

on the distribution of power and responsibilities among the various level of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854; 24 FR 9565, 3 CFR, 1959-1063 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

*Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**ASW TX E5 Corpus Christi, TX [Revised]**  
Corpus Christi International Airport, TX

(Lat. 27°46'13"N., long. 97°30'04"W.)  
Corpus Christi NAS, TX  
(Lat. 27°41'35"N., long. 97°17'29"W.)  
Nueces County Airport, TX  
(Lat. 27°46'43"N., long. 97°41'26"W.)  
Corpus Christi VORTAC, TX  
(Lat. 26°54'14"N., long. 97°26'42"W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Corpus Christi International Airport and within 1.4 miles each side of the 200° radial of the Corpus Christi VORTAC extending from the 7.5-mile radius to 8.5 miles north of the airport and within 1.5 miles each side of the 316° bearing from the airport extending from the 7.5-mile radius to 10.1 miles northwest of the airport and within an 8.8-mile radius of Corpus Christi NAS and within a 6.2-mile radius of Nueces County Airport.

\* \* \* \* \*

Issued in Fort Worth, TX, on September 14, 1999.

**Robert N. Stevens,**

*Acting Manager, Air Traffic Division,  
Southwest Region.*

[FR Doc. 99-25856 Filed 10-4-99; 8:45 am]

**BILLING CODE 4910-13-M**

#### SECURITIES AND EXCHANGE COMMISSION

**17 CFR Parts 210, 228, 229, 230, 239, 240, 249 and 260**

[Release Nos. 33-7745; 34-41936;  
International Series Release No. 1205; File  
No. S7-3-99]

**RIN 3235-AH62**

#### International Disclosure Standards

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission is adopting revised disclosure requirements for foreign private issuers to conform to the international disclosure standards endorsed by the International Organization of Securities Commissions in September 1998. The international disclosure standards will replace most of the non-financial statement disclosure requirements of Form 20-F, the basic disclosure document for foreign private issuers. We are revising the registration statements used by foreign private issuers under the Securities Act of 1933 to reflect the changes in Form 20-F. We also are revising the definition of "foreign private issuer" to give clearer guidance on how foreign companies should determine whether their shareholders are U.S. residents.

**DATES:** *Effective Date:* September 30, 2000.

#### Compliance Dates:

Registrants must comply with the revisions to Form 20-F for annual or transition reports on that form that are filed with respect to fiscal years ending on or after September 30, 2000.

Registrants eligible to incorporate information from a Form 20-F annual report must comply with the revisions to Forms F-2 and F-3 and to Form F-4 for registration statements and post-effective amendments on those forms filed for the first time after the registrant is required to file its first annual report on amended Form 20-F.

A registrant voluntarily may comply with any of the revised forms any time after September 30, 2000, but prior to the compliance date for that form.

#### FOR FURTHER INFORMATION CONTACT:

Sandra Folsom Kinsey, Senior International Counsel, or Rani Doyle, Special Counsel, in the Office of International Corporate Finance, Division of Corporation Finance at (202) 942-2990.

**SUPPLEMENTARY INFORMATION:** We are adopting amendments to Form 20-F<sup>1</sup> under the Securities Exchange Act of 1934.<sup>2</sup> As part of those amendments, we are deleting Rule 3-19 under Regulation S-X.<sup>3</sup> We are adopting amendments to Rule 3-20 under Regulation S-X,<sup>4</sup> Items 402, 404, 512, and 601 of Regulation S-K,<sup>5</sup> Rules 175, 434 and 463 of Regulation C,<sup>6</sup> Forms F-1, F-2, F-3, F-4, F-6 and S-11<sup>7</sup> under the Securities Act of 1933,<sup>8</sup> Exchange Act Rules 3b-6, 13a-10 and 15d-10,<sup>9</sup> and Rule 0-11 under the Trust Indenture Act of 1939<sup>10</sup> to conform references to the items in Form 20-F that are being revised in connection with the amendments to Form 20-F. We are adopting amendments to Rules 3-01, 3-02 and 3-12 under Regulation S-X<sup>11</sup> and to Item 310 of Regulation S-B<sup>12</sup> to eliminate references to Rule 3-19. We also are revising the definition of foreign private

<sup>1</sup> 17 CFR 249.220f ("Form 20-F").

<sup>2</sup> 15 U.S.C. § 78a *et seq.* (the "Exchange Act").

<sup>3</sup> 17 CFR 210.3-19.

<sup>4</sup> 17 CFR 210.3-20.

<sup>5</sup> 17 CFR 229.402, 17 CFR 229.404, 17 CFR 229.512 and 17 CFR 229.601.

<sup>6</sup> 17 CFR 230.175, 17 CFR 230.434 and 17 CFR 230.463.

<sup>7</sup> See 17 CFR 239.31, 17 CFR 239.32, 17 CFR 239.33, 17 CFR 239.34, 17 CFR 239.36 and 17 CFR 239.18.

<sup>8</sup> 15 U.S.C. 77a *et seq.* (the "Securities Act").

<sup>9</sup> 17 CFR 240.3b-6, 17 CFR 240.13a-10 and 17 CFR 240.15d-10.

<sup>10</sup> 17 CFR 260.0-11.

<sup>11</sup> 17 CFR 210.3-01, 17 CFR 210.3-02, and 17 CFR 210.3-12.

<sup>12</sup> 17 CFR 228.310.

issuer in Securities Act Rule 405<sup>13</sup> and Exchange Act Rule 3b-4.<sup>14</sup>

## I. Executive Summary

Many of our initiatives for foreign issuers have had the goal of reducing barriers to cross-border offerings and listings in the United States, while preserving or enhancing existing investor protections. In addition to our own initiatives, we, as a member of the International Organization of Securities Commissions, referred to as IOSCO, have participated in international initiatives intended to facilitate the cross-border flow of securities and capital by promoting the use of a single disclosure document that would be accepted in multiple jurisdictions. In 1998, IOSCO endorsed a core set of disclosure standards for the non-financial statement portions of a disclosure document, and encouraged its members to take whatever steps would be necessary in their own jurisdictions to accept disclosure documents prepared in accordance with those standards.<sup>15</sup>

We believe IOSCO's disclosure standards represent a strong international consensus on fundamental disclosure topics, and that they can be used to produce offering and listing documents that will contain the same high level of information we traditionally have required. Today we are revising our existing foreign issuer integrated disclosure system to incorporate fully the international disclosure standards. We are adopting the revisions to our foreign integrated disclosure system essentially as proposed,<sup>16</sup> with a few changes prompted by the suggestions of commenters. The international disclosure standards replace most, but not all, of the previous requirements of Form 20-F, the combined registration and annual report form for foreign private issuers under the Exchange Act.

We also are revising the definition of "foreign private issuer" found in the rules under the Securities Act and the Exchange Act, to base the definition more closely on the percentage of securities beneficially owned by U.S. residents.<sup>17</sup> In response to concerns raised by commenters, we have modified the proposed definition to give issuers clearer guidance on how to

calculate the amount of their voting securities held by U.S. residents.

## II. Background of Proposals and Commenters' Concerns

### A. Background

As noted in the Proposing Release, we historically have sought to balance the information needs of investors with the public interest served by opportunities to invest in a variety of securities, including foreign securities.<sup>18</sup> Technological advances have made it easier than ever for investors to learn about and invest in foreign companies. Because of the increasing flow of capital across borders, we and other securities regulators around the world have an interest in ensuring that a high level of information is available to investors in all markets. For this reason, we have been actively involved in IOSCO's efforts to develop a set of high quality international disclosure standards that could be used in cross-border offerings and listings. We support international initiatives that raise the level and quality of information available to investors, facilitate the cross-border flow of capital and reduce the regulatory burdens on foreign issuers, if those initiatives do so in a manner that is consistent with our mandate to protect investors. We believe the international disclosure standards endorsed by IOSCO achieve those goals and that the best way to promote use of the standards is to incorporate them fully into our existing foreign issuer integrated disclosure system.<sup>19</sup>

### B. Comments Regarding International Disclosure Standards

We received fifteen comment letters on the Proposing Release.<sup>20</sup> All of the comment letters expressed support for increasing international harmonization of disclosure standards and many

<sup>18</sup> Securities Act Release No. 6360 (Nov. 20, 1981) [46 FR 58511].

<sup>19</sup> As noted in the Proposing Release, we have preserved the original wording of the international disclosure standards to the maximum extent possible. We think this approach will promote consistent use of the standards and will help foreign issuers recognize them as a national version of the IOSCO standards accepted in other jurisdictions. Upon adoption, the international disclosure standards become part of the U.S. federal securities laws, as we noted in the Proposing Release. The standards have not been adopted on a mutual recognition basis with any other jurisdiction, and there will be no change in our current procedures and practices for reviewing and commenting on filed documents.

<sup>20</sup> You may read and copy the comment letters and the staff's summary of these letters in our Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Ask for File No. S7-3-99. You may view the comment letters that were submitted by electronic mail at the Commission's web site: [www.sec.gov](http://www.sec.gov).

expressed support for the proposed amendments. The letters from organizations representing users of issuer information, such as analysts and institutional investors, were particularly supportive. These commenters viewed the proposal as a means for promoting harmonization and improving comparability, without compromising the level of information provided by foreign registrants. Several commenters who expressed support for international harmonization of disclosure standards placed even greater importance on achieving harmonization in the area of international accounting standards. As we noted in the Proposing Release, the development of international accounting standards currently is the subject of a separate project by IOSCO.<sup>21</sup> Some of the commenters had helpful suggestions for incorporating the international disclosure standards into our foreign integrated disclosure system and for clarifying the instructions to Form 20-F, and we have adopted many of these suggestions in the final amendments.

A few commenters urged us to evaluate the extent to which other jurisdictions accept the international disclosure standards before we take steps to revise our rules. They suggested that the international disclosure standards be available as an optional, alternative disclosure system, rather than being mandatory for all foreign registrants.<sup>22</sup> These and other commenters tended to view the proposed amendments to Form 20-F as significantly increasing the disclosure burden for foreign registrants, and they predicted that imposing these requirements would deter foreign issuers from offering securities or listing in the United States. One commenter suggested that the revisions would penalize foreign registrants who had entered the U.S. market under the prior rules, and proposed that the over 1,100 reporting foreign issuers be "grandfathered" and allowed to continue using the disclosure standards in effect before these amendments.

As noted in the Proposing Release, we do not view the amendments to the foreign integrated disclosure system as resulting in a significant increase in the information foreign issuers must

<sup>21</sup> See Proposing Release at n. 24.

<sup>22</sup> One commenter held the opposite view. See the comment letter, dated June 5, 1999, submitted by the Federation of European Stock Exchanges, which stated that "[t]he Federation strongly supports the rejection of the alternative of creating a two-tiered system of disclosure requirements. The confusion created by an alternative approach would endanger the very essence of the proposals by IOSCO."

<sup>13</sup> 17 CFR 230.405.

<sup>14</sup> 17 CFR 240.3b-4.

<sup>15</sup> You can find the full text of the standards endorsed by IOSCO on the IOSCO Internet Web site <<http://www.iosco.org>>.

<sup>16</sup> Securities Act Release No. 7637 (Feb. 2, 1999) [64 FR 2661] (the "Proposing Release").

<sup>17</sup> See Securities Act Rule 405, 17 CFR 230.405, and Exchange Act Rule 3b-4, 17 CFR 240.3b-4.

disclose.<sup>23</sup> In the few cases where the international disclosure standards ask for information not previously required by Form 20-F, we understand that the information is required under the domestic disclosure requirements in many other jurisdictions.<sup>24</sup> Much of the information that is new to Form 20-F's disclosure requirements, therefore, is likely to be disclosed routinely by companies in countries outside the United States. In some cases, companies already may provide information required under the amendments to Form 20-F because of our general requirement to provide additional material information.<sup>25</sup>

In some cases, changes in the wording of requirements may create the impression that different or additional disclosure is required. We understand that changes in wording may create uncertainty among practitioners who are familiar with the prior phrasing and are unsure how to interpret different expressions of what is intended to be essentially the same requirement. One commenter urged us to identify disclosure requirements that use different wording but that are not intended to impose different substantive disclosure requirements. Although it is not possible to identify every example, we have tried to bear that concern in mind in our more detailed explanation of the amendments we are adopting today.

