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Statement of the Commission Regarding Disclosure by Issuers of Interests in Publicly Offered Commodity Pools.	6815	Feb. 1, 1989	54 FR 5600.
Management's Discussion and Analysis of Financial Condition and Results of Operations; Certain Investment Company Disclosures.	6835	May 18, 1989	54 FR 22427.
Limited Partnership Reorganizations and Public Offerings of Limited Partnership Interests.	6900	June 17, 1991	56 FR 28986.
Acceptability in Financial Statements of an Accounting Standard Permitting the Return of a Nonaccrual Loan to Accrual Status After a Partial Charge-off.	6906	July 29, 1991	56 FR 37000.
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SOURCE: 58 FR 14670, Mar. 18, 1993, unless otherwise noted.

## GENERAL

**§ 232.10 Application of part 232.**

(a) This part, in conjunction with the EDGAR Filer Manual and the electronic filing provisions of applicable rules, regulations and forms, shall govern the electronic submission of documents filed or otherwise submitted to the Commission and shall be controlling for an electronic format document in the manner and respects provided in this part.

(b) Each registrant, third party, or agent must file in paper format a Form ID (§§ 239.63, 249.446, 259.602, 269.7 and 274.402 of this chapter), the uniform application for access codes to file on EDGAR, before beginning to file electronically.

NOTE: The Commission strongly urges any person or entity about to become subject to the disclosure and filing requirements of the federal securities laws to submit a Form ID well in advance of the first required filing, including a registration statement relating to an initial public offering, in order to facilitate electronic filing on a timely basis.

[58 FR 14670, Mar. 18, 1993, as amended at 62 FR 36456, July 8, 1997; 64 FR 27894, May 21, 1999]

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

Unless otherwise specifically provided, the terms used in Regulation S-T (part 232 of this chapter) have the same meanings as in the federal securities laws and the rules, regulations and forms promulgated thereunder. In addition, the following definitions of terms apply specifically to electronic format documents and shall apply wherever they appear in laws, rules, regulations and forms governing such documents, unless the context otherwise specifies:

*Animated graphics.* The term *animated graphics* means text or images that do not remain static but that may move when viewed in a browser.

*ASCII document.* The term *ASCII document* means an electronic text document with contents limited to American Standard Code for Information Interchange (ASCII) characters and that is tagged with Standard Generalized Mark Up Language (SGML) tags in the format required for ASCII/SGML documents by the EDGAR Filer Manual.

*Business development company.* The term *business development company* has the meaning set forth in section 2(a)(48) of the Investment Company Act.

*Direct transmission.* The term *direct transmission* means the transmission of one or more electronic submissions via a telephonic communication session.

*Disruptive code.* The term *disruptive code* means any active content or other executable code, or any program or set of electronic computer instructions inserted into a computer, operating system, or program that replicates itself or that actually or potentially modifies or in any way alters, damages, destroys or disrupts the file content or the operation of any computer, computer file, computer database, computer system, computer network or software, and as otherwise set forth in the EDGAR Filer Manual.

*EDGAR.* The term *EDGAR* (Electronic Data Gathering, Analysis, and Retrieval) means the computer system for the receipt, acceptance, review and dissemination of documents submitted in electronic format.

*EDGAR Filer Manual.* The term *EDGAR Filer Manual* means the current version of the manual prepared by the Commission setting out the technical format requirements for an electronic submission.

NOTE: See Rule 301 of Regulation S-T (§232.301).

*Electronic document.* The term *electronic document* means the portion of an electronic submission separately tagged as an individual document in the format required by the EDGAR Filer Manual.

*Electronic filer.* The term *electronic filer* means a person or an entity that submits filings electronically pursuant to Rules 100 and 101 of Regulation S-T (§§ 232.100 and 232.101, respectively).

*Electronic filing.* The term *electronic filing* means one or more electronic documents filed under the federal securities laws that are transmitted or delivered to the Commission in electronic format.

*Electronic format.* The term *electronic format* means the computerized format of a document prepared in accordance with the EDGAR Filer Manual.

*Electronic submission.* The term *electronic submission* means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format.

*Exchange Act.* The term *Exchange Act* means the Securities Exchange Act of 1934.

*Executable code.* The term *executable code* means instructions to a computer to carry out operations that use features beyond the viewer's, reader's, or Internet browser's native ability to interpret and display HTML, PDF, and static graphic files. Such code may be in binary (machine language) or in script form. Executable code includes disruptive code.

*Header information.* The term *header information* means information designated by the EDGAR Filer Manual to precede the text of each electronic submission and document submitted therewith via EDGAR that identifies characteristics of the submission and documents in order to facilitate electronic processing by the EDGAR system.

*HTML document.* The term *HTML document* means an electronic text document tagged with HyperText Markup Language tags in the format required by the EDGAR Filer Manual.

*Hypertext links or hyperlinks.* The term *hypertext links* or *hyperlinks* means the representation of an Internet address in a form that an Internet browser application can recognize as an Internet address.

*Investment Company Act.* The term *Investment Company Act* means the Investment Company Act of 1940.

*Modular submission.* The term *modular submission* means an electronic submission that contains one or more documents, or portions of a document, submitted for storage in the non-public EDGAR data storage area for purposes of subsequent inclusion in one or more electronic filings pursuant to Rule 501(a) of Regulation S-T (§ 232.501(a)).

*Official filing.* The term *official filing* means any filing that is received and accepted by the Commission, regardless of filing medium and exclusive of header information, tags and any other

technical information required in an electronic filing.

*Original.* The term *original*, when used or implied in the securities laws, rules, regulations or forms, includes the writing itself or any counterpart intended to have the same effect by a person executing or issuing it. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an original.

*Paper format.* The term *paper format* means a paper document.

*Public Utility Act.* The term *Public Utility Act* means the Public Utility Holding Company Act of 1935.

*Registrant.* The term *registrant* means an issuer of securities for which a Securities Act registration statement is required to be filed and/or an issuer of securities with respect to which an Exchange Act registration statement or report is required to be filed and/or an investment company required to file an Investment Company Act registration statement or report.

*Securities Act.* The term *Securities Act* means the Securities Act of 1933.

*Segmented Filing.* The term *segmented filing* means an electronic format document assembled from segments previously submitted to the non-public EDGAR data storage for one-time inclusion in an electronic filing pursuant to Rule 501(b) of Regulation S-T (§ 232.501(b)).

*Tag.* The term *tag* means an identifier that highlights specific information to EDGAR that is in the format required by the EDGAR Filer Manual.

*Third party filer.* The term *third party filer* means any person or entity that files documents with the Commission with respect to another entity.

*Trust Indenture Act.* The term *Trust Indenture Act* means the Trust Indenture Act of 1939.

