from interested parties on how to simplify the registration and reporting process, and the rule and form changes in this release were developed from those comments.

Most of the commenters indicated that the proposed form and rule changes would streamline and simplify the disclosure process. Because the purpose of the form and rule changes adopted is to eliminate unnecessary requirements, such changes will reduce the overall costs and burdens associated with filing requirements generally.

Form SR. The elimination of Form SR and the amendments to require use of proceeds disclosure instead in Exchange Act periodic reports will reduce the number of filings made by issuers, and therefore should ease reporting burdens. The changes may, however, increase reporting frequency for issuers. Currently, issuers file use of proceeds disclosure on Form SR semi-annually, and in 1996 1,654 Form SRs were filed. As noted in the Proposing Release, it is estimated that approximately 1,470 quarterly reports on Form 10-Q and 490 annual reports on Form 10-K that include the use of proceeds information would be filed each year. It is estimated that 795 quarterly reports on Form 10-QSB and 265 annual reports on Form 10-KSB that include the use of proceeds disclosure would be filed by small business issuers each year. Because issuers are otherwise required to prepare Exchange Act reports and would no longer have to prepare a separate form, any burden resulting from the transfer of the use of proceeds disclosure into the Exchange Act reports is expected to be minimal.

Further, to offset the potential increase in reporting frequency, the amendments increase the threshold that triggers the use of proceeds disclosure (from the lesser of 5% of the total offering proceeds or \$50,000 to the lesser of 5% or \$100,000). This change should reduce somewhat the burden on reporting issuers by limiting the

circumstances in which disclosure is required.

In addition, it is expected that the information on use of proceeds will be received in a more timely fashion (every three months instead of every six months after the first report), and will be more accessible to investors. This information regarding the progress of the offering is useful to investors and Exchange Act reports are more commonly monitored by investors. These benefits should outweigh any increase in reporting burdens from the increased frequency of disclosures.

Form 8-B. Form 8-B is being eliminated because of its limited usefulness. Most issuer successions are now covered by Rule 12g-3 and that Rule is being expanded to cover all situations that formerly triggered the filing of Form 8-B. In 1996, 58 Form 8-B filings were made. The rule changes will eliminate a registration burden on successor issuers, without reducing investor protection, and eliminate interpretive questions about this infrequently used Form.

ADRs. The Exchange Act registration requirement for ADRs listed on a national securities exchange is being rescinded to eliminate a disparity in the registration requirements applicable to listed and non-listed ADRs. As a result, issuers will no longer be required to list the ADRs that are to be traded on a national securities exchange on the cover page of the Exchange Act registration statement. This will eliminate unintentional technical violations by issuers who register the underlying class of securities, but do not include the ADRs on the cover page.

Short Form Registration Statements. Rule 401(c) under the Securities Act is being amended to permit issuers to file an amendment on a shorter Securities Act form than was used in its initial registration statement whenever the issuer is eligible to use a shorter form. This should reduce filing burdens and printing costs by enabling issuers to use a shorter form when filing amendments.

Form 8-A. The amendments to make Form 8-A filings covering equity securities automatically effective should reduce the uncertainty to issuers of possible pre-effective staff review and resultant delays. Since the Form largely incorporates by reference information in other filings already subject to staff review, issuers will benefit from the reduction in uncertainty and redundant disclosure requirements, without harm to investors. The amendments also eliminate the requirement to file with the national exchanges certain exhibits on Form 8-A that already are publicly available. This change will reduce costs

associated with duplicative filing requirements.

VI. Summary of Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis ("FRFA") has been prepared in accordance with 5 U.S.C. § 604 that relates to the rescinding of Form SR under the Securities Act, Form 8-B and Rule 13a-2 under the Exchange Act; the addition of Rule 12a-8 under the Exchange Act; and the other amendments to disclosure requirements under the Securities Act and Exchange Act.

As discussed more fully in the FRFA, the Commission's rescinding of form and rule requirements and its adoption of other amendments to simplify and streamline disclosure requirements will affect small entities, as defined by the Commission's rules, but only in the same manner as other entities. The Commission is aware of approximately 1100 Exchange Act reporting companies that currently have assets of \$5 million or less. There is no reliable way of determining how many small businesses may become subject to Commission reporting obligations in the future, or may otherwise be affected by the rule proposals.

The FRFA notes that alternatives for providing different means of compliance for small entities or for exempting small entities from the amendments would be inconsistent with the Commission's statutory mandate of investor protection. The amendments are intended to simplify disclosure obligations for all issuers, irrespective of size, such that further distinctions between companies based on size would not be appropriate.

The Commission received no comments on the Initial Regulatory Flexibility Analysis ("IRFA") prepared in connection with the Proposing Release, and no comment letters specifically addressed to the IRFA.

A complete copy of the FRFA is available in Public File No. S7-15-96.

VII. Paperwork Reduction Act

As set forth in the Proposing Release, Forms 20-F, 10-Q, 10-QSB, 10-K, 10-KSB and 8-A contain collections of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA").⁸⁴ The collection of information requirements contained in these forms were submitted to OMB for review and were approved by OMB. These information collections display an OMB control number and expiration date. An agency may not conduct or sponsor, and

⁸⁴ 44 U.S.C. 3501 *et seq.*

a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number.