With respect to the suggestion that we delay adopting the international disclosure standards until we see how widely they are accepted, or that we implement them on a voluntary basis, we do not believe that those approaches would achieve our goal of promoting regulatory harmonization at a high level of disclosure.<sup>26</sup> We understand that

<sup>23</sup> Several commenters supported this view, noting in one case that "while the format of the IOSCO disclosure standards differs somewhat from the current format of Form 20-F, the overall of disclosure required is not significantly different." See Rogers & Wells client memorandum, dated February 1999, submitted as a comment letter. Another commenter expressed the view that "New Form 20-F is generally comparable in quality to the disclosure requirements currently applicable to foreign private issuers." See Cleary, Gottlieb, Steen & Hamilton comment letter, dated May 18, 1999.

<sup>24</sup> In its comment letter dated June 15, 1999, the Federation of European Stock Exchanges expressed its members' support for the proposal and for efforts to create an "international passport" that would reduce the burden of different regulatory requirements while preserving investor protection and promoting transparency. In explaining its support, the Federation noted that some of the requirements in amended Form 20-F are equivalent to current and planned disclosure requirements for most European countries.

<sup>25</sup> 17 CFR 230.408 and 17 CFR 240.12b-20.

<sup>26</sup> The Federation of European Stock Exchanges specifically noted that maintaining alternative

some of the more developed capital markets represented in IOSCO either have agreed to accept, or are planning to accept, disclosure documents prepared using the international disclosure standards in cross-border offerings and listings. For example, the London Stock Exchange has advised us that it currently would accept disclosure documents based on the international disclosure standards, and, as part of its annual revision of its listing rules, it will be codifying that position in its rules. Some IOSCO jurisdictions have adopted the standards for domestic purposes; we understand that is the case in Argentina, Italy and Mexico. We think that by moving quickly to incorporate the international disclosure standards into our foreign registration system, we demonstrate our strong support for high quality international standards and encourage other jurisdictions to follow suit. As one of the largest capital markets, we believe our support is important for widespread acceptance and implementation of the standards.

In the Proposing Release we explained that we had considered but rejected the alternative of a two-tiered registration system for foreign issuers. We continue to believe that any elective approach would add unnecessary complexity to our registration system, when our preference is for measures that promote regulatory simplification. For the same reason—and because, as explained above, we do not view the international disclosure standards as imposing a significant additional disclosure burden—we do not plan to "grandfather" the existing foreign reporting companies.

We believe the lengthy effective dates for the revised rules and forms will allow time to confirm that there is international support for the standards. The delayed effective dates also provide a transition period that should be particularly helpful for registrants adapting to a new disclosure form. For example, as explained later in this release, issuers filing registration statements on Form 20-F or Form F-1 will not use the revised forms until September 30, 2000, and repeat issuers filing registration statements on Forms F-2, F-3 or F-4 will have an even longer transition period. Annual reports on revised Form 20-F will not be due until March 31, 2001 at the earliest, for those companies with September 30 fiscal year ends. Companies with

disclosure standards would be inconsistent with the concept of regulatory simplification and the goals of the amendments. See Federation of European Stock Exchanges letter dated June 15, 1999.

December 31 fiscal year ends will not be required to file an annual report on revised Form 20-F until June 30, 2001, almost two years from the date of this release.

### C. Comments Regarding Elimination of Rule 3-19

As we explained in the Proposing Release, we are eliminating Rule 3-19 of Regulation S-X, which specifies the content, age and other requirements for foreign issuer financial statements, because the requirements of the rule are addressed in new Item 8 of Form 20-F. The only substantive change relates to the permitted age of financial statements. Item 8 of Form 20-F requires that audited financial statements be no older than 15 months at "the time of the offering or listing," which means the effective date of the registration statement, rather than the 18 months permitted under Rule 3-19. In the case of the issuer's initial public offering, the audited financial statements also must be as of a date not older than 12 months at the time the offering document is filed. This stricter rule for initial public offerings does not apply to foreign issuers offering securities in the United States for the first time if they already are public in their home country.<sup>27</sup> Item 8 also provides that if the date of a registration statement is more than nine months after the end of the issuer's last fiscal year, the registration statement must contain interim financial statements, including U.S. GAAP information, covering at least the first six months of the issuer's fiscal year. This information may be unaudited.

Some commenters pointed out that business history, market factors and industry practices often cause foreign issuers to prepare financial statements that are more current than required. These commenters did not believe the proposal to shorten the age of financial statements requirement would have significant practical effect on many issuers. One commenter approved of requiring more current financial information and urged us to consider accelerating further the filing deadlines

<sup>27</sup> Since many foreign issuers already are public companies when they file their first registration statement in the United States, we believe the 12-month rule will apply only in very limited circumstances. Even in those circumstances, we will consider waiving the requirement if the issuer represents adequately to the staff that no jurisdiction outside the United States imposes the 12-month requirement on the registrant's offering and that complying with the requirement is impracticable or presents undue hardship. If we waive the 12-month requirement, issuers would be instructed to comply with the 15-month age of financial statement requirement of Item 8.A.

for annual reports of foreign registrants. On the other hand, several commenters expressed the view that the proposed change would unduly burden foreign issuers. These commenters pointed out that foreign issuers often need additional time to prepare a reconciliation to U.S. GAAP after they have finished preparing their primary financial statements.

We believe that the 15-month audited financial statement requirement is in line with the requirements in other countries and is not an undue burden on a company seeking to offer securities in the United States. In most cases, companies have the ability to control the timing of their offerings so as to reduce the impact of this shorter age requirement. We believe the 15-month period is sufficient time to prepare a reconciliation to U.S. GAAP along with the financial statements. We also hesitate to factor in extra time for a company to prepare a reconciliation to U.S. GAAP, because this requirement affects companies in different ways. Whether or not there are any reconciling items to be reported—and the number and extent of those items—depends, among other things, on a company's business activities during the period covered by the financial statements, on how similar the accounting standards used in preparing the primary financial statements are to U.S. GAAP, and on the way in which the company has chosen to apply those accounting standards in preparing its primary financial statements. For some companies, the burden is not significant.

Some commenters argued that the "blackout" period resulting from the new age of financial statements requirements and the current six-month due date for annual reports on Form 20-F would pose a particular hardship for issuers who are in the market more or less continuously, as in the case of rights offerings, dividend or interest reinvestment plans, and offerings of securities upon conversion or exercise of outstanding securities. We already have distinguished these types of offerings in certain respects, such as by permitting the financial statements in prospectuses for these types of offerings to be reconciled to U.S. GAAP in accordance with Item 17, rather than Item 18, of Form 20-F. Because the blackout period may be particularly disruptive for these types of offerings, we have amended the instructions to Item 8.A.5 to replace the 15-month requirement for these types of offerings with an 18-month requirement and to replace the nine-month interim financial statements requirement with a 12-month requirement, which mirror

the previous requirements for those types of offerings. We expect to reconsider this accommodation in the future, however, and may propose reducing the permitted age of financial statements for these types of offerings based on a review of its operation in practice or a possible change in the due date for annual reports.<sup>28</sup>

#### *D. Specific Changes to Registration and Report Forms*

Form 20-F is used as an initial registration statement under the Exchange Act and as an annual report form for foreign private issuers required to file annual reports pursuant to Section 13 or 15(d) of the Exchange Act. The amendments to Form 20-F adopted today replace prior Items 1–14 of Form 20-F, excluding Item 9A, with ten new items that track the wording of the IOSCO disclosure standards. The item previously designated as Item 9A, Quantitative and Qualitative Disclosures about Market Risk, of Form 20-F is retained and renumbered as Item 11. The items previously designated as Item 15, Defaults Upon Senior Securities, and Item 16, Changes in Securities and Changes in Security for Registered Securities, of Form 20-F also are retained and renumbered as Items 12 and 13, and the wording has been revised to reflect "plain English" drafting principles. These two items continue to apply only when Form 20-F is used as an annual report form.

Items 17 and 18 of Form 20-F are retained in substance and are not renumbered; these items explain the financial statement requirements for registration statements and reports and the different types of reconciliation to U.S. GAAP that must be provided by issuers who prepare financial statements using accounting principles other than U.S. GAAP. As noted in the Proposing Release, the text of old Item 18 was largely the same as the text of old Item 17; our revisions to Item 18 eliminate the redundant text and highlight the differences, but are not intended to change any substantive requirements of that Item.

The amendments adopted today also bring the exhibit requirements for foreign issuers more in line with the exhibits required for domestic issuers filing a registration statement on Form 10 or an annual report on Form 10-K. The "Appendix A to Item 2(b)—Oil and

<sup>28</sup> See Section XI.A.2 of Securities Act Release No. 7606A (Nov. 13, 1998) [63 FR 67174]. In the Securities Act reform release we proposed accelerating the due date for Form 20-F annual reports to five months after the close of the issuer's fiscal year and solicited comment on whether the due date should be accelerated to four months.

Gas" is amended only to correct item references; no substantive changes were made. Corresponding changes were made in the Securities Act registration statement forms that refer to Form 20-F.

Several commenters made helpful suggestions for clarifying the instructions to the ten items of the international disclosure standards or for adapting them to our existing integrated disclosure system. The ten core items are described below, together with an explanation of some of the changes from the Proposing Release. As noted, most of the ten items have been adopted as proposed.

#### **Item 1. Identity of Directors, Senior Management and Advisors**

Several commenters noted that the terms "principal bankers and legal advisors" and "legal advisors to the issue" may be confusing or raise liability issues in the United States. While these terms and the term "sponsor" are commonly used and well understood in some countries, they may not be used in other jurisdictions. We have revised the instructions to this item to clarify that these individuals or entities only need be identified if the issuer is required to identify them in other jurisdictions.

#### **Item 2. Offer Statistics and Expected Timetable**

One commenter noted that the timetable for a typical U.S. offering by a foreign private issuer would be very dependent on market conditions and other unpredictable factors. We would expect that in cases such as a typical, U.S.-style, firm-commitment underwritten offering, the timetable disclosure would be very brief and would likely focus more on the sequence of events than on precise dates. In other cases, such as offerings involving a complex corporate restructuring, we expect that the timetable would provide more detail and likely would include anticipated dates or elapsed periods of time for major events.

#### **Item 3. Key Information**

This item includes requirements for selected financial data, exchange rate information, the reasons for the offer and the expected use of proceeds, and information about risk factors. With respect to the Item 3.B requirement for a statement of capitalization and indebtedness, we have amended the proposed instructions to clarify that this statement is not required in annual reports, in line with current disclosure practice, and also to provide guidance

on complying with the requirement in the case of offerings under shelf registration statements. With respect to the requirement for information on the reason for the offer and use of proceeds, found in Item 3.C, we view this item as calling for the same type of information that U.S. companies provide in response to Item 504 of Regulation S-K. With respect to Item 3.D, risk factors, one commenter suggested that attempting to limit risk factor disclosure in annual reports to "the most significant risk factors" was confusing and unnecessary. We agree that, in view of our recent "plain English" initiative and its emphasis on avoiding boilerplate risk factors, any listing of risk factors—whether in a registration statement or an annual report—should focus on the most significant risk factors as they apply to the issuer and its operations. An explicit instruction would be redundant and may create confusion. Accordingly, we have deleted this instruction.