*Unofficial PDF copy.* The term *unofficial PDF copy* means an optional copy of an electronic document that may be included in an EDGAR submission tagged as a Portable Document Format document in the format required by

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the EDGAR Filer Manual and submitted in accordance with Rule 104 of Regulation S-T (§ 232.104).

[58 FR 14670, Mar. 18, 1993, as amended at 62 FR 36456, July 8, 1997; 64 FR 27894, May 21, 1999; 65 FR 24800, Apr. 27, 2000]

### § 232.12 Business hours of the Commission.

(a) *General.* The principal office of the Commission, at 450 Fifth Street, NW., Washington, DC 20549, is open each day, except Saturdays, Sundays, and federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, *provided that* hours for the filing of documents pursuant to the Acts or the rules and regulations thereunder are as set forth in paragraphs (b) and (c) of this section.

(b) *Submissions made in paper or on magnetic cartridge.* Filers may submit paper documents filed with or otherwise furnished to the Commission, as well as electronic filings and submissions on magnetic cartridge under cover of Form ET (§§ 239.62, 249.445, 259.601, 269.6 and 274.401 of this chapter), to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect. Filers may file submissions on magnetic cartridge either at the address indicated in paragraph (a) of this section or at the Commission's Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

(c) *Submissions by direct transmission.* Electronic filings and other documents may be submitted by direct transmission, via dial-up modem or Internet, to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 10 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

[58 FR 14670, Mar. 18, 1993; 58 FR 21349, Apr. 21, 1993, as amended at 59 FR 67761, Dec. 30, 1994; 65 FR 24800, Apr. 27, 2000; 65 FR 24800, Apr. 27, 2000]

### § 232.13 Date of filing; adjustment of filing date.

(a) *General.* (1) Except as provided in paragraph (b) of this section, the busi-

ness day on which a filing is received by the Commission shall be the date of filing thereof, if:

(i) All requirements of the Acts and rules applicable to such filing have been complied with;

(ii) The filing conforms to the applicable technical standards regarding electronic format in the EDGAR Filer Manual; and

(iii) With respect to Securities Act filings, including filings under section 24(f) of the Investment Company Act (15 U.S.C. 80a-24(f)), the required fee payment has been confirmed, *provided that* the failure to pay an insignificant amount of the fee at the time of the filing, as a result of a *bona fide* error, shall not affect the date of filing.

(2) If the conditions of paragraph (a)(1) of this section are otherwise satisfied, all filings submitted by direct transmission commencing on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the same business day, and all filings submitted by direct transmission commencing after 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed as of the next business day.

(3) Notwithstanding paragraph (a)(2) of this section, any registration statement or any post-effective amendment thereto filed pursuant to Rule 462(b) (§ 230.462(b) of this chapter) by direct transmission commencing on or before 10 p.m. Eastern Standard Time or Eastern Daylight Savings Time, whichever is currently in effect, shall be deemed filed on the same business day.

NOTE: Electronic filings that have an automatic or immediate effective date must be deemed filed, as provided in paragraph (a) of this section, before any waiting period for automatic effectiveness commences or before the filing becomes immediately effective, whichever applies.

(b) *Adjustment of the filing date.* If an electronic filer in good faith attempts to file a document with the Commission in a timely manner but the filing is delayed due to technical difficulties beyond the electronic filer's control, the electronic filer may request an adjustment of the filing date of such document. The Commission, or the staff

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acting pursuant to delegated authority, may grant the request if it appears that such adjustment is appropriate and consistent with the public interest and the protection of investors.

(c) *Payment of fees.* Fees required with respect to a filing that is submitted electronically shall be paid in accordance with the procedures set forth in Instructions for Filing Fees—Rule 3a of the Commission's Informal and Other Procedures (§202.3a of this chapter).

NOTE: All filing fees paid by electronic filers must be submitted to the lockbox depository, as provided in Rule 3a, including those pertaining to documents filed in paper pursuant to a hardship exemption.

(d) Where the Commission's rules, schedules and forms provide that a document must be filed on the same day it is published, furnished, sent or given to security holders or others, an electronic filer may file the document with the Commission electronically before or on the date the document is published, furnished, sent or given, or if such publication or distribution does not occur during the official business hours of the Commission, as soon as practicable on the next business day. Any associated time periods shall be calculated on the basis of the publication or distribution date (as applicable), and not on the basis of the date of filing.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67761, Dec. 30, 1994; 60 FR 26618, May 17, 1995; 62 FR 47938, Sept. 12, 1997; 64 FR 61451, Nov. 10, 1999]

### **§232.14 Paper filings not accepted without exemption.**

The Commission will not accept in paper format any filing required to be submitted electronically under Rules 100 and 101 of Regulation S-T (§§ 232.100 and 232.101 respectively), unless the filing satisfies the requirements for a temporary or continuing hardship exemption under Rule 201 or 202 of Regulation S-T (§§ 232.201 or 232.202 respectively).

[62 FR 58649, Oct. 30, 1997]

## ELECTRONIC FILING REQUIREMENTS

### **§ 232.100 Persons and entities subject to mandated electronic filing.**

The following persons or entities shall be subject to the electronic filing requirements of this part 232:

(a) Registrants whose filings are subject to review by the Division of Corporation Finance, except for foreign private issuers and foreign governments;

(b) Registrants whose filings are subject to review by the Division of Investment Management; and

(c) Any party (including natural persons, foreign private issuers and foreign governments) that files a document jointly with, or as a third party filer with respect to, a registrant that is subject to mandated electronic filing requirements.

[62 FR 36456, July 8, 1997]

### **§ 232.101 Mandated electronic submissions and exceptions.**

(a) *Mandated electronic submissions.* (1) The following filings, including any related correspondence and supplemental information, except as otherwise provided, shall be submitted in electronic format:

(i) Registration statements and prospectuses filed pursuant to the Securities Act (15 U.S.C. 77a, *et seq.*) or registration statements filed pursuant to Sections 12(b) or 12(g) of the Exchange Act (15 U.S.C. 78l(b) or (g));

(ii) Statements and applications filed with the Commission pursuant to the Trust Indenture Act (15 U.S.C. 77aaa *et seq.*), other than applications for exemptive relief filed pursuant to section 304 (15 U.S.C. 77ddd) and section 310 (15 U.S.C. 77jjj) of that Act;

(iii) Statements, reports and schedules filed with the Commission pursuant to section 13, 14, or 15(d) of the Exchange Act (15 U.S.C. 78m, 78n, and 78o(d)), and proxy materials required to be furnished for the information of the Commission in connection with annual reports on Form 10-K (§249.310 of this chapter) or Form 10-KSB (§249.310b of this chapter) filed pursuant to section 15(d) of the Exchange Act;

NOTE TO PARAGRAPH (A)(1)(III). Electronic filers filing Schedules 13D and 13G with respect to foreign private issuers should include in the submission header all zeroes (*i.e.*, 00-0000000) for the IRS tax identification number because the EDGAR system requires an IRS number tag to be inserted for the subject company as a prerequisite to acceptance of the filing.