The Commission is deferring consideration of its proposal to permit concurrent registration of a public offering under the Securities Act and a class of securities under the Exchange Act by filing a single form. As a result, the changes to the Form 8-A information collection will be adopted that differ from the proposed changes to that information collection. The total annual burdens associated with Form 8-A will not decrease as much as anticipated under the Proposing Release.

The descriptions and estimated burdens for the other collection of information requirements have not changed, and are set forth in the Proposing Release.

VIII. Statutory Basis for the Amendments

The foregoing amendments are adopted pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act, Sections 3, 12, 13, 15, 23, 35A and 36 of the Exchange Act, and Sections 8, 24, 38 and 54 of the Investment Company Act of 1940.

List of Subjects

17 CFR Parts 228, 229, 230, 232, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

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

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

The authority citation for part 228 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78l, 78m, 78n, 78o, 78u-5, 78w, 78ll, 80a-8, 80a-29, 80a-30, 80a-37, 80b-11, unless otherwise noted.

2. By amending § 228.701 by revising the heading and adding paragraph (f) to read as follows:

§ 228.701 (Item 701) Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities.

* * * * *

(f) As required by § 230.463 of this chapter, following the effective date of the first registration statement filed

under the Securities Act by an issuer, the issuer or successor issuer shall report the use of proceeds on its first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act (15 U.S.C. 78m(a) and 78o(d)) after effectiveness of its Securities Act registration statement, and thereafter on each of its subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act through the later of disclosure of the application of all the offering proceeds, or disclosure of the termination of the offering. If a report of the use of proceeds is required with respect to the first effective registration statement of the predecessor issuer, the successor issuer shall provide such a report. The information provided pursuant to paragraphs (f)(2) through (f)(4) of this Item need only be provided with respect to the first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act after effectiveness of the registration statement filed under the Securities Act. Subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act need only provide the information required in paragraphs (f)(2) through (f)(4) of this Item if any of such required information has changed since the last periodic report filed. In disclosing the use of proceeds in the first periodic report filed pursuant to the Exchange Act, the issuer or successor issuer should include the following information:

(1) The effective date of the Securities Act registration statement for which the use of proceeds information is being disclosed and the Commission file number assigned to the registration statement;

(2) If the offering has commenced, the offering date, and if the offering has not commenced, an explanation why it has not;

(3) If the offering terminated before any securities were sold, an explanation for such termination; and

(4) If the offering did not terminate before any securities were sold, disclose:

(i) Whether the offering has terminated and, if so, whether it terminated before the sale of all securities registered;

(ii) The name(s) of the managing underwriter(s), if any;

(iii) The title of each class of securities registered and, where a class of convertible securities is being registered, the title of any class of securities into which such securities may be converted;

(iv) For each class of securities (other than a class of securities into which a class of convertible securities registered

may be converted without additional payment to the issuer) the following information, provided for both the account of the issuer and the account(s) of any selling security holder(s): the amount registered, the aggregate price of the offering amount registered, the amount sold and the aggregate offering price of the amount sold to date;

(v) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of expenses incurred for the issuer's account in connection with the issuance and distribution of the securities registered for underwriting discounts and commissions, finders' fees, expenses paid to or for underwriters, other expenses and total expenses. Indicate if a reasonable estimate for the amount of expenses incurred is provided instead of the actual amount of expenses. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others;

(vi) The net offering proceeds to the issuer after deducting the total expenses described in paragraph (f)(4)(v) of this Item;

(vii) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of net offering proceeds to the issuer used for construction of plant, building and facilities; purchase and installation of machinery and equipment; purchases of real estate; acquisition of other business(es); repayment of indebtedness; working capital; temporary investments (which should be specified); and any other purposes for which at least five (5) percent of the issuer's total offering proceeds or \$100,000 (whichever is less) has been used (which should be specified). Indicate if a reasonable estimate for the amount of net offering proceeds applied is provided instead of the actual amount of net offering proceeds used. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others; and

(viii) If the use of proceeds in paragraph (f)(4)(vii) of this Item represents a material change in the use

of proceeds described in the prospectus, the issuer should describe briefly the material change.

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

3. 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, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u-5, 78w, 78ll(d), 79e, 79n, 79t, 80a-8, 80a-29, 80a-30, 80a-37, 80b-11, unless otherwise noted.

* * * * *

4. By amending § 229.701 by revising the heading and adding paragraph (f) before the Instructions to read as follows:

§ 229.701 (Item 701) Recent sales of unregistered securities; use of proceeds from registered securities.