#### Item 4. Information on the Company

This item includes requirements for a description of the issuer's business and properties. To the extent segment information is required, this item states that information may be presented on the same basis as that used to determine the company's business segments under the body of accounting principles used in preparing the financial statements. This statement is intended to refer to the accounting principles used in preparing the primary financial statements, not those used in preparing any required U.S. GAAP reconciliation. One commenter suggested that we continue to include the Form 20-F instructions regarding the necessity of complying with applicable Industry Guides and, for issuers in extractive industries, the need to name any independent consultants who have prepared or reviewed estimates of reserves. Following this suggestion, we have revised the instructions to Item 4 to reflect our existing instructions in this area.

#### Item 5. Operating and Financial Review and Prospects

This item corresponds to the current requirement for management's discussion and analysis of financial condition and results of operations. We interpret the requirements of this item as being essentially the same as those of old Item 9 of Form 20-F. We have added an instruction to clarify that, as was the case under old Item 9, this section of the registration statement or report should discuss any aspect of the U.S. GAAP reconciliation and U.S. GAAP differences that the registrant

believes is necessary for an understanding of the financial statements as a whole. In response to comments asking us to clarify when information must be provided with respect to inflation rates and the effects of hyperinflation, we have added an instruction to provide additional guidance.

#### Item 6. Directors, Senior Management and Employees

This item includes requirements relating to compensation and shareholdings for directors and management. The definition of the term "administrative, supervisory or management bodies" in Form 20-F's Glossary states that this term corresponds to "executive officers" in the United States. Two commenters suggested that this attempt at clarification could create confusion, because in some countries the members of these bodies may not perform the same functions as executive officers in U.S. companies. In response to this concern, we have deleted the clarification and added an instruction stating that the meaning of these terms will depend on the functions performed.

Several commenters noted that Item 6 requires disclosure of the amount of shares held by individual directors and management, without the alternative previously available under old Item 5 of Form 20-F of providing this information on an aggregate basis. We believe that the international disclosure standards reflect a consensus that the individual share ownership of management provides important information for investors. However, we have added an instruction indicating that if an individual member of management beneficially owns less than 1% of the outstanding securities, that fact may be stated instead of providing the specific number of shares that individual beneficially owns, as long as the specific number of shares is not otherwise disclosed or required to be disclosed in a non-U.S. jurisdiction. This mirrors the approach taken in Item 403 of Regulation S-K for U.S. issuers.

#### Item 7. Major Shareholders and Related Party Transactions

This item requires disclosure of information about major shareholders and others that control or may control the company, as well as disclosure of related party transactions. At the request of one commenter, we have added an instruction similar to Instruction 3 to Item 404(c) of Regulation S-K, to clarify the extent to which banks and other lending institutions must disclose loans made in the ordinary course of business.

Item 7 reduces the Form 20-F threshold for disclosure of beneficial ownership from 10% to 5%, and the commenters that mentioned this change generally expressed support.

#### Item 8. Financial Information

This item contains requirements relating to the presentation of financial statements, requirements that previously were set forth in Rule 3-19 of Regulation S-X, and requirements relating to legal proceedings. The only change we are making to Regulation S-X is the elimination of Rule 3-19; the remaining items of Regulation S-X continue to apply to registration statements and reports filed by foreign private issuers to the same extent they did before these amendments to Form 20-F were adopted. With respect to the provisions of Item 8.A.5 that relate to financial information published by the issuer that is more current than the financial statements required in the filing, some commenters expressed concern that these provisions expand on the requirements of Rule 3-19(f) or change the reconciliation requirement for this type of information. This was not the intention, and we have revised the instructions in an attempt to eliminate any confusion on this point.<sup>29</sup> We also have added an instruction clarifying that in order to comply with the requirement for three years of audited financial statements, the issuer is not required to provide a balance sheet for the earliest of these periods if it is not required in a jurisdiction outside the United States.

Two commenters asked if the statement in the Item 8 instructions and in the General Instructions, that financial statements must be audited in accordance with U.S. generally accepted auditing standards, was intended to change the staff's practice of accepting auditor's reports that state that the audit was conducted in accordance with local auditing standards that are "substantially similar" or "similar in all material respects" to U.S. GAAS. As one commenter noted, that practice was adopted to accommodate audit report styles in different jurisdictions that differ from the audit report wording specified by U.S. GAAS. The practice was not intended to relieve the auditor of the responsibility to perform all auditing procedures necessary under U.S. GAAS. We do not intend to change our practice of accepting wording variations in audit reports to comply with local reporting formats. In all other

<sup>29</sup>There also is no change in the reconciliation requirement for interim information presented in selected financial data.

respects, however, in order to avoid ambiguity, the report must say that the audit was performed in accordance with U.S. GAAS.

#### Item 9. The Offer and Listing

This item includes requirements for a description of the offering, including the plan of distribution, trading markets, selling shareholders, dilution and expenses. Item 9.A requires disclosure of how the offering price was determined if there is no established market for the securities being offered. We view this requirement as being equivalent to the requirement of Item 505 of Regulation S-K. One commenter pointed out that the requirement in Item 9.B.1 for the underwriters' addresses could create logistical problems in U.S.-style offerings where the syndicate members are not decided until final pricing. In those circumstances, however, an issuer may comply with this requirement by disclosing only the addresses of the lead underwriters, which should be known before pricing. Generally speaking, for a U.S.-style, firm commitment underwritten offering, we would expect that the responses to Item 9.B, Plan of Distribution, would include much of the same information provided in response to Item 508 of Regulation S-K, to the extent that information is material to an investor's understanding of the offering.

#### Item 10. Additional Information

This item includes requirements for, among other things, a description of the issuer's share capital, significant provisions of its articles of incorporation and bylaws, its material contracts, and applicable taxes. One commenter suggested that certain requirements of Item 10, specifically subsections 10.A (Share Capital), 10.E (Taxation) and 10.F (Dividends and Paying Agents), be limited to registration statements and annual reports relating only to equity securities, since that information is inapplicable to other types of securities, or would otherwise be disclosed in the issuer's financial statements or in response to Item 10.B, Memorandum and Articles of Association. After considering this comment and the prior requirements of Form 20-F, we agree that the information called for by Item 10.A and 10.F is less pertinent to non-equity securities and to annual reports, and we have amended the item to limit these requirements to registration statements relating to equity securities.

#### E. "Foreign Private Issuer" Definition

We are adopting the proposed amendments to Rule 405 under the

Securities Act and Rule 3b-4 under the Exchange Act, which contain the definition of "foreign private issuer," essentially in the form proposed, with some additional clarification. The amendments, in effect, change the test of whether more than 50 percent of an issuer's outstanding voting securities are held by residents of the United States from a record ownership test to one that more closely reflects the beneficial ownership of the issuer's securities.<sup>30</sup> As noted in the Proposing Release, we believe that the increased prevalence of offshore nominees and custodial accounts has made record ownership less meaningful for purposes of determining U.S. ownership. We believe a test based more closely on beneficial ownership gives a better picture of whether or not a company incorporated outside the United States is entitled to the accommodations available to foreign private issuers under the federal securities laws. The ownership test adopted today is based on the method of calculation used in Exchange Act Rule 12g3-2(a), which follows the definition of "securities held of record" in Rule 12g5-1, but requires the issuer to "look through" the record ownership of brokers, dealers, banks or nominees holding securities for the accounts of their customers to determine the residency of those customers. Issuers also must take into account information regarding U.S. ownership derived from beneficial ownership reports that are provided to the issuer or filed publicly, as well as information that otherwise is provided to the issuer. The reference to beneficial ownership reports is not limited to reports filed with the Commission, since we understand that beneficial ownership of an issuer's securities may be required to be provided to the issuer or disclosed publicly in other countries, as well as in the United States.

Several commenters suggested that these changes would create a substantial burden for companies that trade in many different markets, and that widely held companies would have to devote significant effort and expense in determining beneficial ownership in many jurisdictions where the likelihood of finding U.S. owners is small. In order to address these concerns, we have

<sup>30</sup> There are two parts to the foreign private issuer definition. The first part is based on ownership of the issuer's securities. The second part of the definition is based on whether (a) a majority of the issuer's executive officers or directors are U.S. citizens or residents, (b) over 50% of its assets are within the United States, or (c) its business is administered principally in the United States. Any one of these three factors, together with majority U.S. ownership, will mean the issuer fails to satisfy the foreign private issuer definition.

limited the application of the "look through" provisions of Rule 12g3-2(a) to voting securities held of record:

- In the United States,
- In the issuer's home jurisdiction, and
- In the primary trading market for the issuer's securities if different from the issuer's home jurisdiction.

These jurisdictions should cover most of the trading volume for the issuer's securities, and searches in these jurisdictions are likely to yield the greatest number of U.S. beneficial owners. This modification to the test should reduce the burden on foreign companies while still producing a reasonably accurate picture of whether or not the company is a foreign private issuer.

Most commenters questioned the basis for our proposed rebuttable presumption that, if a foreign issuer's securities trade in the U.S. markets in the form of American Depositary Receipts, or ADRs, the shares deposited in the ADR program are held solely by U.S. residents. These commenters pointed out that, for a number of reasons, non-U.S. investors may choose to hold securities in ADR form. Because it appears that issuers will not take advantage of the presumption and will feel the need to query ADR depositories regarding the owners of ADRs, we have determined not to adopt the presumption.

Some commenters pointed out that it is not always possible for issuers to obtain information about separate customer accounts, as required by Rule 12g3-2(a). Brokers, dealers, banks or other nominees may be unwilling or unable to provide information about their customer accounts. This problem is not unique to the foreign private issuer definition, however; the duty to inquire about separate customer accounts already exists for issuers deciding whether the reporting exemption in Rule 12g3-2(a) is available. In the case of the foreign private issuer definition, the issuer would not be asking nominees to provide the number of U.S. shareholders or the names of those shareholders, but only the percentage of the nominee's holdings of the issuer's securities that are represented by U.S. accounts. If after reasonable inquiry, however, the issuer is unable to obtain information about the nominee's customer accounts, including cases where the nominee's charge for supplying this information would be unreasonable, the issuer may rely on a presumption that the customer accounts are held in the nominee's principal place of business. We have

revised the instructions to the foreign private issuer definition to clarify this point.

### III. Effective Dates and Transition Provisions

The amendments to rules and forms adopted today become effective September 30, 2000, with certain exceptions. In some cases, as explained below, the date at which a registrant will have to comply with a revised form will depend on that registrant's fiscal year end.

- *Registration statements filed on Form F-1, Form F-4 or Form 20-F*—Registrants must use revised Form F-1 and revised Form 20-F for registration statements first filed on or after September 30, 2000.<sup>31</sup> Registrants that are not eligible to incorporate Form F-4 information by reference to a previously filed annual report on Form 20-F also must use revised Form F-4 for registration statements filed on or after September 30, 2000.

- *Registration statements filed on Forms F-2 and F-3 and on Form F-4 if it permits information to be incorporated by reference*—These forms permit a registrant to satisfy form requirements by incorporating information from an annual report on Form 20-F. Form F-4 also permits the registrant to incorporate information about the other party to a business combination by referring to that company's annual report. The revised Forms F-2, F-3 and F-4 do not provide for incorporation of information by reference to "old" Form 20-F. Accordingly, the revisions to Forms F-2 and F-3 will be effective for registration statements and post-effective amendments filed any time after a registrant is required to file its first annual report on revised Form 20-F. In cases where a Form F-4 permits information about either party to the business combination to be incorporated by reference to an annual report on Form 20-F, the revisions to Form F-4 will be effective for registration statements and post-effective amendments filed any time after the party whose information is being incorporated by reference is required to file its first annual report on Form 20-F.

- *Annual reports filed on Form 20-F*—Revised Form 20-F must be used for annual or transition reports filed with respect to fiscal years ending on or after September 30, 2000.

- *Rule 3-19*—Rule 3-19 of Regulation S-X will no longer apply to registration statements filed on or after September 30, 2000 that are filed on Form F-1 or on a Form F-4 that permits incorporation of information by reference. A registrant may continue to rely on Rule 3-19 for registration statements filed on Forms F-2 and F-3, and on a Form F-4 that permits incorporation of information by reference, until the revisions to those forms take effect.