(iv) Documents filed with the Commission pursuant to sections 8, 17, 20, 23(c), 24(e), 24(f), and 30 of the Investment Company Act (15 U.S.C. 80a-8, 80a-17, 80a-20, 80a-23(c), 80a-24(e), 80a-24(f) and 80a-29); *provided, however*, that submissions under section 6(c) or 17(g) of that Act (15 U.S.C. 80a-6(c) or 80a-17(g)), or documents related to applications for exemptive relief under any section of that Act, shall not be made in electronic format; and

(v) Documents filed with the Commission pursuant to the Public Utility Act (15 U.S.C. 79a *et seq.*).

(2) The following amendments to filings, including any related correspondence and supplemental information except as otherwise provided, shall be submitted as follows:

(i) Any amendment to a filing by or relating to a registrant required to file electronically, including any amendment to a paper filing, shall be submitted in electronic format;

(ii) The first electronic amendment to a paper format Schedule 13D (§240.13d-101 of this chapter) or Schedule 13G (§240.13d-102 of this chapter), shall restate the entire text of the Schedule 13D or 13G, but previously filed paper exhibits to such Schedules are not required to be restated electronically. *See* Rule 102 (§232.102) regarding amendments to exhibits previously filed in paper format. Notwithstanding the foregoing, if the sole purpose of filing the first electronic Schedule 13D or 13G amendment is to report a change in beneficial ownership that would terminate the filer's obligation to report, the amendment need not include a restatement of the entire text of the Schedule being amended.

(3) Supplemental information shall be submitted in electronic format except as provided in paragraph (c)(2) of this section. The information shall be stored in the non-public EDGAR data storage area as correspondence. Supplemental information that is sub-

mitted in electronic format shall not be returned.

NOTE: Failure to submit a required electronic filing pursuant to this paragraph (a), as well as any required confirming electronic copy of a paper filing made in reliance on a hardship exemption, as provided in Rules 201 and 202 of Regulation S-T (§§232.201 and 232.202), will result in ineligibility to use Forms S-2, S-3, S-8, F-2 and F-3 (see §§239.12, 239.13, 239.16b, 239.32 and 239.33 of this chapter, respectively), restrict incorporation by reference of the document submitted in paper (see Rule 303 of Regulation S-T (§232.303)), or toll certain time periods associated with tender offers (see Rule 13e-4(f)(12) (§240.13e-4(f)(12) of this chapter) and Rule 14e-1(e) (§240.14e-1(e) of this chapter)).

(b) *Permitted electronic submissions.* The following documents may be submitted to the Commission in electronic format, at the option of the electronic filer:

(1) Annual reports to security holders furnished for the information of the Commission pursuant to Rule 14a-3(c) (§240.14a-3(c) of this chapter) or Rule 14c-3(b) (§240.14c-3(b) of this chapter), or pursuant to the requirements of Form 10-K or Form 10-KSB filed by registrants pursuant to Section 15(d) of the Exchange Act.

(2) Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a-6(g) (§240.14a-6(g) of this chapter) and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Rule 14a-6(n) (§240.14a-6(n) of this chapter);

(3) Form 11-K (§249.311 of this chapter). Registrants who satisfy their Form 11-K filing obligations by filing amendments to Forms 10-K or 10-KSB, as provided by Rule 15d-21 (§240.15d-21 of this chapter), also may choose to file such amendments in paper or electronic format;

(4) Forms 3, 4 and 5 (§§249.103, 249.104 and 249.105 of this chapter);

(5) Form 144 (§239.144 of this chapter), where the issuer of the securities is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d), respectively);

(6) Periodic reports and reports with respect to issuances of primary obligations filed by the International Bank

for Reconstruction and Development pursuant to Section 15(a) of the Bretton Woods Agreements Act [22 U.S.C. 286k-1(a)] and part 285 of Title 17 of the Code of Federal Regulations;

(c) *Documents to be submitted in paper only.* The following shall not be submitted in electronic format:

(1)(i) Confidential treatment requests and the information with respect to which confidential treatment is requested;

(ii) Preliminary proxy materials and information statements with respect to a matter specified in Item 14 of Schedule 14A (§240.14a-101 of this chapter) for which confidential treatment has been requested in the manner prescribed by Rule 14a-6(e)(2) (§240.14a-6(e)(2) of this chapter) or Rule 14c-5(d)(2) (§240.14c-5(d)(2) of this chapter);

(2) Supplemental information, if the submitter requests that the information be protected from public disclosure under the Freedom of Information Act (5 U.S.C. 552) pursuant to a request for confidential treatment under Rule 83 (§200.83 of this chapter) or if the submitter requests that the information be returned after staff review and the information is of the type typically returned by the staff pursuant to Rule 418(b) of Regulation C (§230.418(b) of this chapter) or Rule 12b-4 of Regulation 12B (§240.12b-4 of this chapter);

(3) Shareholder proposals and all related correspondence submitted pursuant to Rule 14a-8 of the Exchange Act (§240.14a-8 of this chapter);

(4) No-action and interpretive letter requests (§200.81 of this chapter and 15 U.S.C. 78l(h));

(5) Applications for exemptive relief filed pursuant to Sections 304 and 310 of the Trust Indenture Act.

(6) Filings relating to offerings exempt from registration under the Securities Act, including filings made pursuant to Regulation A (§§ 230.251-230.263 of this chapter), Regulation D (§§ 230.501-230.506 of this chapter) and Regulation E (§§ 230.601-230.610a of this chapter), as well as filings on Form 144 (§239.144 of this chapter) where the issuer of the securities is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d), respectively).

(7) Promotional and Sales Material submitted pursuant to Securities Act Industry Guide 5 (§229.801(e) of this chapter) or otherwise supplementally furnished for review by the staff of the Division of Corporation Finance; and sales literature submitted under Rule 24b-2 of the Investment Company Act (§270.24b-2 of this chapter);

(8) Documents and symbols in a foreign language (see Rule 306 of Regulation S-T (§232.306));

(9) Exchange Act filings submitted to the Division of Market Regulation;

(10) Documents relating to investigations and litigation submitted pursuant to the Subpart D of Part 201 of this chapter;

(11) Submissions under Sections 6(c), 17(g), and 33 of the Investment Company Act (15 U.S.C. 80a-6(c), 80a-17(g), and 80a-32) and documents related to applications for exemptive relief under any section of the Act;

(12) Annual Reports to Security Holders furnished by Public Utility Holding Companies under Exhibit A to Form U5S (§259.5s of this chapter) or under rule 29 (§250.29 of this chapter);

(13) Reports to State Commissions, if furnished by Public Utility Holding Companies under Exhibit E to Form U5S (§259.5s of this chapter);

(14) Maps furnished by Public Utility Holding Companies under Exhibits E to Forms U5B and U-1 (§§ 259.5b and 259.101 of this chapter).