* * * * *

(f) *Use of Proceeds.* As required by § 230.463 of this chapter, following the effective date of the first registration statement filed under the Securities Act by an issuer, the issuer or successor issuer shall report the use of proceeds on its first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act (15 U.S.C. 78m(a) and 78o(d)) after effectiveness of its Securities Act registration statement, and thereafter on each of its subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act through the later of disclosure of the application of all the offering proceeds, or disclosure of the termination of the offering. If a report of the use of proceeds is required with respect to the first effective registration statement of the predecessor issuer, the successor issuer shall provide such a report. The information provided pursuant to paragraphs (f)(2) through (f)(4) of this Item need only be provided with respect to the first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act after effectiveness of the registration statement filed under the Securities Act. Subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act need only provide the information required in paragraphs (f)(2) through (f)(4) of this Item if any of such required information has changed since the last periodic report filed. In disclosing the use of proceeds in the first periodic report filed pursuant to the Exchange Act, the

issuer or successor issuer should include the following information:

(1) The effective date of the Securities Act registration statement for which the use of proceeds information is being disclosed and the Commission file number assigned to the registration statement;

(2) If the offering has commenced, the offering date, and if the offering has not commenced, an explanation why it has not;

(3) If the offering terminated before any securities were sold, an explanation for such termination; and

(4) If the offering did not terminate before any securities were sold, disclose:

(i) Whether the offering has terminated and, if so, whether it terminated before the sale of all securities registered;

(ii) The name(s) of the managing underwriter(s), if any;

(iii) The title of each class of securities registered and, where a class of convertible securities is being registered, the title of any class of securities into which such securities may be converted;

(iv) For each class of securities (other than a class of securities into which a class of convertible securities registered may be converted without additional payment to the issuer) the following information, provided for both the account of the issuer and the account(s) of any selling security holder(s): the amount registered, the aggregate price of the offering amount registered, the amount sold and the aggregate offering price of the amount sold to date;

(v) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of expenses incurred for the issuer's account in connection with the issuance and distribution of the securities registered for underwriting discounts and commissions, finders' fees, expenses paid to or for underwriters, other expenses and total expenses. Indicate if a reasonable estimate for the amount of expenses incurred is provided instead of the actual amount of expense. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others;

(vi) The net offering proceeds to the issuer after deducting the total expenses described in paragraph (f)(4)(v) of this Item;

(vii) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of net offering proceeds to the issuer used for construction of plant, building and facilities; purchase and installation of machinery and equipment; purchases of real estate; acquisition of other business(es); repayment of indebtedness; working capital; temporary investments (which should be specified); and any other purposes for which at least five (5) percent of the issuer's total offering proceeds or \$100,000 (whichever is less) has been used (which should be specified). Indicate if a reasonable estimate for the amount of net offering proceeds applied is provided instead of the actual amount of net offering proceeds used. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others; and

(viii) If the use of proceeds in paragraph (f)(4)(vii) of this Item represents a material change in the use of proceeds described in the prospectus, the issuer should describe briefly the material change.

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

The authority citation for part 230 continues to read in part as follows:

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

* * * * *

2. By amending § 230.401 by revising paragraph (c) to read as follows:

§ 230.401 Requirements as to proper form.

* * * * *

(c) An amendment to a registration statement and prospectus, other than an amendment described in paragraph (b) of this section, may be filed on any shorter Securities Act registration form for which it is eligible on the filing date of the amendment. At the issuer's option, the amendment also may be filed on the same Securities Act registration form used for the most recent amendment described in paragraph (b) of this section or, if no such amendment has been filed, the initial registration statement and prospectus.

* * * * *

3. By amending § 230.404 in paragraph (a) by removing the phrase "cross reference sheet;"

4. By amending § 230.424 in paragraph (d) by removing the phrase "at least five days before it is broadcast or otherwise issued to the public" in the second sentence and in its place adding "in accordance with the requirements of this section".

5. By amending § 230.462 by adding paragraph (d) to read as follows:

§ 230.462 Immediate effectiveness of certain registration statements and post-effective amendments.

* * * * *

(d) A post-effective amendment filed solely to add exhibits to a registration statement shall become effective upon filing with the Commission.

6. By amending § 230.463 by revising paragraphs (a) and (b) to read as follows:

§ 230.463 Report of offering of securities and use of proceeds therefrom.

(a) Except as provided in this section, following the effective date of the first registration statement filed under the Act by an issuer, the issuer or successor issuer shall report the use of proceeds pursuant to Item 701 of Regulation S-B or S-K or Item 16(e) of Form 20-F, as applicable, on its first periodic report filed pursuant to Sections 13(a) and 15(d) (15 U.S.C. 78m(a) and 78o(d)) of the Securities Exchange Act of 1934 after effectiveness, and thereafter on each of its subsequent periodic reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934 through the later of disclosure of the application of all the offering proceeds or disclosure of the termination of the offering.

(b) A successor issuer shall comply with paragraph (a) of this section only if a report of the use of proceeds is required with respect to the first effective registration statement of the predecessor issuer.

* * * * *

7. By amending § 230.497 in paragraph (f) by removing the phrase "at least 5 days before it is broadcast or otherwise issued to the public" in the second sentence and in its place adding "in accordance with the requirements of this section".

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

8. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a-8, 80a-29, 80a-30 and 80a-37.