The following information applies to situations that arise when registrants

make the transition from the old version of a form to the revised version:

- *Pre-effective amendments*—If, on September 30, 2000, a foreign private issuer has on file at the Commission a registration statement on Form F-1, a Form F-4 that does not permit incorporation by reference or Form 20-F and that registration statement has not been declared effective, the issuer may continue to file pre-effective amendments to that registration statement after September 30, 2000 without modifying those pre-effective amendments to reflect the revisions. This position does not apply to pre-effective amendments to registration statements on Forms F-2, Form F-3 or a Form F-4 that permits incorporation by reference, because registrants will have a lengthy transition period and experience preparing an annual report on revised Form 20-F, before they have to comply with the revisions to those Securities Act registration statements.

- *Post-effective amendments*—The revisions to registration statement forms adopted today apply to post-effective amendments filed on or after the effective date given above for a particular form if the post-effective amendment is to include the registrant's latest audited financial statements or to update the prospectus under Section 10(a)(3).<sup>32</sup>

- *Registration statements and post-effective amendments filed under Rules 462 (b) and (c)*—Registration statements and post-effective amendments filed under Rules 462 (b) and (c) are effective upon filing with the Commission. These registration statements and amendments must comply with the registration statement revisions adopted today only if the registrant first filed the underlying registration statement on or after the effective date given above for a particular form.

- *Prospectus supplements*—The revisions to registration statement forms adopted today apply to prospectus supplements filed on or after the effective date given above for a particular form. If an issuer filed a base prospectus under Rule 415(a)(1)(x) before it was required to comply with revised Form F-3, that base prospectus does not have to be amended, even though subsequent prospectus supplements must comply with the revised form.

Registrants are encouraged to use the revised forms for registration statements and annual reports on a voluntary basis before the compliance dates described above. A registrant that wishes to use revised Forms F-2, F-3 or F-4 before it has filed its first annual report on revised Form 20-F may do so. In those cases, however, the registrant either will have to amend its previously filed annual report to comply with the new disclosure requirements of Form 20-F or provide within the body of the Securities Act registration statement the information it would otherwise incorporate from Form 20-F.

### IV. Cost-Benefit Analysis

The amendments update and simplify the disclosure requirements for foreign private issuers. We believe the amendments will make it easier for foreign private issuers to raise capital and list their securities in multiple jurisdictions, including the United States. In addition, as other jurisdictions adopt or accept the international standards, U.S. issuers desiring to raise capital in multiple foreign markets will enjoy the benefits of harmonization.

Foreign issuers seeking to raise capital or list securities in more than one jurisdiction often encounter differing, and in some cases conflicting, regulatory requirements. These regulatory hurdles may influence issuers' decisions about where to offer or list their securities. A primary goal of the amendments to Form 20-F is to encourage and facilitate the use of one disclosure document by issuers seeking to raise capital or list securities in multiple jurisdictions. The amendments provide the benefits of lowering regulatory barriers to cross-border offerings and listings with the result of reduced regulatory costs and burdens. The amendments will bring us closer to the goal of enabling issuers to prepare one basic disclosure document that will be accepted in many jurisdictions. Although some tailoring of the disclosure document may be required to satisfy specific national requirements, issuers and investors will benefit from greater uniformity in the requirements for core disclosure topics.

The amendments impose some additional disclosure requirements on foreign private issuers. However, we believe that the benefits of the amendments—to issuers and investors—justify possible costs. As we stated in the proposing release, we believe the IOSCO standards incorporated into amended Form 20-F are generally comparable to the prior disclosure requirements of Form 20-F and that foreign private issuers should not experience significantly increased compliance costs. Some commenters, including attorneys in private practice informally contacted by the staff of the Office of International Corporate Finance, have concurred with our view. They acknowledge that the disclosure requirements in amended Form 20-F are comparable to the Form's previous disclosure requirements and would not, in practice, result in significant additional or quantifiable compliance costs.

We recognize that shortening the age of financial statements requirement may present burdens for some foreign private

<sup>31</sup> Forms F-6 and S-11 under the Securities Act were revised to conform cross-references to Form 20-F. The changes to these forms also are effective for forms first filed on or after September 30, 2000.

<sup>32</sup> 15 U.S.C. 77j(a)(3).

issuers. We believe that the transparency benefits to investors of the availability of more current information justifies the potential burdens of the new requirements. Indeed, several commenters expressed their belief that the amendments will increase transparency, ensure a high level of investor protection and enhance the comparability of disclosures between foreign and domestic issuers. In addition, in conversations with practitioners, many indicated that they did not expect the new Form 20-F requirements to impact their clients adversely, because the market already demands more current financial information from offerors than presently required. For these issuers, no new burden will exist. Moreover, in response to concerns raised by some commenters, the final amendments relax the age of financial statement requirements for continuous offerings, diminishing the burdens potentially associated with the new timing requirements. Furthermore, in many offerings, issuers have flexibility to determine the timing of their filings and may be able to plan their offerings to accommodate the requirements. Accordingly, the Commission does not believe that foreign private issuers should experience a significant quantifiable burden in complying with the amendments.

There are other reasons to conclude that the benefits of the amendments, which will accrue both to investors and to issuers, will justify the costs. First, the purpose of the amendments is to facilitate cross-border offerings and listings. We believe the amendments will encourage other jurisdictions to endorse or adopt the IOSCO standards, and widespread acceptance of the standards will further reduce compliance burdens for foreign issuers, as well as for U.S. issuers seeking capital abroad.

Second, we, as well as some commenters, expect additional compliance costs will be mitigated because a significant number of foreign private issuers already comply, for various reasons, with the additional disclosure requirements in the amended Form. For instance:

- Foreign issuers often provide the additional information that is required by the amended Form in order to successfully market their securities or attract investors, or in response to our general materiality requirements.
- As one commenter noted, some of the new requirements, including those related to age of financial statements, 5% beneficial ownership disclosure, and expanded compensation-related

disclosure, are equivalent or comparable to disclosure requirements that currently are or will soon be mandated in many European jurisdictions.

- Other countries, such as Argentina, Italy and Mexico, are adopting IOSCO's international disclosure standards for their domestic issuer disclosure requirements. As regulators move further in the direction of harmonized standards, we expect more jurisdictions to endorse and more foreign issuers to comply with the IOSCO standards.

Third, not all of the disclosure requirements of the amended Form will apply to all foreign private issuers; some requirements are based, as with old Form 20-F, on foreign requirements. In these instances, disclosure will not be required under the amended Form unless a foreign private issuer is required to disclose information in another jurisdiction or makes the requested information public on a voluntary basis.

Finally, the amendments are scheduled to take effect gradually, beginning more than one year from adoption, at the earliest. This schedule will give foreign private issuers a significant amount of time to familiarize themselves with the amendments and to set up cost-effective procedures, as necessary, to comply with the amendments. We believe this will allow foreign issuers to plan and minimize any compliance costs.

Some commenters expressed concern that the amendments to change the definition of "foreign private issuer" under the Exchange Act and the Securities Act would impose significant compliance costs. We believe the new requirements are beneficial to the integrity of our regulatory system, which provides accommodations for foreign issuers because of the unique difficulties they face in entering a foreign regulatory regime. The amendments provide a more accurate portrayal of whether a company incorporated outside the United States is the type of entity for whom the special rules and forms for foreign private issuers were intended.

In response to concerns expressed by commenters about the costs associated with the amendments, we have determined to adopt a more focused "look through" requirement that will reduce issuer costs and capture most U.S. ownership information. We believe that the benefits of accurate issuer categorization justify the additional costs a company incorporated outside the United States may bear in determining whether it is entitled to the accommodations available to foreign private issuers.

In sum, we expect the amendments to revise Form 20-F, accelerate the age of financial statements requirements, and revise the definition of foreign private issuers, will impose transitional costs on foreign private issuers, but after a transitional period, we believe those costs will become much less significant. We believe those costs are justified in light of the benefits the amendments will provide to issuers, investors and the markets.

## **V. Consideration of Burdens on Competition, and Promotion of Efficiency, Competition and Capital Formation**

Form 20-F is used by foreign private issuers as an initial registration statement and as an annual report form under the Exchange Act. The amendments to Form 20-F and related forms and rules should encourage and facilitate the use of one disclosure document that would meet the regulatory requirements of multiple jurisdictions. The Commission sought but did not receive any comments related to whether the amendments would promote efficiency, competition or capital formation, or have anti-competitive effects. Under Section 2(b) of the Securities Act and 3(f) of the Exchange Act, the Commission considered whether the amendments would promote competition, cross-border capital formation, and efficiency in multi-jurisdictional offerings and listings. Moreover, the amendments adopted today reflect the Commission's consideration, as required by Section 23(a) of the Exchange Act, of the impact the amendments may have on competition. The amendments are designed to harmonize disclosure requirements for foreign issuers, without imposing any negative impact on U.S. businesses. Therefore, the Commission believes that any burden on competition imposed by the amendments is necessary or appropriate in furtherance of the purposes of the Exchange Act.

## **VI. Regulatory Flexibility Act Certification**

Pursuant to the Regulatory Flexibility Act (15 U.S.C. § 605(b)), the Chairman of the Commission certified at the proposal stage that the revisions to rules and forms will not have a significant impact on a substantial number of small entities. We received no comments specifically addressing the certification. A copy of the certification was attached as Appendix A to the Proposing Release.

## VII. Paperwork Reduction Act

The amendments affect Form 20-F, which contains "collection of information requirements" within the meaning of the Paperwork Reduction Act of 1995.<sup>33</sup> The title for the collection of information is "Form 20-F." Providing the information required by Form 20-F is mandatory for foreign private issuers required to register securities or offerings with the Commission, and the information collected will not be kept confidential.

The amendments will affect changes to collections of information within the Paperwork Reduction Act. The collections of information would be required by amended Form 20-F. Most of the disclosure requirements of amended Form 20-F closely correspond to the Form's previous disclosure requirements. The new requirements of the amended Form are based on common national requirements in other countries, as identified by IOSCO. For these reasons, we do not expect filers of the amended Form 20-F to experience a long-term quantifiable change in their information collection burdens. In the short term, we expect that foreign private issuers will spend time reviewing Form 20-F to become familiar with its amended format and requirements, and as necessary, implement measures to comply with additional disclosure requirements. The adopted rule is substantially similar to the proposed rules with respect to the collection of information requirements. Changes from the proposed Form were undertaken in response to comment letters and principally are clarifications.

The information collection burden is not readily quantifiable for several reasons:

- Some of the new disclosure requirements are not triggered unless the Form 20-F filer has a disclosure obligation under foreign law;
- Different issuers will need more or less time to become familiar with the amendments;
- Some foreign private issuers already disclose voluntarily the information that is required by the amendments.

Once all Form 20-F filers familiarize themselves with the amended Form, we believe the burden hours will revert to the current information collection burden estimate. In the longer term, as more jurisdictions endorse and accept the IOSCO standards, we believe that the burden estimate may decrease as the differences between U.S. standards and foreign standards are reduced.

We determined the number of burden hours by estimating the number of hours

it would take for an average foreign private issuer to: (1) become familiar with the amendments; (2) make an initial filing on amended Form 20-F and/or related amended Securities Act forms; and (3), file subsequent registration statements or reports using amended Form 20-F standards. It is our estimate that the average foreign private issuer initially would need 20 hours to understand the amendments and another 10 to implement them. We believe this 30 hour burden will decrease significantly after the first time a foreign private issuer complies with the amendments.