(15) Form F-6 (§239.36 of this chapter);

(16) Annual reports filed with the Commission by indenture trustees pursuant to Section 313 of the Trust Indenture Act (15 U.S.C. 77mmm);

(17) Applications for an exemption from Exchange Act reporting obligations filed pursuant to Section 12(h) of the Exchange Act (15 U.S.C. 78l(h)); and

(d) *Paper Copies of Electronic Filings.* Electronic filers, including third party filers, shall submit to the Commission a paper copy of their first electronic filing, as follows:

(1) The paper copy shall be either a document that meets the requirements of the applicable Commission rules and regulations for paper filings or a paper printout of the electronic filing. If the copy being submitted is the paper printout of the electronic filing, the

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header information specified in the EDGAR Filer Manual shall be omitted or blanked out to ensure that confidential information contained in the header remains non-public.

(2) The paper copy shall be sent to the following address: OFIS Filer Support, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413. The paper copy shall be received by the Commission no later than six business days after the electronic filing. The following legend shall be typed, printed or stamped in capital letters at the top of the cover page of the paper copy:

THIS PAPER DOCUMENT IS BEING SUBMITTED PURSUANT TO RULE 101(d) OF REGULATION S-T.

(3) Signatures are not required for paper format documents submitted pursuant to this paragraph (d).

[58 FR 14670, Mar. 18, 1993; 58 FR 26383, May 3, 1993, as amended at 59 FR 67761, Dec. 30, 1994; 60 FR 32824, June 23, 1995; 60 FR 57684, Nov. 17, 1995; 61 FR 67202, Dec. 20, 1996; 62 FR 36456, July 8, 1997; 62 FR 39763, July 24, 1997; 64 FR 2849, Jan. 19, 1999; 64 FR 19471, Apr. 21, 1999; 64 FR 27894, May 21, 1999]

### § 232.102 Exhibits.

(a) Exhibits to an electronic filing that have not previously been filed with the Commission shall be filed in electronic format, absent a hardship exemption. Previously filed exhibits, whether in paper or electronic format, may be incorporated by reference into an electronic filing to the extent permitted by § 228.10(f) and § 229.10(d) of this chapter, Rule 411 under the Securities Act (§ 230.411 of this chapter), Rule 12b-23 or 12b-32 under the Exchange Act (§ 240.12b-23 or § 240.12b-32 of this chapter), Rule 22 under the Public Utility Holding Company Act (§ 250.22 of this chapter), Rules 0-4, 8b-23, and 8b-32 under the Investment Company Act (§ 270.0-4, § 270.8b-23 and § 270.8b-32 of this chapter) and Rule 303 of Regulation S-T (§ 232.303). An electronic filer may, at its option, restate in electronic format an exhibit incorporated by reference that originally was filed in paper format.

NOTE TO PARAGRAPH A: Exhibits to a Commission schedule filed pursuant to Section 13 or 14(d) of the Exchange Act may be filed in paper under cover of Form SE where such ex-

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hibits previously were filed in paper (prior to a registrant's becoming subject to mandated electronic filing or pursuant to a hardship exemption) and are required to be refiled pursuant to the schedule's general instructions. *See* Rule 311(b) of Regulation S-T (17 CFR 232.311(b)).

(b) Amendments to all exhibits shall be filed in electronic format, absent a hardship exemption.

(c) Notwithstanding any other provision of this section, an electronic filer shall, upon amendment, restate in electronic format its articles of incorporation, by-laws or investment advisory agreement (in the case of a registered investment company or a business development company).

(d) Each electronic filing requiring exhibits shall contain an exhibit index, which should immediately precede the exhibits filed with the document. The index shall list each exhibit filed. Whenever an exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the letter "P" shall be placed next to the listed exhibit in the exhibit index to reflect that the exhibit was filed in paper pursuant to such exemption. Whenever an electronic confirming copy of an exhibit is filed pursuant to a hardship exemption (§ 232.201 or § 232.202(d)), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation "CE" (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, any incorporation by reference by a registered investment company or a business development company must relate only to documents that have been filed in electronic format, unless the document has been filed in paper under a hardship exemption (§ 232.201 or § 232.202) and any required confirming copy has been submitted.

(f) Persons submitting filings electronically under the Public Utility Act shall not be subject to paragraph (c) of this section.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 60 FR 32824, June 23, 1995; 62 FR 36457, July 8, 1997; 64 FR 27894, May 21, 1999]

**§ 232.103 Liability for transmission errors or omissions in documents filed via EDGAR.**

An electronic filer shall not be subject to the liability and anti-fraud provisions of the federal securities laws with respect to an error or omission in an electronic filing resulting solely from electronic transmission errors beyond the control of the filer, where the filer corrects the error or omission by the filing of an amendment in electronic format as soon as reasonably practicable after the electronic filer becomes aware of the error or omission.

[65 FR 24800, Apr. 27, 2000]

**§ 232.104 Unofficial PDF copies included in an electronic submission.**

(a) An electronic submission may include one unofficial PDF copy of each electronic document contained within that submission, tagged in the format required by the EDGAR Filer Manual.

(b) Except as provided in paragraphs (c) and (f) of this section, each unofficial PDF copy must be substantively equivalent to its associated electronic document contained in the electronic submission. An unofficial PDF copy may contain graphic and image material (but not animated graphics, or audio or video material), notwithstanding the fact that its HTML or ASCII document counterpart may not contain such material but instead may contain a fair and accurate narrative description or tabular representation of any omitted graphic or image material.

(c) If a filer omits an unofficial PDF copy from, or submits one or more flawed unofficial PDF copies in, the electronic submission of an official filing, the filer may add or resubmit an unofficial PDF copy by electronically submitting an amendment to the filing to which it relates. The amendment must include an explanatory note that the purpose of the amendment is to add or to correct an unofficial PDF copy.

(1) If such an amendment is filed, the official amendment may consist solely of the cover page (or first page of the document), the explanatory note, and the signature page and exhibit index (where appropriate). The corresponding unofficial copy must include the com-

plete text of the official filing document for which the amendment is being submitted.