9. By amending § 232.101 by removing paragraph (c)(5) and redesignating paragraphs (c)(6) through (c)(18) as paragraphs (c)(5) through (c)(17).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

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, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a-8, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

* * * * *

11. By amending Form SB-1 (referenced in § 239.9) by revising the facing page to read as follows:

(Note: The text of Form SB-1 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

Form SB-1

U.S. Securities and Exchange Commission
Washington, D.C. 20549

Form SB-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Amendment No. _____)

(Name of small business issuer in its charter)

(State or jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address and telephone number of principal executive offices)

(Address of principal place of business or intended principal place of business)

(Name, address, and telephone number of agent for service)

Approximate date of commencement of proposed sale to the public _____

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

* * * * *

12. By amending Form SB-2 (referenced in § 239.10) by revising the facing page to read as follows:

(Note: The text of Form SB-2 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

Form SB-2

U.S. Securities and Exchange Commission
Washington, D.C. 20549

Form SB-2

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Amendment No. _____)

(Name of small business issuer in its charter)

(State or jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address and telephone number of principal executive offices)

(Address of principal place of business or intended principal place of business)

(Name, address, and telephone number of agent for service)

Approximate date of commencement of proposed sale to the public _____

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

13. By amending Form S-1 (referenced in § 239.11) by revising the facing page to read as follows:

(Note: The text of Form S-1 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM S-1

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

By amending Form S-2 (referenced in § 239.12) by revising the facing page to read as follows:

(Note: The text of Form S-2 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM S-2

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-2

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. []

If the registrant elects to deliver its latest annual report to security holders, or a complete and legal facsimile thereof, pursuant to Item 11(a)(1) of this Form, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the

earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

By amending Form S-3 (referenced in § 239.13) in General Instruction II.B.

by removing the phrase "and cross-reference sheet are" in the third sentence and in its place adding "is". By amending Form S-11 (referenced in § 239.18) by revising the facing page to read as follows:

(Note: The text of Form S-11 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM S-11

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-11

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in governing instruments)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

17. By amending Form S-4 (referenced in § 239.25) by revising the

facing page and by adding General Instruction K to read as follows:

(Note: The text of Form S-4 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM S-4
SECURITIES AND EXCHANGE
COMMISSION

Washington, D.C. 20549

FORM S-4
REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public _____.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

* * * * *
GENERAL INSTRUCTIONS

* * * * *
K. Registration of Additional Securities

With respect to the registration of additional securities for an offering pursuant to Rule 462(b) under the Securities Act, the registrant may file a registration statement consisting only of the following: the facing page; a statement that the contents of the earlier

registration statement, identified by file number, are incorporated by reference; required opinions and consents; the signature page; and any price-related information omitted from the earlier registration statement in reliance on Rule 430A that the registrant chooses to include in the new registration statement. The information contained in such a Rule 462(b) registration statement shall be deemed to be a part of the earlier registration statement as of the date of effectiveness of the Rule 462(b) registration statement. Any opinion or consent required in the Rule 462(b) registration statement may be incorporated by reference from the earlier registration statement with respect to the offering, if: (i) such opinion or consent expressly provides for such incorporation; and (ii) such opinion relates to the securities registered pursuant to Rule 462(b). See Rule 411(c) and Rule 439(b) under the Securities Act.

* * * * *
18. By amending Form F-1 (referenced in § 239.31) by revising the facing page to read as follows:

(Note: The text of Form F-1 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM F-1
SECURITIES AND EXCHANGE
COMMISSION

Washington, D.C. 20549

Form F-1
REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

(Exact Name of Registrant as specified in its charter)

(Translation of Registrant's name into English)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public _____.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the

Securities Act, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

* * * * *
19. By amending Form F-2 (referenced in § 239.32) by revising the facing page to read as follows:

(Note: The text of Form F-2 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM F-2
SECURITIES AND EXCHANGE
COMMISSION

Washington, D.C. 20549

Form F-2
REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

(Exact Name of Registrant as specified in its charter)

(Translation of Registrant's name into English)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification Number)

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public _____.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, check the following box. []

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. []

* * * * *

20. By amending Form F-4 (referenced in § 239.34) by revising the facing page and by adding General Instruction H to read as follows:

(Note: The text of Form F-4 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM F-4
SECURITIES AND EXCHANGE
COMMISSION

Washington, D.C. 20549

Form F-4
REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

(Exact Name of Registrant as specified in its charter)

(Translation of Registrant's name into English)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification Number)

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale of the securities to the public

Q _____

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. []

* * * * *

GENERAL INSTRUCTIONS

* * * * *

H. Registration of Additional Securities

With respect to the registration of additional securities for an offering pursuant to Rule 462(b) under the Securities Act, the registrant may file a registration statement consisting only of the following: The facing page; a statement that the contents of the earlier registration statement, identified by file number, are incorporated by reference; required opinions and consents; the signature page; and any price-related information omitted from the earlier registration statement in reliance on Rule 430A that the registrant chooses to include in the new registration statement. The information contained in such a Rule 462(b) registration statement shall be deemed to be a part of the earlier registration statement as of the date of effectiveness of the Rule 462(b) registration statement. Any opinion or consent required in the Rule 462(b) registration statement may be incorporated by reference from the earlier registration statement with respect to the offering, if: (i) Such opinion or consent expressly provides for such incorporation; and (ii) such opinion relates to the securities registered pursuant to Rule 462(b). See Rule 411(c) and Rule 439(b) under the Securities Act.