In addition to the transition burden, the average foreign private issuer would need 451 hours annually to file an amended Form 20-F or amended Securities Act form that incorporated Form 20-F standards. To reach this number, we relied on the total annual burden hour estimate submitted in connection with Form 20-F to the Office of Management and Budget, referred to as OMB, in 1996. The resulting estimate is significantly less than the 1,995 burden hours set forth in the Proposing Release for these amendments, which upon further review, we determined was inaccurate. We solicited but did not receive any comments on this estimate. In subsequent years, we expect the annual burden to revert to 451 hours per response. We estimate that there would be 1,007 respondents to Form 20-F. Each respondent would respond once per year.

The Commission submitted the proposed revisions to those rules and forms to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number is 3235-0288. The revised forms and regulations set forth the disclosures that the Commission will require foreign private issuers to make to the public about themselves and their securities offerings. Requests for materials submitted to OMB by the Commission with regard to the collection of information should be in writing, refer to File No. S7-3-99, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services.

## VIII. Statutory Basis and Text of Amendments

The amendments to the Commission's rules and forms are adopted pursuant to Sections 2(b), 5, 6, 7, 10 and 19(a) of the

Securities Act of 1933 as amended, Sections 3, 12, 13, 15 and 23 of the Securities Exchange Act of 1934, and Section 319 of the Trust Indenture Act of 1939.

### List of Subjects

#### 17 CFR Part 210

Accountants, Accounting.

#### 17 CFR Part 228

Reporting and recordkeeping requirements, Securities, Small business.

#### 17 CFR Parts 229, 239 and 249

Reporting and recordkeeping requirements, Securities.

#### 17 CFR Part 230

Advertising, Investment companies, Reporting and recordkeeping requirements, Securities.

#### 17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

#### 17 CFR Part 260

Reporting and recordkeeping requirements, Securities, Trusts and trustees.

### Text of the Amendments

In accordance with the foregoing, the Securities and Exchange Commission amends Title 17, chapter II of the Code of Federal Regulations as follows:

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

1. The authority citation for part 210 continues to read as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77aa(25), 77aa(26), 78j-1, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll(d), 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37(a), unless otherwise noted.

#### § 210.3-19 [Removed]

2. By removing and reserving § 210.3-19.

#### § 210.3-20 [Amended]

3. Amend § 210.3-20 in the last sentence of paragraph (d) by removing the words "Items 17(c)(2) or 18(c)(2) of" and adding, in their place, the words "Item 17(c)(2) of".

4. By removing in 17 CFR Part 210 the words "§ 210.3-19" and adding, in their place, the words "Item 8.A of Form 20-

<sup>33</sup> 44 U.S.C. §§ 3501 *et seq.*

F (§ 249.220 of this chapter)" in the following places:

- a. Section 210.3-01(h); and
- b. Section 210.3-02(d).

#### § 210.3-12 [Amended]

5. Amend § 210.3-12 in paragraph (f) by removing the words "specified in § 210.3-19. Financial statements of a foreign business which are furnished pursuant to §§ 210.3-05 or 210.3-09 because it is an acquired business or a 50 percent or less owned person may be of the age specified in § 210.3-19." and adding, in their place, the words "specified in Item 8.A of Form 20-F (§ 249.220f of this chapter). Financial statements of a foreign business which are furnished pursuant to §§ 210.3-05 or 210.3-09 because it is an acquired business or a 50 percent or less owned person may be of the age specified in Item 8.A of Form 20-F."

#### PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

6. The authority citation for part 228 continues 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.

#### § 228.310 [Amended]

7. Amend the first sentence in Note 2 of § 228.310 by removing the words "Articles 3-19 and 3-20 (17 CFR 210.3-19 and 210.3-20)" and adding, in their place, the words "Item 8.A of Form 20-F (17 CFR 249.220f) and Article 3-20 of Regulation S-X (17 CFR 210.3-20)".

#### 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

8. 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.

\* \* \* \* \*

#### § 229.402 [Amended]

9. Amend § 229.402(a)(1)(ii) by removing the words "Items 11 and 12 of Form 20-F [17 CFR 249.220f]" and adding, in their place, the words "Items

6.B. and 6.E.2. of Form 20-F (17 CFR 249.220f)".

10. Amend § 229.404 by revising paragraph 3 of Instructions to Item 404 to read as follows:

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

\* \* \* \* \*  
*Instructions to Item 404.*  
 \* \* \* \* \*

3. A foreign private issuer will be deemed to comply with Item 404 if it provides the information required by Item 7.B of Form 20-F (17 CFR 249.220f).

#### § 229.512 [Amended]

11. Amend § 229.512 in the first sentence of paragraph (a)(4) by removing the words "§ 210.3-19 of this chapter" and adding, in their place, the words "Item 8.A. of Form 20-F (17 CFR 249.220f)".

#### § 229.601 [Amended]

12. Amend § 229.601 in paragraph (b)(10)(iii)(B)(5) by removing the words "Item 11 of Form 20-F" and adding, in their place, the words "Item 6.B. of Form 20-F (§ 249.220f of this chapter)".

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

13. The authority citation for part 230 continue to read in part as follows:

**Authority:** 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78l, 78m, 78n, 78o, 78w, 78ll(d), 79t, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

\* \* \* \* \*

#### § 230.175 [Amended]

14. Amend § 230.175 by removing in paragraph (b)(2)(i) the words "or Item 9 of Form 20-F (§ 249.220f of this chapter) 'Management's discussion and analysis of financial condition and results of operations,'" and adding, in their place, the words "Management's Discussion and Analysis of Financial Condition and Results of Operations, or Item 5 of Form 20-F, Operating and Financial Review and Prospects, (§ 249.220f of this chapter)"; by removing in paragraph (c)(3) the words "Item 9 of Form 20-F" and adding, in their place, the words "Item 5 of Form 20-F".

15. By amending § 230.405 by revising the definition of "foreign private issuer" to read as follows:

#### § 230.405 Definitions of terms.

\* \* \* \* \*

*Foreign private issuer.* The term *foreign private issuer* means any foreign issuer other than a foreign government except an issuer meeting the following conditions:

(1) More than 50 percent of the outstanding voting securities of such issuer are directly or indirectly owned of record by residents of the United States; and

(2) Any of the following:

- (i) The majority of the executive officers or directors are United States citizens or residents;
- (ii) More than 50 percent of the assets of the issuer are located in the United States; or
- (iii) The business of the issuer is administered principally in the United States.

*Instructions to paragraph (1) of this definition:* To determine the percentage of outstanding voting securities held by U.S. residents:

A. Use the method of calculating record ownership in Rule 12g3-2(a) under the Exchange Act (§ 240.12g3-2(a) of this chapter), except that your inquiry as to the amount of shares represented by accounts of customers resident in the United States may be limited to brokers, dealers, banks and other nominees located in:

- (1) The United States,
- (2) Your jurisdiction of incorporation, and
- (3) The jurisdiction that is the primary trading market for your voting securities, if different than your jurisdiction of incorporation.

B. If, after reasonable inquiry, you are unable to obtain information about the amount of shares represented by accounts of customers resident in the United States, you may assume, for purposes of this definition, that the customers are residents of the jurisdiction in which the nominee has its principal place of business.

C. Count shares of voting securities beneficially owned by residents of the United States as reported on reports of beneficial ownership that are provided to you or publicly filed and based on information otherwise provided to you.

\* \* \* \* \*

16. Amend § 230.434 by revising paragraph (c)(3)(i) to read as set forth below; and by removing in paragraph (c)(3)(ii) the words "Item 11 of Form S-3 or Form F-3 (§ 239.13 or § 239.33 of this chapter)" and adding, in their place, the words "Item 11 of Form S-3 or Item 5 of Form F-3 (§ 239.13 or § 239.33 of this chapter)".

#### § 230.434 Prospectus delivery requirements in firm commitment underwritten offerings of securities for cash.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) The description of securities required by Item 202 of Regulations S-K (§ 229.202 of this chapter) or by Items 9, 10 and 12 of Form 20-F (§ 249.220f of this chapter) as applicable, or a fair and accurate summary thereof; and

\* \* \* \* \*

**§ 230.463 [Amended]**

17. Amend § 230.463 by removing in paragraph (a) the words "Item 16(e)" and adding, in their place, the words "Item 14(e)".

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

18. The general 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-24, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

\* \* \* \* \*

19. Amend General Instruction E. to Form S-11 (referenced in § 239.18) by removing the words "Items 3, 4, 10, 11 and 18, respectively, of Form 20-F" and adding, in their place, the words "Items 6, 7.A, 8.A.7, and 18 of Form 20-F".

**Note:** The text of Form S-11 does not and this amendment will not appear in the Code of Federal Regulations.

20. Amend Form F-1 (referenced in § 239.31) by removing in General Instruction III the words "the information that would be required by Item 11" and adding in their place the words "the information which would be required by Item 4"; by removing in General Instruction III the words "called for by Item 9" and adding in their place the words "called for by Items 10.A and 10.B of Form 20-F or Item 12 of Form 20-F, as applicable"; by removing Items 4 through 10 and 13; by redesignating Items 11, 12, 14, 15, 16, and 17 as Items 4, 5, 6, 7, 8, and 9; by revising the caption for newly designated Item 4 to read "Information with Respect to the Registrant and the Offering"; by removing in newly designated Item 4(b) the words "Pursuant to Item 16" and adding, in their place, the words "Pursuant to Item 8"; and, by removing in newly designated Item 8(b) the words "and Item 11(b) of this Form" and adding, in their place, the words "and Item 4(b) of this Form".

21. Amend Form F-1 (referenced in § 239.31) the Instructions As To Summary Prospectuses section by redesignating paragraphs 1.(c), 1.(d), 1.(e), 1.(f), 1.(g) and 1.(h) as paragraphs 1.(c)(i), 1.(c)(ii), 1.(c)(iii), 1.(c)(iv), 1.(c)(v) and 1.(d); by removing in newly designated paragraph 1.(c)(i) the words "As to Item 4, a" and adding, in their place, "A"; by removing in newly designated paragraph 1.(c)(ii) the words "As to Item 7, a" and adding, in their place, "A"; by removing in newly designated paragraph 1.(c)(iii) the words "As to Item 8, a" and adding, in their

place, "A"; by removing in newly designated paragraph 1.(c)(iv) the words "As to Item 9, a" and adding, in their place, "A"; by removing in newly designated paragraph 1.(c)(v) the words "As to Item 11, a brief statement of the general character of the business done and intended to be done, the Selected Financial Data (Item 8 of Form 20-F (§ 249.220f of this chapter))" and adding, in their place, the words "As to Item 4, a brief statement of the general character of the business done and intended to be done, the Selected Financial Data (Item 3.A of Form 20-F (§ 249.220f of this chapter))"; by removing in paragraph 3 the words "that information as to Items 9 and 11 specified in paragraphs (f) and (g) above" and adding, in their place, the words "that information specified in paragraphs 1.(c)(iv) and 1.(c)(v) above".

**Note:** The text of Form F-1 does not and this amendment will not appear in the Code of Federal Regulations.

22. Amend Form F-2 (referenced in § 239.32) by removing Items 4 through 10 and 14; by adding new Item 4 to read as follows; by redesignating Items 11, 12, 13, 15, 16, and 17 as Items 5, 6, 7, 8, 9, and 10; by removing in newly designated Item 5(b)(1) the words "pursuant to Item 12" and adding, in their place, the words "pursuant to Item 6"; by removing in newly designated Item 5(b)(2) the words "accordance with Item 12 are not sufficiently current to comply with the requirements of Rule 3-19 of Regulation S-X (§ 210.3-19 of this chapter), financial statements necessary to comply with that rule" and adding, in their place, the words "accordance with Item 6 are not sufficiently current to comply with the requirements of Item 8.A of Form 20-F, financial statements necessary to comply with that Item"; and, by removing in the caption of the Note to newly designated Item 6 the words "Item 12(a)" and adding, in their place, the words "Item 6(a)".