(2) If the amendment is being filed to add or resubmit an unofficial PDF copy of one or more exhibits, the submission may consist of the following: the official filing—consisting of the cover page (or first page of the document), the explanatory note, the signature page (where appropriate), the exhibit index, and a separate electronic exhibit document for each exhibit for which an unofficial PDF copy is being submitted—and the corresponding unofficial PDF copy of each exhibit document. However, the text of the official exhibit document need not repeat the text of the exhibit; that document may contain only the following legend:

RESUBMITTED TO ADD/REPLACE UNOFFICIAL PDF COPY OF EXHIBIT.

(d) An unofficial PDF copy is not filed for purposes of section 11 of the Securities Act (15 U.S.C. 77k), section 18 of the Exchange Act (15 U.S.C. 78r), section 16 of the Public Utility Act (15 U.S.C. 79p), section 323 of the Trust Indenture Act (15 U.S.C. 77www), or section 34(b) of the Investment Company Act (15 U.S.C. 80a-33(b)), or otherwise subject to the liabilities of such sections, and is not part of any registration statement to which it relates. An unofficial PDF copy is, however, subject to all other civil liability and anti-fraud provisions of the above Acts or other laws.

(e) Unofficial PDF copies that are prospectuses are subject to liability under Section 12 of the Securities Act (15 U.S.C. 77l).

(f) An unofficial PDF copy of a correspondence document contained in an electronic submission need not be substantively equivalent to that correspondence document.

[64 FR 27895, May 21, 1999, as amended at 65 FR 24800, Apr. 27, 2000]

**§ 232.105 Limitation on use of HTML documents and hypertext links.**

(a) Electronic filers must submit the following documents in ASCII: Form N-SAR (§274.101 of this chapter) and Form 13F (§249.325 of this chapter). Notwithstanding the provisions of this

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section, electronic filers may submit exhibits to Form N-SAR in HTML.

(b) Electronic filers may not include in any HTML document hypertext links to sites, locations, or documents outside the HTML document, except to links to officially filed documents within the current submission and to documents previously filed electronically and located in the EDGAR database on the Commission's public web site ([www.sec.gov](http://www.sec.gov)). Electronic filers also may include within an HTML document hypertext links to different sections within that single HTML document.

(c) If a filer includes an external hypertext link within a filed document, the information contained in the linked material will not be considered part of the document for determining compliance with reporting obligations, but the inclusion of the link will cause the filer to be subject to the civil liability and antifraud provisions of the federal securities laws with reference to the information contained in the linked material.

[65 FR 24800, Apr. 27, 2000]

### **§ 232.106 Prohibition against electronic submissions containing executable code.**

(a) Electronic submissions must not contain executable code. Attempted submissions identified as containing executable code will be suspended, unless the executable code is contained only in one or more PDF documents, in which case the submission will be accepted but the PDF document(s) containing executable code will be deleted and not disseminated.

(b) If an electronic submission has been accepted, and the Commission staff later determines that the accepted submission contains executable code, the staff may delete from the EDGAR system the entire accepted electronic submission or any document contained in the accepted electronic submission. The Commission staff may direct the electronic filer to resubmit electronically replacement document(s) or a replacement submission in its entirety, in compliance with this provision and the EDGAR Filer Manual.

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NOTE TO § 232.106: A violation of this section or the relevant EDGAR Filer Manual section also may be a violation of the Computer Fraud and Abuse Act of 1986, as amended, and other statutes and laws.

[64 FR 27895, May 21, 1999]

### HARDSHIP EXEMPTIONS

#### **§ 232.201 Temporary hardship exemption.**

(a) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing, the electronic filer may file the subject filing, under cover of Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter), in paper format no later than one business day after the date on which the filing was to be made.

(1) A microfiche copy of the paper format document shall be the official filing of the registrant for purposes of the federal securities laws.

(2) The following legend shall be set forth in capital letters on the cover page of the paper format document:

IN ACCORDANCE WITH RULE 201 OF REGULATION S-T, THIS (*specify document*) IS BEING FILED IN PAPER PURSUANT TO A TEMPORARY HARDSHIP EXEMPTION

(3) Signatures to the paper format document may be in typed form rather than manual format. See Rule 302 of Regulation S-T (§ 232.302). All other requirements relating to paper format filings shall be satisfied.

(4) If the exemption pertains to a document filed pursuant to section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m and 78o(d)) or section 30 of the Investment Company Act and the paper format document is filed in the manner specified in paragraph (a) of this section, the filing shall be deemed to have been filed by its required due date.

NOTE: 1. Where a temporary hardship exemption relates to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter).

2. Filers unable to submit a report within a prescribed time period because of electronic difficulties shall comply with the provisions of this section and shall not use Form 12b-25 (§ 249.322 of this chapter) as a notification of late filing.

(b) An electronic format copy of the filed paper format document shall be submitted to the Commission within six business days of filing the paper format document. The electronic format version shall contain the following statement in capital letters at the top of the first page of the document:

THIS DOCUMENT IS A COPY OF THE  
(*specify document*) FILED ON (*date*) PURSU-  
ANT TO A RULE 201 TEMPORARY HARD-  
SHIP EXEMPTION

NOTE 1: Failure to submit the confirming electronic copy of a paper filing made in reliance on the temporary hardship exemption, as required in paragraph (b) of this section, will result in ineligibility to use Forms S-2, S-3, S-8, F-2 and F-3 (*see* §§ 239.12, 239.13, 239.16b, 239.32 and 239.33 of this section, respectively), restrict incorporation by reference of the document submitted in paper (*see* Rule 303 of Regulation S-T (§ 232.303)), and toll certain time periods associated with tender offers (*see* Rule 13e-4(f)(12) (§ 240.13e-4(f)(12) of this chapter) and Rule 14e-1(e) (§ 240.14e-1(e) of this chapter).

NOTE 2: If the exemption relates to an exhibit only, the requirement to submit a confirming electronic copy shall be satisfied by refiling the exhibit in electronic format in an amendment to the filing to which it relates. The confirming copy tag should not be used. The amendment should note that the purpose of the amendment is to add an electronic copy of an exhibit previously filed in paper pursuant to a temporary hardship exemption.

[58 FR 14670, Mar. 18, 1993, as amended at 62 FR 36457, July 8, 1997]

#### § 232.202 Continuing hardship exemption.

(a) An electronic filer may apply in writing for a continuing hardship exemption if all or part of a filing or group of filings otherwise to be filed in electronic format cannot be so filed without undue burden or expense. Such written application shall be made at least ten business days prior to the required due date of the filing(s) or the proposed filing date, as appropriate, or within such shorter period as may be permitted. The written application shall contain the information set forth in paragraph (b) of this section.

(1) The application shall not be deemed granted until the applicant is notified by the Commission or the staff.