* * * * *

21. By removing and reserving § 239.61 and by removing Form SR.

22. By amending Form D (referenced in § 239.500), Part E, Question 1, by revising the words "17 CFR 230.252 (c), (d), (e) or (f)" to read "17 CFR 230.262".

(Note: The text of Form D does not, and the amendments will not, appear in the Code of Federal Regulations.)

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, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

24. By adding § 240.12a-8 to read as follows:

§ 240.12a-8 Exemption of depositary shares.

Depository shares (as that term is defined in § 240.12b-2) registered on Form F-6 (§ 239.36 of this chapter), but not the underlying deposited securities, shall be exempt from the operation of section 12(a) of the Act (15 U.S.C. 78l(a)).

25. By revising the undesignated subject heading preceding § 240.12d1-1 to read as follows:

Certification by Exchanges and Effectiveness of Registration

26. By amending § 240.12d1-2 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 240.12d1-2 Effectiveness of registration.

* * * * *

(b) A registration statement on Form 8-A (17 CFR 249.208a) for the registration of a class of securities under Section 12(b) of the Act (15 U.S.C. 78l(b)) shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act of 1933 ("Securities Act"), upon the later of receipt by the Commission of certification from the national securities exchange or the filing of the Form 8-A with the Commission; or

(2) If a class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission, receipt by the Commission of certification from the national securities exchange listed on the Form 8-A or effectiveness of the Securities Act registration statement relating to the class of securities.

(c) A registration statement on Form 8-A (17 CFR 249.208a) for the

registration of a class of securities under Section 12(g) of the Act (15 U.S.C. 78l(g)) shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act, upon the filing of the Form 8-A with the Commission; or

(2) If class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission or the effectiveness of the Securities Act registration statement relating to the class of securities.

27. By revising § 240.12g-3 to read as follows:

§ 240.12g-3 Registration of securities of successor issuers under section 12(b) or 12(g).

(a) Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of an issuer that are not already registered pursuant to section 12 of the Act (15 U.S.C. 78l) are issued to the holders of any class of securities of another issuer that is registered pursuant to either section 12 (b) or (g) of the Act (15 U.S.C. 78l (b) or (g)), the class of securities so issued shall be deemed to be registered under the same paragraph of section 12 of the Act unless upon consummation of the succession:

(1) Such class is exempt from such registration other than by § 240.12g3-2;

(2) All securities of such class are held of record by less than 300 persons; or

(3) The securities issued in connection with the succession were registered on Form F-8 or Form F-80 (§ 239.38 or § 239.41 of this chapter) and following succession the successor would not be required to register such class of securities under section 12 of the Act (15 U.S.C. 78l) but for this section.

(b) Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of an issuer that are not already registered pursuant to section 12 of the Act (15 U.S.C. 78l) are issued to the holders of any class of securities of another issuer that is required to file a registration statement pursuant to either section 12(b) or (g) of the Act (15 U.S.C. 78l(b) or (g)) but has not yet done so, the duty to file such statement shall be deemed to have been assumed by the issuer of the class of securities so issued. The successor issuer shall file a registration statement pursuant to the same paragraph of section 12 of the Act with respect to such class within the period of time the predecessor issuer would

have been required to file such a statement unless upon consummation of the succession:

(1) Such class is exempt from such registration other than by § 240.12g3-2;

(2) All securities of such class are held of record by less than 300 persons; or

(3) The securities issued in connection with the succession were registered on Form F-8 or Form F-80 (§ 239.38 or § 239.41 of this chapter) and following the succession the successor would not be required to register such class of securities under section 12 of the Act (15 U.S.C. 78l) but for this section.

(c) Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of an issuer that are not already registered pursuant to section 12 of the Act (15 U.S.C. 78l) are issued to the holders of classes of securities of two or more other issuers that are each registered pursuant to section 12 of the Act, the class of securities so issued shall be deemed to be registered under section 12 of the Act unless upon consummation of the succession:

(1) Such class is exempt from such registration other than by § 240.12g3-2;

(2) All securities of such class are held of record by less than 300 persons; or

(3) The securities issued in connection with the succession were registered on Form F-8 or Form F-80 (§ 239.38 or § 239.41 of this chapter) and following succession the successor would not be required to register such class of securities under section 12 of the Act (15 U.S.C. 78l) but for this section.

(d) If the classes of securities issued by two or more predecessor issuers (as described in paragraph (c) of this section) are registered under the same paragraph of section 12 of the Act (15 U.S.C. 78l), the class of securities issued by the successor issuer shall be deemed registered under the same paragraph of section 12 of the Act. If the classes of securities issued by the predecessor issuers are not registered under the same paragraph of section 12 of the Act, the class of securities issued by the successor issuer shall be deemed registered under section 12(g) of the Act (15 U.S.C. 78l(g)).

