

the attorney may also be subject to discipline for the same conduct in a jurisdiction where the attorney is admitted or practices. An administrative disciplinary proceeding initiated by the Commission for violation of this part may result in an attorney being censured, or being temporarily or permanently denied the privilege of appearing or practicing before the Commission.

(c) An attorney who complies in good faith with the provisions of this part shall not be subject to discipline or otherwise liable under inconsistent standards imposed by any state or other United States jurisdiction where the attorney is admitted or practices.

(d) An attorney practicing outside the United States shall not be required to comply with the requirements of this part to the extent that such compliance is prohibited by applicable foreign law.

§ 205.7 No private right of action.

(a) Nothing in this part is intended to, or does, create a private right of action against any attorney, law firm, or issuer based upon compliance or non-compliance with its provisions.

(b) Authority to enforce compliance with this part is vested exclusively in the Commission.

PART 209—FORMS PRESCRIBED UNDER THE COMMISSION'S RULES OF PRACTICE

Sec.

209.0-1 Availability of forms.

209.1 Form D-A: Disclosure of assets and financial information.

AUTHORITY: 15 U.S.C. 77h-1, 77u, 78u-2, 78u-3, 78v, 78w, 80a-9, 80a-37, 80a-38, 80a39, 80a-40, 80a-41, 80a-44, 80b-3, 80b-9, 80b-11, and 80b-12, unless otherwise noted.

SOURCE: 60 FR 32823, June 23, 1995, unless otherwise noted.

§ 209.0-1 Availability of forms.

(a) This part identifies and describes the forms for use under the Securities and Exchange Commission's Rules of Practice, part 201 of this chapter.

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth

Street, N.W., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional and district offices. (See § 200.11 of this chapter for the addresses of the SEC regional and district offices.)

§ 209.1 Form D-A: Disclosure of assets and financial information.

(a) Rules 410 and 630 of the Rules of Practice (17 CFR 201.410 and 201.630) provide that under certain circumstances a respondent who asserts or intends to assert an inability to pay disgorgement, interest or penalties may be required to disclose certain financial information. Unless otherwise ordered, this form may be used by individuals required to supply such information.

(b) The respondent filing Form D-A is required promptly to notify the Commission of any material change in the answer to any question on this form.

(c) Form D-A may not be withheld from the interested division. A respondent making financial information disclosures on this form after the institution of proceedings may make a motion, pursuant to Rule 322 of the Commission's Rules of Practice (17 CFR 201.322), for the issuance of a protective order to limit disclosure to the public or parties other than the interested division of the information submitted on Form D-A. A request for a protective order allows the requester an opportunity to justify the need for confidentiality. The making of a motion for a protective order, however, does not guarantee that disclosure will be limited.

(d) No party receiving information for which a motion for a protective order has been made may transfer or convey the information to any other person prior to a ruling on the motion without the prior permission of the Commission or a hearing officer.

(e) A person making financial information disclosures on Form D-A prior to the institution of proceedings, in connection with an offer of settlement or otherwise, may request confidential treatment of the information pursuant to the Freedom of Information Act. See

the Commission's Freedom of Information Act ("FOIA") regulations, 17 CFR 200.83. A request for confidential treatment allows the requester an opportunity to substantiate the need for confidentiality. No determination as to the validity of any request for confidential treatment will be made until a request for disclosure of the information under FOIA is received.

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

APPLICATION OF REGULATION S-X (17 CFR PART 210)

Sec.

- 210.1-01 Application of Regulation S-X (17 CFR part 210).
 210.1-02 Definitions of terms used in Regulation S-X (17 CFR part 210).

QUALIFICATIONS AND REPORTS OF ACCOUNTANTS

- 210.2-01 Qualifications of accountants.
 210.2-02 Accountants' reports.
 210.2-03 Examination of financial statements by foreign government auditors.
 210.2-04 Examination of financial statements of persons other than the registrant.
 210.2-05 Examination of financial statements by more than one accountant.
 210.2-06 Retention of audit and review records.
 210.2-07 Communication with audit committees.

GENERAL INSTRUCTIONS AS TO FINANCIAL STATEMENTS

- 210.3-01 Consolidated balance sheets.
 210.3-02 Consolidated statements of income and changes in financial position.
 210.3-03 Instructions to income statement requirements.
 210.3-04 Changes in other stockholders' equity.
 210.3-05 Financial statements of businesses acquired or to be acquired.
 210.3-06 Financial statements covering a period of nine to twelve months.
 210.3-07—210.3-08 [Reserved]

- 210.3-09 Separate financial statements of subsidiaries not consolidated and 50 percent or less owned persons.
 210.3-10 Financial statements of guarantors and issuers of guaranteed securities registered or being registered.
 210.3-11 Financial statements of an inactive registrant.
 210.3-12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.
 210.3-13 Filing of other financial statements in certain cases.
 210.3-14 Special instructions for real estate operations to be acquired.
 210.3-15 Special provisions as to real estate investment trusts.
 210.3-16 Financial statements of affiliates whose securities collateralize an issue registered or being registered.
 210.3-17 Financial statements of natural persons.
 210.3-18 Special provisions as to registered management investment companies and companies required to be registered as management investment companies.
 210.3-19 [Reserved]
 210.3-20 Currency for financial statements of foreign private issuers.

CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS

- 210.3A-01 Application of §§210.3A-01 to 210.3A-05.
 210.3A-02 Consolidated financial statements of the registrant and its subsidiaries.
 210.3A-03 Statement as to principles of consolidation or combination followed.
 210.3A-04 Intercompany items and transactions.
 210.3A-05 Special requirements as to public utility holding companies.

RULES OF GENERAL APPLICATION

- 210.4-01 Form, order, and terminology.
 210.4-02 Items not material.
 210.4-03 Inapplicable captions and omission of unrequired or inapplicable financial statements.
 210.4-04 Omission of substantially identical notes.
 210.4-05—210.4-06 [Reserved]
 210.4-07 Discount on shares.
 210.4-08 General notes to financial statements.
 210.4-09 [Reserved]
 210.4-10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

COMMERCIAL AND INDUSTRIAL COMPANIES

- 210.5-01 Application of §§210.5-01 to 210.5-04.
 210.5-02 Balance sheets.
 210.5-03 Income statements.