(2) If the Commission, or the staff acting pursuant to delegated authority, denies the application for a continuing hardship exemption, the electronic filer shall file the required document in electronic format on the required due date or the proposed filing date or such other date as may be permitted.

(3) If the Commission, or the staff acting pursuant to delegated authority, determines that the grant of the exemption is appropriate and consistent with the public interest and the protection of investors and so notifies the applicant, the electronic filer shall follow the procedures set forth in paragraph (c) of this section.

(b) The request for the continuing hardship exemption shall include, but not be limited to, the following:

(1) The reason(s) that the necessary hardware and software is not available without unreasonable burden and expense;

(2) The burden and expense involved to employ alternative means to make the electronic submission; and/or

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

(c) If the request is granted, the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate. The following legend shall be placed in capital letters at the top of the cover page of the paper format document(s):

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

(d) If a continuing hardship exemption is granted for a limited time period, the grant may be conditioned upon the filing of the document or group of documents that is the subject of the exemption in electronic format upon the expiration of the period for which the exemption is granted. The electronic format version shall contain the following statement in capital letters at the top of the first page of the document:

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THIS DOCUMENT IS A COPY OF THE (specify document) FILED ON (DATE) PURSUANT TO A RULE 202(d) CONTINUING HARDSHIP EXEMPTION.

NOTE 1: Where a continuing hardship exemption is granted with respect to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8 and 274.403 of this chapter).

NOTE 2: If the exemption relates to an exhibit only and a confirming electronic copy of the exhibit is required to be submitted, the exhibit should be refiled in electronic format in an amendment to the filing to which it relates. The confirming copy tag should not be used. The amendment should note that the purpose of the amendment is to add an electronic copy of an exhibit previously filed in paper pursuant to a continuing hardship exemption.

NOTE 3: Failure to submit a required confirming electronic copy of a paper filing made in reliance on a continuing hardship exemption granted pursuant to paragraph (d) of this section will result in ineligibility to use Forms S-2, S-3, S-8, F-2 and F-3 (see, §§ 239.12, 239.13, 239.16b, 239.32 and 239.33, respectively), restrict incorporation by reference of the document submitted in paper (see Rule 303 of Regulation S-T (§ 232.303), and toll certain time periods associated with tender offers (see Rule 13e-4(f)(12) (§ 240.13e-4(f)(12)) and Rule 14e-1(e) (§ 240.14e-1(e))).

[58 FR 14670, Mar. 18, 1993, as amended at 62 FR 36457, July 8, 1997]

### PREPARATION OF ELECTRONIC SUBMISSIONS

#### § 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for filers using modernized EDGARLink are set forth in EDGAR Filer Manual (Release 8.0), Volume I—Modernized EDGARLink, dated September 2001. Additional provisions applicable to Form N-SAR filers are set forth in EDGAR Filer Manual (Release 7.0), Volume II—N-SAR Supplement, dated July 2001. All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to

be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549-0102 or by calling Thomson Financial Corp at (800) 638-8241. Electronic format copies are available on the Commission's Web Site. The address for the Filer Manual is <<http://www.sec.gov/info/edgar/filerman.htm>>. You can also photocopy the document at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[66 FR 49830, Oct. 1, 2001]

#### § 232.302 Signatures.

(a) Required signatures to or within any electronic submission must be in typed form rather than manual format. Signatures in an HTML document that are not required may, but are not required to, be presented in an HTML graphic or image file within the electronic filing, in compliance with the formatting requirements of the EDGAR Filer Manual. When used in connection with an electronic filing, the term "signature" means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters or characters comprising a name, executed, adopted or authorized as a signature. Signatures are not required in unofficial PDF copies submitted in accordance with § 232.104.

(b) Each signatory to an electronic filing shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the electronic filing is made and shall be retained by the filer for a period of five years. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.

(c) Where the Commission's rules require a registrant to furnish to a national securities exchange or national securities association paper copies of a document filed with the Commission in

electronic format, signatures to such paper copies may be in typed form.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 64 FR 27895, May 21, 1999; 65 FR 24800, Apr. 27, 2000]

#### § 232.303 Incorporation by reference.

(a) The following documents shall not be incorporated by reference into an electronic filing:

(1) Any document filed in paper in violation of mandated electronic filing requirements;

(2) Any document filed in paper pursuant to a hardship exemption for which a required confirming electronic copy has not been submitted.

(3) For a registered investment company or a business development company, documents that have not been filed in electronic format, unless the document has been filed in paper under a hardship exemption (§ 232.201 or 232.202 of this chapter) and any required confirming copy has been submitted.

(b) If any portion of the annual or quarterly report to security holders is incorporated by reference into any electronic filing, such portion of the annual or quarterly report to security holders shall be filed in electronic format as an exhibit to the filing, as required by Item 601(b)(13) of Regulation S-K and Item 601(b)(13) of Regulation S-B. This requirement shall not apply to incorporation by reference by an investment company from an annual or quarterly report to security holders.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 62 FR 36457, July 8, 1997; 64 FR 27895, May 21, 1999; 65 FR 24800, Apr. 27, 2000]

#### § 232.304 Graphic, image, audio and video material.

(a) If a filer includes graphic, image, audio or video material in a document delivered to investors and others that is not reproduced in an electronic filing, the electronically filed version of that document must include a fair and accurate narrative description, tabular representation or transcript of the omitted material. Such descriptions, representations or transcripts may be included in the text of the electronic filing at the point where the graphic, image, audio or video material is pre-

sented in the delivered version, or they may be listed in an appendix to the electronic filing. Immaterial differences between the delivered and electronically filed versions, such as pagination, color, type size or style, or corporate logo need not be described.

NOTE TO PARAGRAPH (A): If the omitted graphic, image, audio or video material includes data, filers must include a tabular representation or other appropriate representation of that data in the electronically filed version of the document.

(b)(1) The graphic, image, audio and video material in the version of a document delivered to investors and others is deemed part of the electronic filing and subject to the civil liability and anti-fraud provisions of the federal securities laws.

(2) Narrative descriptions, tabular representations or transcripts of graphic, image, audio and video material included in an electronic filing or appendix thereto also are deemed part of the filing. However, to the extent such descriptions, representations or transcripts represent a good faith effort to fairly and accurately describe omitted graphic, image, audio or video material, they are not subject to the civil liability and anti-fraud provisions of the federal securities laws.

(c) An electronic filer must retain for a period of five years a copy of each publicly distributed document, in the format used, that contains graphic, image, audio or video material where such material is not included in the version filed with the Commission. The five-year period shall commence as of the filing date, or the date that appears on the document, whichever is later. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all of the documents contained in the file.