**Note:** The text of Form F-2 does not and this amendment will not appear in the Code of Federal Regulations.

Securities and Exchange Commission, Washington D.C. 20549

**Form F-2—Registration Statement Under the Securities Act of 1933**

\* \* \* \* \*

**Item 4. Information About the Offering**

Furnish the information about the offering required by the following items of Form 20-F: Item 2 (Offer Statistics and Expected Timetable), Item 3.B (Capitalization and Indebtedness), Item 3.C (Reasons for the Offer and Use of Proceeds), Item 7.C (Interests of Experts and Counsel), Item 10 (The Offer and

Listing) and Item 12 (Description of Securities Other than Equity Securities). You do not have to repeat in the prospectus any information called for by these items if the same information is contained in a report being incorporated by reference into this registration statement.

\* \* \* \* \*

23. Amend Form F-2 (referenced in § 239.32) the Instructions As To Summary Prospectuses section by redesignating paragraphs 1.(c), 1.(d), 1.(e), 1.(f), 1.(g) and 1.(h) as paragraphs 1.(c)(i), 1.(c)(ii), 1.(c)(iii), 1.(c)(iv), 1.(c)(v) and 1.(d); by removing in newly designated paragraph 1.(c)(i) the words "As to Item 4, a" and adding, in their place, "A"; by removing in newly designated paragraph 1.(c)(ii) the words "As to Item 7, a" and adding, in their place, "A"; by removing in newly designated paragraph 1.(c)(iii) the words "As to Item 8, the" and adding, in their place, "The"; by removing in newly designated paragraph 1.(c)(iv) the words "As to Item 9, a" and adding, in their place, "A"; and, by removing in newly designated paragraph 1.(c)(v) the words "As to Item 12, a brief statement of the general character of the business done and intended to be done, the Selected Financial Data (Item 8 of Form 20-F (§ 249.220f of this chapter))" and adding, in their place, the words "A brief statement of the general character of the business done and intended to be done, the Selected Financial Data (Item 3.A of Form 20-F (§ 249.220f of this chapter))".

24. Amend Form F-3 (referenced in § 239.33) by removing Items 4 through 10 and 14; by adding new Item 4 to read as follows; by redesignating Items 11, 12, 13, 15, 16, and 17 as Items 5, 6, 7, 8, 9, and 10; in newly designated Item 5 remove the words "Item 12" and add, in their place, the words "Item 6" in the following places: twice in Item 5(a), once in Item 5(b)(1), and once in Item 5(b)(2); by removing in newly designated Item 5(b)(1) the words "Form 8-K" and adding, in their place, the words "Form 6-K"; by removing in newly designated Item 5(b)(2) the words "Rule 3-19 of Regulation S-X (§ 210.3-19 of this chapter), financial statements necessary to comply with that rule" and adding, in their place, the words "Item 8.A. of Form 20-F, financial statements necessary to comply with that Item"; and by removing in the caption of the Note to newly designated Item 6 the words "Item 12(d)" and adding, in their place, the words "Item 6(d)".

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

Securities and Exchange Commission

**Form F-3, Registration Statement Under the Securities Act of 1933**

\* \* \* \* \*

**Item 4. Information About the Offering**

Furnish the information about the offering required by the following items of Form 20-F: Item 2 (Offer Statistics and Expected Timetable), Item 3.B (Capitalization and Indebtedness), Item 3.C (Reasons for the Offer and Use of Proceeds), Item 7.C (Interests of Experts and Counsel), Item 10 (The Offer and Listing) and Item 12 (Description of Securities Other than Equity Securities). You do not have to repeat in the prospectus any information called for by these items if the same information is contained in a report being incorporated by reference into this registration statement.

\* \* \* \* \*

25. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 4 of Form 20-F" and adding, in their place, the words "Item 7.A. of Form 20-F" in the following places:

- a. The Instruction following Item 18(a)(5)(ii); and
- b. the Instruction following Item 19(a)(5).

26. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 5 of Form 20-F" and adding, in their place, the words "Item 9.A.4. of Form 20-F" in the following places:

- a. Instruction 2. to Item 11;
- b. Item 12(a)(5);
- c. Item 12(b)(3)(viii);
- d. Instruction 2. to Item 13;
- e. Item 14(i); and
- f. Item 17(b)(2).

27. Amend Item 12(b)(3)(iii) of Form F-4 (referenced in § 239.34) by removing the words "Item 6 of Form 20-F, exchange controls and other limitations on security holders" and adding, in their place, the words "Item 10.D. of Form 20-F, exchange controls".

28. Amend Item 14(d) of Form F-4 (referenced in § 239.34) by removing the words "Item 6 of Form 20-F, exchange controls and other limitations affecting security holders" and adding, in their place, the words "Item 10.D. of Form 20-F, exchange controls".

29. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 8 of Form 20-F" and adding, in their place, the words "Item 3.A. of Form 20-F" in the following places:

- a. Item 3(d), 3(e), 3(f)(1), 3(f)(2), 3(f)(3);
- b. Item 12(b)(3)(v);
- c. Item 14(f); and
- d. Item 17(b)(3);

30. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 9 of Form 20-F, management's discussion and analysis of financial condition and results of operations" and

adding, in their place, the words "Item 5 of Form 20-F, operating and financial review" in the following places:

- a. Item 12(b)(3)(vi)(A);
- b. Item 14(g)(1); and
- c. Item 17(b)(4)(i).

31. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 9A of Form 20-F" and adding, in their place, the words "Item 11 of Form 20-F" in the following places:

- a. Item 12(b)(3)(vi)(B);
- b. Item 14(g)(2); and
- c. Item 17(b)(4)(ii).

32. Amend Item 18(a)(7)(i) of Form F-4 (referenced in § 239.34) by removing the words "Item 10 of Form 20-F, directors and officers of registrant" and adding, in their place, the words "Item 6.A. of Form 20-F, directors and senior management of the registrant".

33. Amend Item 19(a)(7)(i) of Form F-4 (referenced in § 239.34) by removing the words "Item 10 of Form 20-F, directors and officers of the registrant; and adding, in their place, the words "Item 6.A. of Form 20-F, directors and senior management of the registrant".

34. Amend Form F-4 (referenced in § 239.34) by removing the words "Items 11 and 12 of Form 20-F, remuneration and options" and adding, in their place, the words "Items 6.B. and 6.E. of Form 20-F, compensation and share ownership" in the following places:

- a. Item 18(a)(7)(ii); and
- b. Item 19(a)(7)(ii).

35. Amend Form F-4 (referenced in § 239.34) by removing the words "Item 13 of Form 20-F, interest of management in certain transactions" and adding, in their place, the words "Item 7.B. of Form 20-F, related party transactions" in the following places:

- a. Item 18(a)(7)(iii); and
- b. Item 19(a)(7)(iii).

36. Amend Form F-4 (referenced in § 239.34) by removing the words "Rule 3-19 of Regulation S-X (210.3-19 of this chapter)" or "Rule 3-19 of Regulation S-X" or "Rule 3-19 of Regulation S-X" and adding, in their place, the words "Item 8.A. of Form 20-F" in the following places:

- a. Item 10(b);
- b. Instruction 2 to Item 11;
- c. Items 12(a)(2), (a)(5), (b)(2)(i), and (b)(3)(viii);
- d. Instruction 2 to Item 13;
- e. Item 14(i);
- f. the Instructions following Item 14(i); and
- g. Items 17(b)(2) and 17(b)(6).

37. Amend Item 3 of Form F-4 (referenced in § 239.34) by removing in Instruction 2. to *Instructions to paragraphs (e) and (f)* the words

"Instruction 7 to Item 8 of Form 20-F" and adding, in their place, the words "The Instructions to Item 3.A. of Form 20-F".

38. Amend Item 4(a)(3) of Form F-4 (referenced in § 239.34) by removing the words "Item 202 of Regulation S-K (§ 229.202 of this chapter)" and adding, in their place, the words "Items 10.A and 10.B of Form 20-F or Item 12 of Form 20-F, as applicable".

39. Amend Item 7(a) of Form F-4 (referenced in § 239.34) by removing the words "Item 507 of Regulation S-K (§ 229.507 of this chapter)" and adding, in their place, the words "Item 9.D. of Form 20-F (§ 249.220f of this chapter)".

40. Amend Item 8 of Form F-4 (referenced in § 239.34) by removing the words "Item 509 of Regulation S-K (§ 229.509 of this chapter)" and adding, in their place, the words "Item 7.C. of Form 20-F (§ 249.220f of this chapter)".

41. Amend Item 12 of Form F-4 (referenced in § 239.34) by removing in Item 12(a)(2) the words "Item 9 of Form 20-F" and adding, in their place, the words "Item 5 of Form 20-F"; by removing in Item 12(b)(1) the words "Items 1 and 2 of Form 20-F" and adding, in their place, the words "Item 4 of Form 20-F"; by removing in Item 12(b)(3)(i) the words "Items 1(a)(3) and (a)(4) of Form 20-F" and adding, in their place, the words "Items 4.B., 4.B.2., and 4.B.5. of Form 20-F"; by removing in Item 12(b)(3)(ii) the words "Item 2 of Form 20-F" and adding, in their place, the words "Item 4.D. of Form 20-F"; by removing in Item 12(b)(3)(iv) the words "Item 7 of Form 20-F" and adding, in their place, the words "Item 10.E of Form 20-F"; and by removing in Item 12(b)(3)(v) the words "Item 8 of Form 20-F" and adding, in their place, the words "Item 3.A. of Form 20-F".

42. Amend Item 14 of Form F-4 (referenced in § 239.34) by removing in Item 14(a) the words "Item 1 of Form 20-F, description of business" and adding, in their place, the words "Items 4.A., 4.B., and 4.C of Form 20-F, information on the company"; by removing in Item 14(b) the words "Item 2 of Form 20-F, description of property" and adding, in their place, the words "Item 4.D. of Form 20-F, property, plant and equipment"; by removing in Item 14(c) words "Item 3 of Form 20-F" and adding, in their place, the words "Item 8.A.7. of Form 20-F"; by removing in Item 14(e) words "Item 7 of Form 20-F" and adding, in their place, the words "Item 10.E. of Form 20-F".

**Note:** The text of Form F-4 does not and this amendment will not appear in the Code of Federal Regulations.

43. Revise Item 1 of Form F-6 (referenced in § 239.36) to read as follows:

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

Securities and Exchange Commission

**Form F-6, Registration Statement Under the Securities Act of 1933 For Depository Shares Evidenced by American Depository Receipts**

\* \* \* \* \*

**Item 1. Description of Securities To Be Registered**

Furnish the information required by Item 12.E. of Form 20-F (§ 249.22 of this chapter).

\* \* \* \* \*

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

44. The general 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, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

\* \* \* \* \*

45. By amending § 240.3b-4 by revising the section heading and paragraph (c) to read as follows:

**§ 240.3b-4 Definition of "foreign government," "foreign issuer" and "foreign private issuer".**

\* \* \* \* \*

(c) The term *foreign private issuer* means any foreign issuer other than a foreign government except an issuer meeting the following conditions:

(1) More than 50 percent of the issuer's outstanding voting securities are directly or indirectly held of record by residents of the United States; and

(2) Any of the following:

(i) The majority of the executive officers or directors are United States citizens or residents;

(ii) More than 50 percent of the assets of the issuer are located in the United States; or

(iii) The business of the issuer is administered principally in the United States.

*Instruction to paragraph (c)(1):* To determine the percentage of outstanding voting securities held by U.S. residents:

A. Use the method of calculating record ownership in Rule 12g3-2(a) under the Act (§ 240.12g3-2(a)), except that your inquiry as to the amount of shares represented by accounts of customers resident in the United States may be limited to brokers, dealers, banks and other nominees located in:

(1) The United States,

(2) Your jurisdiction of incorporation, and  
(3) The jurisdiction that is the primary trading market for your voting securities, if different than your jurisdiction of incorporation.

B. If, after reasonable inquiry, you are unable to obtain information about the amount of shares represented by accounts of customers resident in the United States, you may assume, for purposes of this definition, that the customers are residents of the jurisdiction in which the nominee has its principal place of business.