(e) An issuer that is deemed to have a class of securities registered pursuant to section 12 of the Act (15 U.S.C. 78l) according to paragraph (a), (b), (c) or (d) of this section shall file reports on the same forms and such class of securities shall be subject to the provisions of sections 14 and 16 of the Act (15 U.S.C.

78n and 78p) to the same extent as the predecessor issuers, except as follows:

(1) An issuer that is not a foreign issuer shall not be eligible to file on Form 20-F (§ 249.220f of this chapter) or to use the exemption in § 240.3a12-3.

(2) A foreign private issuer shall be eligible to file on Form 20-F (§ 249.220f of this chapter) and to use the exemption in § 240.3a12-3.

(f) An issuer that is deemed to have a class of securities registered pursuant to section 12 of the Act (15 U.S.C. 78l) according to paragraphs (a), (b), (c) or (d) of this section shall indicate in the Form 8-K (§ 249.308 of this chapter) report filed with the Commission in connection with the succession, pursuant to the requirements of Form 8-K, the paragraph of section 12 of the Act under which the class of securities issued by the successor issuer is deemed registered by operation of paragraphs (a), (b), (c) or (d) of this section. If a successor issuer that is deemed registered under section 12(g) of the Act (15 U.S.C. 78l(g)) by paragraph (d) of this section intends to list a class of securities on a national securities exchange, it must file a registration statement pursuant to section 12(b) of the Act (15 U.S.C. 78l(b)) with respect to that class of securities.

(g) An issuer that is deemed to have a class of securities registered pursuant to section 12 of the Act (15 U.S.C. 78l) according to paragraph (a), (b), (c) or (d) of this section shall file an annual report for each fiscal year beginning on or after the date as of which the succession occurred. Annual reports shall be filed within the period specified in the appropriate form. Each such issuer shall file an annual report for each of its predecessors that had securities registered pursuant to section 12 of the Act (15 U.S.C. 78l) covering the last full fiscal year of the predecessor before the registrant's succession, unless such report has been filed by the predecessor. Such annual report shall contain information that would be required if filed by the predecessor.

28. By revising § 240.13a-1 to read as follows:

§ 240.13a-1 Requirements of annual reports.

Every issuer having securities registered pursuant to section 12 of the Act (15 U.S.C. 78l) shall file an annual report on the appropriate form authorized or prescribed therefor for each fiscal year after the last full fiscal year for which financial statements were filed in its registration statement. Annual reports shall be filed within the

period specified in the appropriate form.

29. By removing and reserving § 240.13a-2.

30. By revising § 240.15d-3 to read as follows:

§ 240.15d-3 Reports for depositary shares registered on Form F-6.

Annual and other reports are not required with respect to Depositary Shares registered on Form F-6 (§ 230.36 of this chapter). The exemption in this section does not apply to any deposited securities registered on any other form under the Securities Act of 1933.

31. By revising paragraph (a) of § 240.15d-5 to read as follows:

§ 240.15d-5 Reporting by successor issuers.

(a) Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of any issuer that is not required to file reports pursuant to section 15(d) (15 U.S.C. 78o(d)) of the Act are issued to the holders of any class of securities of another issuer that is required to file such reports, the duty to file reports pursuant to such section shall be deemed to have been assumed by the issuer of the class of securities so issued. The successor issuer shall, after the consummation of the succession, file reports in accordance with section 15(d) of the Act (15 U.S.C. 78o(d)) and the rules and regulations thereunder, unless that issuer is exempt from filing such reports or the duty to file such reports is suspended under section 15(d) of the Act (15 U.S.C. 78o(d)).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

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

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

* * * * *

33. By amending § 249.208a by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 249.208a Form 8-A, for registration of certain classes of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

(c) If this form is used for the registration of a class of securities under Section 12(b) of the Act (15 U.S.C. 78l(b)), it shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act"), upon the later of

receipt by the Commission of certification from the national securities exchange listed on the form or the filing of the Form 8-A with the Commission; or

(2) If a class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission, receipt by the Commission of certification from the national securities exchange listed on the form, or the effectiveness of the Securities Act registration statement relating to the class of securities.

(d) If this form is used for the registration of a class of securities under Section 12(g) of the Act (15 U.S.C. 78l(g)), it shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act, upon the filing of the Form 8-A with the Commission; or

(2) If a class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission or the effectiveness of the Securities Act registration statement relating to the class of securities.

34. By amending Form 8-A (referenced in § 249.208a) by revising paragraph (c) and adding paragraph (d) to General Instruction A, by revising the checkboxes on the cover page, by adding a sentence and blank line for the Securities Act registration statement file number after the checkboxes on the cover page, by revising "Item 1" under "Information Required In Registration Statement", by removing "I." before the first Instruction and by removing Instruction II of the Instructions as to Exhibits to read as follows:

(Note: The text of Form 8-A does not, and the amendments will not, appear in the Code of Federal Regulations.)

FORM 8-A
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-A
FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

GENERAL INSTRUCTIONS

A. Rule as to Use of Form 8-A

* * * * *

(c) If this form is used for the registration of a class of securities under Section 12(b), it shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act"), upon the later

of receipt by the Commission of certification from the national securities exchange listed on this form or the filing of the Form 8-A with the Commission; or

(2) If a class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission, receipt by the Commission of certification from the national securities exchange listed on this form or effectiveness of the Securities Act registration statement relating to the class of securities.