(d) For electronically filed ASCII documents, the performance graph that is to appear in registrant proxy and information statements relating to annual meetings of security holders (or special meetings or written consents in lieu of such meetings) at which directors will be elected, as required by Item 402(l) of Regulation S-K (§ 229.402(l) of this chapter), and the line graph that is to appear in registrant annual reports to security holders or

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prospectuses, as required by paragraph (b) of Item 5 of Form N-1A (§274.11A of this chapter), must be furnished to the Commission by presenting the data in tabular or chart form within the electronic ASCII document, in compliance with paragraph (a) of this section and the formatting requirements of the EDGAR Filer Manual.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, electronically filed HTML documents must present the following information in an HTML graphic or image file within the electronic submission in compliance with the formatting requirements of the EDGAR Filer Manual: the performance graph that is to appear in registrant proxy and information statements relating to annual meetings of security holders (or special meetings or written consents in lieu of such meetings) at which directors will be elected, as required by Item 402(l) of Regulation S-K (§229.402(l) of this chapter); the line graph that is to appear in registrant annual reports to security holders or prospectuses, as required by paragraph (b) of Item 5 of Form N-1A (§274.11A of this chapter); and any other graphic material required by rule or form to be filed with the Commission. Filers may, but are not required to, submit any other graphic material in an HTML document by presenting the data in an HTML graphic or image file within the electronic filing, in compliance with the formatting requirements of the EDGAR Filer Manual. However, filers may not present in a graphic or image file information such as text or tables that users must be able to search and/or download into spreadsheet form (*e.g.*, financial statements); filers must present such material as text in an ASCII document or as text or an HTML table in an HTML document.

(f) Electronic filers may not include animated graphics in any EDGAR document.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 61 FR 24655, May 15, 1996; 62 FR 36458, July 8, 1997; 63 FR 13944, Mar. 23, 1998; 64 FR 27895, May 21, 1999; 65 FR 24800, Apr. 27, 2000]

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

(a) The narrative portion of a document shall not exceed 80 characters per line, including blank spaces, and shall not be presented in multi-column newspaper format. Non-narrative information (*e.g.*, financial statements) may be presented in tabular or columnar format and may exceed 80 positions only if it is tagged as specified in the EDGAR Filer Manual. In no event shall information presented in tabular or columnar format exceed 132 positions wide.

(b) Paragraph (a) of this section does not apply to HTML documents.

[58 FR 14670, Mar. 18, 1993, as amended at 64 FR 27896, May 21, 1999]

### § 232.306 Foreign language documents and symbols.

(a) Foreign language documents shall not be filed with the Commission in electronic format. A fair and accurate English translation of any required document shall be filed. A written representation to that effect shall be included in the English translation document and the representation shall be signed by a designated officer in the manner set forth in Rule 302 of Regulation S-T (§232.302). Upon request, any foreign language document otherwise required to be filed shall be provided to the Commission or the staff.

NOTE: With respect to submission of an electronic filer's latest annual budget required to be filed as Exhibit B in Form 18 (§249.218 of this chapter) or as Exhibit (c) in Form 18-K (§249.318 of this chapter), for foreign governments and political subdivisions thereof, if an English version of such filer's last annual budget as presented to its legislative body has been prepared, it shall be filed electronically. If no such version has been prepared, the budget need not be filed, but shall be provided to the Commission upon request.

(b) Foreign currency denominations must be expressed in words or letters in the English language rather than representative symbols, except that HTML documents may include any representative foreign currency symbols that the EDGAR Filer Manual specifies. The limitations of this paragraph do not apply to unofficial PDF copies

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submitted in accordance with Rule 104 of Regulation S-T (§ 232.104).

[58 FR 14670, Mar. 18, 1993; 58 FR 21349, Apr. 21, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 64 FR 27896, May 21, 1999]

### § 232.307 **Bold face type.**

(a) Provisions requiring presentation of information in bold face type shall be satisfied in an electronic format document by presenting such information in capital letters.

(b) Paragraph (a) of this section does not apply to HTML documents.

[62 FR 36458, July 8, 1997, as amended at 64 FR 27896, May 21, 1999]

### § 232.308 **Type size and font; legibility.**

Provisions relating to type size, font and other legibility requirements shall not apply to electronic format documents.

### § 232.309 **Paper size; binding; sequential numbering; number of copies.**

(a) Requirements as to paper size, binding, and sequential page numbering shall not apply to electronic format documents.

(b) An electronic format document, submitted in the manner prescribed by the EDGAR Filer Manual, shall satisfy any requirement that more than one copy of such document be filed with or provided to the Commission.

### § 232.310 **Marking changed material.**

Provisions requiring the marking of changed materials are satisfied in ASCII and HTML documents by inserting the tag <R> before and the tag </R> following a paragraph containing changed material. HTML documents may be marked to show changed materials within paragraphs. Financial statements and notes thereto need not be marked for changed material.

[64 FR 27896, May 21, 1999]

### § 232.311 **Documents submitted in paper under cover of Form SE.**

Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter) shall be filed as a paper cover sheet to the following documents submitted to the Commission in paper:

(a) Exhibits filed in paper pursuant to a hardship exemption shall be filed

under cover of Form SE. See Rules 201 and 202 of Regulation S-T (§§ 232.201 and 232.202).

(b) Exhibits to a Commission schedule filed pursuant to Section 13 or 14(d) of the Exchange Act may be filed in paper under cover of Form SE where such exhibits previously were filed in paper (prior to a registrant's becoming subject to mandated electronic filing or pursuant to a hardship exemption) and are required to be refiled pursuant to the schedule's general instructions.

(c) Annual Reports to Security Holders furnished by Public Utility Holding Companies as Exhibit A to Form U5S (§ 259.5s of this chapter) or under rule 29 (§ 250.29 of this chapter) shall be filed in paper under cover of Form SE.

(d) Reports to State Commissions, if furnished by Public Utility Holding Companies as Exhibit E to Form U5S (§ 259.5s of this chapter), shall be filed in paper under cover of Form SE.

(e) Maps furnished by Public Utility Holding Companies under Exhibits E to Forms U5B and U-1 (§ 259.5b and 259.101 of this chapter) shall be filed in paper under cover of Form SE.

(f) The Form SE shall be submitted in the following manner:

(1) If the subject of a temporary hardship exemption is an exhibit only, the exhibit shall be filed under cover of Form SE no later than one business day after the date the exhibit was to be filed electronically.

(2) An exhibit filed pursuant to a continuing hardship exemption, or any other document filed in paper under cover of Form SE (other than an exhibit filed pursuant to a temporary hardship exemption), as allowed by paragraphs (a) through (g) of this section, may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied.

(g) Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this section.