C. Count shares of voting securities beneficially owned by residents of the United States as reported on reports of beneficial ownership provided to you or filed publicly and based on information otherwise provided to you.

46. Amend § 240.3b-6 by removing in paragraph (b)(2)(i) the words "or Item 9 of Form 20-F" (§ 249.220f of this chapter) "Management's discussion and analysis of financial condition and results of operations," and adding, in their place, the words "Management's Discussion and Analysis of Financial Condition and Results of Operations" or Item 5 of Form 20-F, "Operating and Financial Review and Prospects,"; by removing in paragraph (c)(3) the words "Item 9 of Form 20-F" and adding, in their place, the words "Item 5 of Form 20-F".

47. Amend § 240.13a-10 by removing in paragraph (g)(4) the words "responding to Items 3, 9, 15, 16, and 17 or 18" and adding, in their place, the words "responding to Items 5, 8.A.7., 13, 14, and 17 or 18".

48. Amend § 240.15d-10 by removing in paragraph (g)(4) the words "responding to Items, 3, 9, 15, 16, and 17 or 18" and adding, in their place, the words "responding to Items 5, 8.A.7., 13, 14, and 17 or 18".

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

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

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

\* \* \* \* \*

50. Amend Form 20-F (referenced in § 249.220f) by revising the General Instructions; by removing Item 11; by revising Items 1 through 9, 10, 12 through 16, 18, 19 and Instructions to Exhibits to read as follows; by redesignating Item 9A as Item 11; by removing in newly designated Item 11 each time they appear the words "Item 9A" and adding, in their place, the words "Item 11"; by removing in Instruction 3 to Item 17 the words "Item 1 of Form 20-F" and adding, in their place, the words "Items 4.B.1 and 4.B.2 of Form 20-F"; and, by removing in the

Appendix section following the Instructions As To Exhibits section each time they appear the words "Item 2(b)" and adding, in their place, the words "Item 4.D".

**Note:** The text of Form 20-F does not and this amendment will not appear in the Code of Federal Regulations.

United States Securities and Exchange Commission, Washington, D.C. 20549

**Form 20-F**

\* \* \* \* \*

**General Instructions**

**A. Who May Use Form 20-F and When It Must Be Filed**

(a) Any foreign private issuer may use this form as a registration statement under Section 12 of the Securities Exchange Act of 1934 (referred to as the Exchange Act) or as an annual or transition report filed under Section 13(a) or 15(d) of the Exchange Act. A transition report is filed when an issuer changes its fiscal year end. The term "foreign private issuer" is defined in Rule 3b-4 under the Exchange Act.

(b) A foreign private issuer must file its annual report on this Form within six months after the end of the fiscal year covered by the report.

(c) A foreign private issuer filing a transition report on this Form must file its report in accordance with the requirements set forth in Rule 13a-10 or Rule 15d-10 under the Exchange Act that apply when an issuer changes its fiscal year end.

**B. General Rules and Regulations That Apply to This Form**

(a) The General Rules and Regulations under the Securities Act of 1933 (referred to as the Securities Act) contain general requirements that apply to registration on any form. Read these general requirements carefully and follow them when preparing and filing registration statements and reports on this Form.

(b) Pay particular attention to Regulation 12B under the Exchange Act. Regulation 12B contains general requirements about matters such as the kind and size of paper to be used, the legibility of the registration statement or report, the information to give in response to a requirement to state the title of securities, the language to be used and the filing of the registration statement or report.

(c) In addition to the definitions in the General Rules and Regulations under the Securities Act and the definitions in Rule 12b-2 under the Exchange Act, General Instruction F defines certain terms for purposes of this Form.

(d) Note Regulation S-X, which applies to the presentation of financial information in a registration statement or report.

**C. How To Prepare Registration Statements and Reports on This Form**

(a) Do not use this Form as a blank form to be filled in; use it only as a guide in the preparation of the registration statement or annual report. General Instruction E states which items must be responded to in a registration statement and which items must

be responded to in an annual report. The registration statement or report must contain the numbers and captions of all items. You may omit the text following each caption in this Form, which describes what must be disclosed under each item. Omit the text of all instructions in this Form. If an item is inapplicable or the answer to the item is in the negative, respond to the item by making a statement to that effect.

(b) Unless an item directs you to provide information as of a specific date or for a specific period, give the information in a registration statement as of a date reasonably close to the date of filing the registration statement and give the information in an annual report as of the latest practicable date.

(c) Note Exchange Act Rule 12b-20, which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading."

(d) If the same information required by this Form also is required by the body of accounting principles used in preparing the financial statements, you may respond to an item of this Form by providing a cross-reference to the location of the information in the financial statements, in lieu of repeating the information.

(e) Note Item 10 of Regulation S-K which explains the Commission policy on projections of future economic performance and the Commission policy on securities ratings.

(f) If you are providing the information required by this Form in connection with a registration statement under the Securities Act, note that Rule 421 requires you to follow plain English drafting principles. You can find helpful information in "A Plain English Handbook—How to create clear SEC disclosure documents" and in staff legal bulletins supplementing the Handbook. These documents are available on our Internet website, at [www.sec.gov](http://www.sec.gov).

#### **D. How To File Registration Statements and Reports on This Form**

File with the Commission (i) three complete copies of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as part of the registration statement or report, and (ii) five additional copies of the registration statement or report, which need not contain exhibits. File at least one complete copy of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as part of the registration statement or report, with each exchange on which any class of securities is or will be registered. Manually sign at least one complete copy of the registration statement or report filed with the Commission and one copy filed with each exchange. Type or print the signatures on copies that are not manually signed. See Exchange Act Rule 12b-11(d) for instructions about manual signatures and the Instructions as to Exhibits of this Form for instructions about signatures pursuant to powers of attorney.

Registration statements and reports are filed with the Commission by sending or delivering them to our File Desk between the hours of 9:00 a.m. and 5:30 p.m., Washington, D.C. time. The File Desk is closed on weekends and federal holidays. If you file a registration statement or report by mail or by any means other than hand delivery, the address is U.S. Securities and Exchange Commission, Attention: File Desk, 450 Fifth Street, N.W., Washington, D.C. 20549. We consider documents to be filed on the date our File Desk receives them. We do not require foreign private issuers to file registration statements and reports under our Electronic Data Gathering and Retrieval System (EDGAR). We encourage you to use EDGAR, if possible, because documents filed through EDGAR are easily accessible by the public through the Commission's Internet Web site and through other electronic means. If you have technical questions about EDGAR or want to request an access code, call the EDGAR Filer Support Office at (202) 942-8900. If you have questions about the EDGAR rules, call the Office of EDGAR Policy at (202) 942-2940.

#### **E. Which Items To Respond to in Registration Statements and Annual Reports**

(a) *Exchange Act Registration Statements.* A registration statement filed under the Exchange Act on this Form must include the information specified in Part I and Part III. Read the instructions to each item carefully before responding to the item. In some cases, the instructions may permit you to omit some of the information specified in certain items in Part I.

(b) *Annual Reports.* An annual report on this Form must include the information specified in Parts I, II and III. Read the instructions to each item carefully before responding to the item. In some cases, the instructions may permit you to omit some of the information specified in certain items in Part I. The instructions also may permit you to omit certain information if it was previously reported to us and has not changed. If that is the case, you do not have to file copies of the previous report with the report being filed on this Form.

(c) *Financial Statements.* An Exchange Act registration statement or annual report filed on this Form must contain the financial statements and related information specified in Item 17 of this Form. We encourage you to provide the financial statements and related information specified in Item 18 of this Form in lieu of Item 17, but the Item 18 statements and information are not required. In certain circumstances, Forms F-2, F-3 or F-4 for the registration of securities under the Securities Act require that you provide the financial statements and related information specified in Item 18 in your annual report on Form 20-F. Consult those Securities Act forms for the specific requirements and consider the potential advantages of complying with Item 18 instead of Item 17 of this Form. Note that Items 17 and 18 may require you to file financial statements of other entities in certain circumstances. These circumstances are described in Regulation S-X.

The financial statements must be audited in accordance with U.S. generally accepted

auditing standards, and the auditor must comply with the U.S. standards for auditor independence. If you have any questions about these requirements, contact the Office of Chief Accountant in the Division of Corporation Finance at (202) 942-2960.

(d) *Securities Act Registration Statements.* The registration statement forms under the Securities Act direct you to provide information required by specific items of Form 20-F. Some items of Form 20-F only apply to Securities Act registration statements, and you do not have to respond to those items if you are using Form 20-F to file an Exchange Act registration statement or an annual report. The instructions to the items of Form 20-F identify which information is required only in Securities Act registration statements.

#### **F. Definitions**

The following definitions apply to various terms used in this Form, unless the context indicates otherwise.

**Affiliate**—An "affiliate" of a specified person or entity refers to one who, directly or indirectly, either controls, is controlled by or is under common control with, the specified person or entity.

**Beneficial owner**—The term "beneficial owner" of securities refers to any person who, even if not the record owner of the securities, has or shares the underlying benefits of ownership. These benefits include the power to direct the voting or the disposition of the securities or to receive the economic benefit of ownership of the securities. A person also is considered to be the "beneficial owner" of securities that the person has the right to acquire within 60 days by option or other agreement. Beneficial owners include persons who hold their securities through one or more trustees, brokers, agents, legal representatives or other intermediaries, or through companies in which they have a "controlling interest," which means the direct or indirect power to direct the management and policies of the entity.

**Company**—References to the "company" mean the company whose securities are being offered or listed, and refer to the company on a consolidated basis unless the context indicates otherwise.

**Directors and senior management**—This term includes (a) the company's directors, (b) members of its administrative, supervisory or management bodies, (c) partners with unlimited liability, in the case of a limited partnership with share capital, (d) nominees to serve in any of the aforementioned positions, and (e) founders, if the company has been established for fewer than five years. The persons covered by the term "administrative, supervisory or management bodies" vary in different countries and, for purposes of complying with the disclosure standards, will be determined by the host country.

**Document**—This term covers prospectuses and offering documents used in connection with a public offering of securities and registration statements or prospectuses used in connection with the initial listing of securities.

**Instruction**: References to the "document" mean whatever type of document is being

prepared using Form 20-F disclosure requirements, including, as applicable, a prospectus, an Exchange Act registration statement, and an annual report.

**Equity securities**—The term “equity securities” includes common or ordinary shares, preferred or preference shares, options or warrants to subscribe for equity securities, and any securities, other than debt securities, which are convertible into or exercisable or redeemable for equity securities of the same company or another company. If the equity securities available upon conversion, exercise or redemption are those of another company, the disclosure standards also apply to the other company.

**Group**—A “group” is a parent and all its subsidiaries. References to a company’s group mean the group of which it is a member.

**Home country**—This term refers to the jurisdiction in which the company is legally organized, incorporated or established and, if different, the jurisdiction where it has its principal listing.

**Host country**—This term refers to jurisdictions, other than the home country, in which the company is seeking to offer, register or list its securities.

**Instruction:** Note that, as used in this Form, the term “host country” means the United States and its territories.

**Pre-emptive issue**—The term “pre-emptive issue” and references to “pre-emptive purchase rights” refer to offerings made to the company’s existing shareholders in order to permit them to maintain their pro rata ownership in the company.

## Part I

### Item 1. Identity of Directors, Senior Management and Advisers

The purpose of this standard is to identify the company representatives and other individuals involved in the company’s listing or registration.

**A. Directors and senior management.** Provide the names, business addresses and functions of the company’s directors and senior management.

**B. Advisers.** Provide the names and addresses of the company’s principal bankers and legal advisers to the extent the company has a continuing relationship with such entities, the sponsor for listing (where required by the host country regulations), and the legal advisers to the issue.

**C. Auditors.** Provide the names and addresses of the company’s auditors for the preceding three years (together with their membership in a professional body).