(d) If this form is used for the registration of a class of securities under Section 12(g), it shall become effective:

(1) If a class of securities is not concurrently being registered under the Securities Act, upon the filing of the Form 8-A with the Commission; or

(2) If class of securities is concurrently being registered under the Securities Act, upon the later of the filing of the Form 8-A with the Commission or the effectiveness of the Securities Act registration statement relating to the class of securities.

* * * * *

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-A
FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box. []

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box. []

Securities Act registration statement file number to which this form relates:

(if applicable)
* * * * *

INFORMATION REQUIRED IN REGISTRATION STATEMENT

Item 1. Description of Registrant's Securities to be Registered

Furnish the information required by Item 202 of Regulation S-K (§ 229.202 of this chapter) or Item 202 of Regulation S-B (§ 228.202 of this chapter), as applicable.

* * * * *

35. By removing and reserving § 249.208b and by removing Form 8-B.

36. By amending Form 10 (referenced in § 249.210) by revising Item 11 to read as follows:

(Note: The text of Form 10 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM 10

* * * * *

Item 11. Description of Registrant's Securities to be Registered

Furnish the information required by Item 202 of Regulation S-K (§ 229.202 of this chapter). If the class of securities to be registered will trade in the form of American Depositary Receipts, furnish Item 202(f) disclosure for such American Depositary Receipts as well.

37. By amending Form 20-F (referenced in § 249.220f) by removing from the facing page the words "(Fee Required)" and "(No Fee Required)", by revising the introductory text of paragraph (c) to Item 14 of Part II preceding the Instructions, by revising the caption to Item 16 and by adding paragraph (e) to Item 16 of Part III to read as follows:

(Note: The text of Form 20-F does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

Form 20-F

* * * * *

PART II

Item 14. Description of Securities to be Registered

* * * * *

(c) American Depositary Receipts

If the class of securities to be registered on Form 20-F is to be traded in the form of American Depositary Receipts, furnish the following information:

* * * * *

PART III

* * * * *

Item 16. Changes in Securities, Changes in Security for Registered Securities and Use of Proceeds

* * * * *

(e) Use of proceeds.

If required pursuant to Rule 463 (17 CFR 230.463) under the Securities Act, following the effective date of the first registration statement filed under the Securities Act by an issuer, the issuer or successor issuer shall report the use of proceeds on its first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act after effectiveness of its Securities Act registration statement,

and thereafter on each of its subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act through the later of disclosure of the application of all the offering proceeds, or disclosure of the termination of the offering. If a report of the use of proceeds is required with respect to the first effective registration statement of the predecessor issuer, the successor issuer shall provide such a report. The information provided pursuant to paragraphs (e)(2) through (e)(4) of this Item need only be provided with respect to the first periodic report filed pursuant to sections 13(a) and 15(d) of the Exchange Act after effectiveness of the registration statement filed under the Securities Act. Subsequent periodic reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act need only provide the information required in paragraphs (e)(2) through (e)(4) of this Item if any of such required information has changed since the last periodic report filed. In disclosing the use of proceeds in the first periodic report filed pursuant to the Exchange Act, the issuer or successor issuer should include the following information:

(1) The effective date of the Securities Act registration statement for which the use of proceeds information is being disclosed, the Commission file number assigned to the registration statement;

(2) If the offering has commenced, the offering date, and if the offering has not commenced, an explanation why it has not;

(3) If the offering terminated before any securities were sold, an explanation for such termination; and

(4) If the offering did not terminate before any securities were sold, disclose:

(i) Whether the offering has terminated and, if so, whether it terminated before the sale of all securities registered;

(ii) The name(s) of the managing underwriter(s), if any;

(iii) The title of each class of securities registered and, where a class of convertible securities is being registered, the title of any class of securities into which such securities may be converted;

(iv) For each class of securities (other than a class of securities into which a class of convertible securities registered may be converted without additional payment to the issuer) the following information, provided for both the account of the issuer and the account(s) of any selling security holder(s): the amount registered, the aggregate price of the offering amount registered, the amount sold and the aggregate offering price of the amount sold to date;

(v) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of expenses incurred for the issuer's account in connection with the issuance and distribution of the securities registered for underwriting discounts and commissions, finders' fees, expenses paid to or for underwriters, other expenses and total expenses. Indicate if a reasonable estimate for the amount of expenses incurred is provided instead of the actual amount of expense. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others;

(vi) The net offering proceeds to the issuer after deducting the total expenses described in paragraph (e)(4)(v) of this Item;

(vii) From the effective date of the Securities Act registration statement to the ending date of the reporting period, the amount of net offering proceeds to the issuer used for construction of plant, building and facilities; purchase and installation of machinery and equipment; purchases of real estate; acquisition of other business(es); repayment of indebtedness; working capital; temporary investments (which should be specified); and any other purposes for which at least five (5) percent of the issuer's total offering proceeds or \$100,000 (whichever is less) has been used (which should be specified). Indicate if a reasonable estimate for the amount of net offering proceeds applied instead of the actual amount of net offering proceeds used. Indicate whether such payments were:

(A) Direct or indirect payments to directors, officers, general partners of the issuer or their associates; to persons owning ten (10) percent or more of any class of equity securities of the issuer; and to affiliates of the issuer; or

(B) Direct or indirect payments to others; and

(viii) If the use of proceeds in paragraph (e)(4)(vii) of this Item represents a material change in the use of proceeds described in the prospectus, the issuer should describe briefly the material change.