(h) Computational materials filed as an exhibit to Form 8-K (§ 249.308) by

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issuers of an “asset-backed security,” as that term is defined in General Instruction I.B.5 of Form S-3 (§239.13 of this chapter).

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67763, Dec. 30, 1994; 61 FR 30402, June 14, 1996; 62 FR 36458, July 8, 1997; 65 FR 24801, Apr. 27, 2000]

### §§ 232.401–232.402 [Reserved]

#### EDGAR FUNCTIONS

### §232.501 Modular submissions and segmented filings.

An electronic filer may use the following procedures to submit information to the EDGAR system for subsequent inclusion in an electronic filing:

(a) *Modular submissions.* (1) One or more electronic format documents may be submitted for storage in the non-public EDGAR data storage area as a modular submission for subsequent inclusion in one or more electronic submissions.

(2) An electronic filer shall be permitted a maximum of ten modular submissions in the non-public EDGAR data storage area at any time, not to exceed a total of one megabyte of digital information. If an electronic filer attempts to submit a modular filing which would cause either of these limits to be exceeded, EDGAR will suspend the modular submission and notify the electronic filer by electronic mail. After six business days, the modular submission held in suspense will be deleted from the system.

(3) A modular submission may be corrected or amended only by resubmitting the entire modular submission.

(b) *Segmented filings.* (1) Segments of a document intended to become an electronic filing may be submitted to the non-public EDGAR data storage area for assembly as a segmented filing.

(2) Segments shall be submitted no more than six business days in advance of the anticipated filing date and are not limited in number or size. They may be submitted from several geographic locations by more than one filing entity. Segments may be included in only one electronic filing. Once used, segments will be removed from the non-public EDGAR data storage area. The assembly of segments into a

segmented filing shall be effected pursuant to the applicable provisions of the EDGAR Filer Manual. If segments are not prepared in accordance with the EDGAR Filer Manual, the filing will not be constructed. The filing date of a segmented filing shall be the date upon which the filing is assembled and satisfies the requirements of Rule 13(a) of Regulation S-T (§232.13(a)).

(3) Segments may be corrected or amended only by resubmitting the entire segment.

(c) A modular submission or segment shall not:

(1) be publicly available;

(2) Be deemed filed with the Commission for purposes of Securities Act section 11 (15 U.S.C. 77k), Exchange Act section 18 (15 U.S.C. 78r), Public Utility Act section 16 (15 U.S.C. 79p), Trust Indenture Act section 323 (15 U.S.C. 77www), or Investment Company Act section 34(b) (15 U.S.C. 80a-33(b)) prior to its inclusion in a filing; or

(3) Be deemed to constitute an official filing prior to its inclusion in a filing under the federal securities laws. Once a modular submission or segment has been included in an electronic filing, the liability and anti-fraud provisions of the Securities Act, the Exchange Act, the Trust Indenture Act, the Public Utility Act and the Investment Company Act shall apply to the electronic filing.

[58 FR 14670, Mar. 18, 1993; 58 FR 21349, Apr. 21, 1993, as amended at 65 FR 24801, Apr. 27, 2000]

#### FOREIGN PRIVATE ISSUERS AND FOREIGN GOVERNMENTS

### §232.600 [Reserved]

### §232.601 Foreign private issuers and foreign governments.

(a) Foreign private issuers and foreign governments shall not be subject to the mandated electronic filing requirements of this part 232, except that a document filed either jointly with, or with respect to, a registrant that is subject to mandated electronic filing shall be filed in electronic format. *See* Rule 100 of Regulation S-T (§232.100).

(b) Foreign private issuers and foreign governments may choose to file

electronically any document not required to be so filed to the extent that an appropriate form type is available, as identified by the EDGAR Filer Manual.

(c) Notwithstanding any provision of this part 232, if a foreign private issuer engages in an exchange offer, merger or other business combination transaction with a domestic registrant and the foreign private issuer files a Securities Act registration statement with respect to the transaction, the registration statement and all other documents relating to the transaction may be filed in paper, provided that the domestic registrant will not be subject to the reporting requirements of the Exchange Act at the conclusion of the transaction.

[62 FR 36458, July 8, 1997]

§§ 232.602–232.903 [Reserved]

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

Sec.

239.0–1 Availability of forms.

**Subpart A—Forms for Registration Statements**

239.4–239.8 [Reserved]

239.9 Form SB-1, optional form for the registration of securities to be sold to the public by certain small business issuers.

239.10 Form SB-2, optional form for the registration of securities to be sold to the public by small business issuers.

239.11 Form S-1, registration statement under the Securities Act of 1933.

239.12 Form S-2, for registration under the Securities Act of 1933 of securities of certain issuers.

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

239.14 Form N-2, for closed-end management investment companies registered on Form N-8A.

239.15 Form N-1, for open-end management investment companies registered on Form N-8A.

239.15A Form N-1A, registration statement of open-end management investment companies.

239.16 Form S-6, for unit investment trusts registered on Form N-8B-2.

239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be

offered to employees pursuant to employee benefit plans.

239.17 [Reserved]

239.17a Form N-3, registration statement for separate accounts organized as management investment companies.

239.17b Form N-4, registration statement for separate accounts organized as unit investment trusts.

239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

239.19 [Reserved]

239.20 Form S-20, for standardized options.

239.23 Form N-14, for the registration of securities issued in business combination transactions by investment companies and business development companies.

239.24 Form N-5, form for registration of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

239.25 Form S-4, for the registration of securities issued in business combination transactions.

239.26–239.30 [Reserved]

239.31 Form F-1, registration statement under the Securities Act of 1933 for securities of certain foreign private issuers.

239.32 Form F-2, for registration under the Securities Act of 1933 for securities of certain foreign private issuers.

239.33 Form F-3, for registration under the Securities Act of 1933 of securities of certain foreign private issuers offered pursuant to certain types of transactions.

239.34 Form F-4, for registration of securities of foreign private issuers issued in certain business combination transactions.

239.35 [Reserved]

239.36 Form F-6, for registration under the Securities Act of 1933 of depository shares evidenced by American Depository Receipts.

239.37 Form F-7, for registration under the Securities Act of 1933 of securities of certain Canadian issuers offered for cash upon the exercise of rights granted to existing securityholders.

239.38 Form F-8, for registration under the Securities Act of 1933 of securities of certain Canadian issuers to be issued in exchange offers or a business combination.

239.39 Form F-9, for registration under the Securities Act of 1933 of certain investment grade debt or investment grade preferred securities of certain Canadian issuers.

239.40 Form F-10, for registration under the Securities Act of 1933 of securities of certain Canadian issuers.

239.41 Form F-80, for registration under the Securities Act of 1933 of securities of certain Canadian issuers to be issued in exchange offers or a business combination.