* * * * *

38. By amending Form 10-Q (referenced in § 249.308a) by revising the caption to Item 2 of Part II, and by adding paragraph (d) to Item 2 of Part II preceding the Instruction to read as follows:

(Note: The text of Form 10-Q does not, and the amendments thereto will not appear in the Code of Federal Regulations.)

UNITED STATES

SECURITIES AND EXCHANGE
COMMISSION

Washington, D.C. 20549

FORM 10-Q

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PART II—OTHER INFORMATION

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Item 2. Changes in Securities and Use of Proceeds

* * * * *

(d) If required pursuant to Rule 463 (17 CFR 230.463) of the Securities Act of 1933, furnish the information required by Item 701(f) of Regulation S-K (§ 229.701(f) of this chapter).

* * * * *

39. By amending Form 10-QSB (referenced in § 249.308b) by revising the caption to Item 2 of Part II, and by adding paragraph (d) to Item 2 of Part II preceding the Instruction to read as follows:

(Note: The text of Form 10-QSB does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM 10-QSB

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PART II—OTHER INFORMATION

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Item 2. Changes in Securities and Use of Proceeds

* * * * *

(d) If required pursuant to Rule 463 (17 CFR 230.463) of the Securities Act of 1933, furnish the information required by Item 701(f) of Regulation S-B (§ 228.701(f) of this chapter).

* * * * *

40. By amending Form 10-K (referenced in § 249.310) by removing from General Instruction I.(c) the phrase "General Instruction (I)(1)(a)" and adding in its place "General Instruction (I)(1)(a)", by removing from the facing page the words "(Fee Required)" and "(No Fee Required)", and in Item 5 of Part II by designating the current text as paragraph (a) and by adding paragraph (b) to read as follows:

(Note: The text of Form 10-K does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM 10-K

* * * * *

PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters

* * * * *

(b) If required pursuant to Rule 463 (17 CFR 230.463) of the Securities Act of 1933, furnish the information required by Item 701(f) of Regulation S-K (§ 229.701(f) of this chapter).

* * * * *

By amending Form 10-KSB (referenced in § 249.310b) by removing from the facing page the words "(Fee Required)" and "(No Fee Required)", and in Item 5 of Part II by designating the current text as paragraph (a) and by adding paragraph (b) to read as follows:

(Note: The text of Form 10-KSB does not, and the amendments thereto will not, appear in the Code of Federal Regulations.)

FORM 10-KSB

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PART II

Item 5. Market for Common Equity and Related Stockholder Matters

* * * * *

(b) If required pursuant to Rule 463 (17 CFR 230.463) of the Securities Act of 1933, furnish the information required by Item 701(f) of Regulation S-B (§ 228.701(f) of this chapter).

* * * * *

By the Commission.

Dated: July 18, 1997.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-19444 Filed 7-23-97; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 93F-0428]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of α -(dinonylphenyl)- ω -hydroxy-poly(oxy-1,2-ethanediyl), containing 7 to 24 moles of ethylene oxide per mole of dinonylphenol, as a component of defoaming agents used in styrene-butadiene coatings for paper and paperboard intended to contact

food. This action is in response to a food additive petition filed by PPG Industries, Inc.

DATES: Effective July 24, 1997; written objections and requests for a hearing by August 25, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3095.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of January 5, 1994 (59 FR 590), FDA announced that a food additive petition (FAP 3B4363) had been filed by PPG Industries, Inc., One PPG Pl., Pittsburgh, PA 15272 (formerly 440 College Park Dr., Monroeville, PA 15146). The petition proposed to amend the food additive regulations in § 176.200 *Defoaming agents used in coatings* (21 CFR 176.200) and § 176.210 *Defoaming agents used in the manufacture of paper and paperboard* (21 CFR 176.210) to provide for the use of α -(dinonylphenyl)- ω -hydroxy-poly(oxy-1,2-ethanediyl), containing 7 to 24 moles of ethylene oxide per mole of dinonylphenol, as a defoaming agent used in the production of paper and paperboard and coatings for paper and paperboard intended to contact food. The petitioner has subsequently withdrawn the request for approval of the use of the additive in the production of paper and paperboard and has requested that approval of the additive be limited to use in styrene-butadiene polymer coatings for paper and paperboard intended to contact food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of unreacted ethylene oxide and minute amounts of 1,4-dioxane as impurities resulting from its manufacture. These chemicals have been shown to cause cancer in test animals. Residual amounts of impurities are commonly found as constituents of chemical products, including food additives.