**Instructions to Item 1:** If you are filing Form 20-F as an annual report under the Exchange Act, you do not have to provide the information called for by Item 1. You must provide this information, to the extent applicable, if you are filing a registration statement under either the Securities Act or the Exchange Act.

**Instructions to Item 1.B:** You only have to provide the information called for by Item 1.B if you are required to disclose the information in a jurisdiction outside the United States. These persons will not be considered “experts” or “sellers” under the

Securities Act solely due to the fact that they are named in response to Item 1.B.

### Item 2. Offer Statistics and Expected Timetable

The purpose of this standard is to provide key information regarding the conduct of any offering and the identification of important dates relating to that offering.

**A. Offer statistics.** For each method of offering, e.g., rights offering, general offering, etc., state the total expected amount of the issue, including the expected issue price or the method of determining the price and the number of securities expected to be issued.

**B. Method and expected timetable.** For all offerings, and separately for each group of targeted potential investors, the document shall state the following information to the extent applicable to the offering procedure:

1. The time period during which the offer will be open, and where and to whom purchase or subscription applications shall be addressed. Describe whether the purchase period may be extended or shortened, and the manner and duration of possible extensions or possible early closure or shortening of this period. Describe the manner in which the latter shall be made public. If the exact dates are not known when the document is first filed or distributed to the public, describe arrangements for announcing the final or definitive date or period.

2. Method and time limits for paying up securities; where payment is partial, the manner and dates on which amounts due are to be paid.

3. Method and time limits for delivery of equity securities (including provisional certificates, if applicable) to subscribers or purchasers.

4. In the case of pre-emptive purchase rights, the procedure for the exercise of any right of pre-emption, the negotiability of subscription rights and the treatment of subscription rights not exercised.

5. A full description of the manner in which results of the distribution of securities are to be made public, and when appropriate, the manner for refunding excess amounts paid by applicants (including whether interest will be paid).

**Instructions to Item 2:** If you are filing Form 20-F as a registration statement or annual report under the Exchange Act, you do not have to provide the information called for by Item 2. You must provide this information if you are filing a registration statement under the Securities Act.

### Item 3. Key Information

The purpose of this standard is to summarize key information about the company’s financial condition, capitalization and risk factors. If the financial statements included in the document are restated to reflect material changes in the company’s group structure or accounting policies, the selected financial data also must be restated. See Item 8.

#### A. Selected financial data.

1. The company shall provide selected historical financial data regarding the company, which shall be presented for the five most recent financial years (or such

shorter period that the company has been in operation), in the same currency as the financial statements. Selected financial data for either or both of the earliest two years of the five-year period may be omitted, however, if the company represents to the host country regulator that such information cannot be provided, or cannot be provided on a restated basis, without unreasonable effort or expense. If interim period financial statements are included, the selected financial data should be updated for that interim period, which may be unaudited, provided that fact is stated. If selected financial data for interim periods is provided, comparative data from the same period in the prior financial year shall also be provided, except that the requirement for comparative balance sheet data is satisfied by presenting the year end balance sheet information.

2. The selected financial data presented shall include items generally corresponding to the following, except that the specific line items presented should be expressed in the same manner as the corresponding line items in the company’s financial statements. Such data shall include, at a minimum, net sales or operating revenues; income (loss) from operations; net income (loss); net income (loss) from operations per share; income (loss) from continuing operations per share; total assets; net assets; capital stock (excluding long term debt and redeemable preferred stock); number of shares as adjusted to reflect changes in capital; dividends declared per share in both the currency of the financial statements and the host country currency, including the formula used for any adjustments to dividends declared; and diluted net income per share. Per share amounts must be determined in accordance with the body of accounting principles used in preparing the financial statements.

3. Where the financial statements provided in response to Item 8 are prepared in a currency other than the currency of the host country, disclosure of the exchange rate between the financial reporting currency and the currency of the host country should be provided, using the exchange rate designated by the host country for this purpose, if any:

- (a) At the latest practicable date;
- (b) The high and low exchange rates for each month during the previous six months; and
- (c) For the five most recent financial years and any subsequent interim period for which financial statements are presented, the average rates for each period, calculated by using the average of the exchange rates on the last day of each month during the period.

**B. Capitalization and indebtedness.** A statement of capitalization and indebtedness (distinguishing between guaranteed and unguaranteed, and secured and unsecured, indebtedness) as of a date no earlier than 60 days prior to the date of the document shall be provided showing the company’s capitalization on an actual basis and, if applicable, as adjusted to reflect the sale of new securities being issued and the intended application of the net proceeds therefrom. Indebtedness also includes indirect and contingent indebtedness.

*C. Reasons for the offer and use of proceeds.*

1. The document shall disclose the estimated net amount of the proceeds broken down into each principal intended use thereof. If the anticipated proceeds will not be sufficient to fund all the proposed purposes, the order of priority of such purposes should be given, as well as the amount and sources of other funds needed. If the company has no specific plans for the proceeds, it should discuss the principal reasons for the offering.

2. If the proceeds are being used directly or indirectly to acquire assets, other than in the ordinary course of business, briefly describe the assets and their cost. If the assets will be acquired from affiliates of the company or their associates, disclose the persons from whom they will be acquired and how the cost to the company will be determined.

3. If the proceeds may or will be used to finance acquisitions of other businesses, give a brief description of such businesses and information on the status of the acquisitions.

4. If any material part of the proceeds is to be used to discharge, reduce or retire indebtedness, describe the interest rate and maturity of such indebtedness and, for indebtedness incurred within the past year, the uses to which the proceeds of such indebtedness were put.

*D. Risk factors.* The document shall prominently disclose risk factors that are specific to the company or its industry and make an offering speculative or one of high risk, in a section headed "Risk Factors." Companies are encouraged, but not required, to list the risk factors in the order of their priority to the company. Among other things, such factors may include, for example: the nature of the business in which it is engaged or proposes to engage; factors relating to the countries in which it operates; the absence of profitable operations in recent periods; the financial position of the company; the possible absence of a liquid trading market for the company's securities; reliance on the expertise of management; potential dilution; unusual competitive conditions; pending expiration of material patents, trademarks or contracts; or dependence on a limited number of customers or suppliers. The Risk Factors section is intended to be a summary of more detailed discussion contained elsewhere in the document.

*Instructions to Item 3:*

1. If you are filing Form 20-F as an annual report under the Exchange Act, you do not have to provide the information called for by Item 3.B or 3.C. If you are filing Form 20-F as a registration statement under the Exchange Act, you do not have to provide the information called for by Item 3.C. You must provide the information called for by Item 3 if you are filing a registration statement under the Securities Act.

2. Throughout Form 20-F, the terms "financial year" and "fiscal year" have the same meaning. The term "fiscal year" is defined in Rule 405 under the Securities Act and Rule 12b-2 under the Exchange Act.

*Instructions to Item 3.A:* You may present the selected financial data on the basis of the accounting principles used in your primary

financial statements. If you do this, however, you also must include in this summary any reconciliations of the data to U.S. generally accepted accounting principles and Regulation S-X, pursuant to Item 17 or 18 of this Form. In that case, you only have to provide selected financial data on a basis reconciled to U.S. generally accepted accounting principles for (i) those periods for which you were required to reconcile the primary annual financial statements in a filing under the Securities Act or the Exchange Act, and (ii) any interim periods.

If you are unable to provide selected financial data for the earliest two years of the five-year period, submit the required representation to us before or at the time you file the document. Disclose in the document that data for the earliest two years have been omitted and explain the reasons for the omission.

*Instructions to Item 3.B:*

1. If you are including the capitalization table called for by Item 3.B in a prospectus supplement for a shelf offering registered on Form F-3, the amounts shown in the table may be as of the date of the most recent balance sheet filed as part of the registration statement, if the information in the table is updated to reflect securities issued up to 60 days prior to the date of the supplement.

2. If you are not selling new securities in a firm commitment underwritten offering or an "all or none" best efforts offering, reflect the capitalization "as adjusted" for the net proceeds of the offering only in the following ways:

a. In a best efforts "minimum/maximum" offering, reflect both the minimum and maximum proceeds; and

b. In a rights offering or an offering of securities upon the exercise of outstanding warrants, reflect the proceeds only to the extent exercise is likely in view of the current market price.

*Instructions to Item 3.D:* Risk factors should be concise and explain clearly how the risk affects the issuer or the securities.

**Item 4. Information on the Company**

The purpose of this standard is to provide information about the company's business operations, the products it makes or the services it provides, and the factors that affect the business. The standard also is intended to provide information regarding the adequacy and suitability of the company's properties, plants and equipment, as well as its plans for future increases or decreases in such capacity.

*A. History and development of the company.* The following information shall be provided:

1. The legal and commercial name of the company.

2. The date of incorporation and the length of life of the company, except where indefinite.

3. The domicile and legal form of the company, the legislation under which the company operates, its country of incorporation and the address and telephone number of its registered office (or principal place of business if different from its registered office). Provide the name and address of the company's agent in the host country, if any.

4. The important events in the development of the company's business, e.g. information concerning the nature and results of any material reclassification, merger or consolidation of the company or any of its significant subsidiaries; acquisitions or dispositions of material assets other than in the ordinary course of business; any material changes in the mode of conducting the business; material changes in the types of products produced or services rendered; name changes; or the nature and results of any bankruptcy, receivership or similar proceedings with respect to the company or significant subsidiaries.

5. A description, including the amount invested, of the company's principal capital expenditures and divestitures (including interests in other companies), since the beginning of the company's last three financial years to the date of the offering or listing document.

6. Information concerning the principal capital expenditures and divestitures currently in progress, including the distribution of these investments geographically (home and abroad) and the method of financing (internal or external).

7. An indication of any public takeover offers by third parties in respect of the company's shares or by the company in respect of other companies' shares which have occurred during the last and current financial year. The price or exchange terms attaching to such offers and the outcome thereof are to be stated.

*B. Business overview.* The information required by this item may be presented on the same basis as that used to determine the company's business segments under the body of accounting principles used in preparing the financial statements. The following information shall be provided:

1. A description of the nature of the company's operations and its principal activities, stating the main categories of products sold and/or services performed for each of the last three financial years. Indicate any significant new products and/or services that have been introduced and, to the extent the development of new products or services has been publicly disclosed, give the status of development.

2. A description of the principal markets in which the company competes, including a breakdown of total revenues by category of activity and geographic market for each of the last three financial years.

3. A description of the seasonality of the company's main business.

4. A description of the sources and availability of raw materials, including a description of whether prices of principal raw materials are volatile.

5. A description of the marketing channels used by the company, including an explanation of any special sales methods, such as installment sales.

6. Summary information regarding the extent to which the company is dependent, if at all, on patents or licenses, industrial, commercial or financial contracts (including contracts with customers or suppliers) or new manufacturing processes, where such factors are material to the company's business or profitability.

7. The basis for any statements made by the company regarding its competitive position shall be disclosed.

8. A description of the material effects of government regulations on the company's business, identifying the regulatory body.

C. *Organizational structure.* If the company is part of a group, include a brief description of the group and the company's position within the group. Provide a listing of the company's significant subsidiaries, including name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held.

D. *Property, plants and equipment.* The company shall provide information regarding any material tangible fixed assets, including leased properties, and any major encumbrances thereon, including a description of the size and uses of the property; productive capacity and extent of utilization of the company's facilities; how the assets are held; the products produced; and the location. Also describe any environmental issues that may affect the company's utilization of the assets. With regard to any material plans to construct, expand or improve facilities, describe the nature of and reason for the plan, an estimate of the amount of expenditures including the amount of expenditures already paid, a description of the method of financing the activity, the estimated dates of start and completion of the activity, and the increase of production capacity anticipated after completion.

*Instruction to Item 4:* Furnish the information specified in any industry guide listed in Part 9 of Regulation S-K (§ 229.802 of this chapter) that applies to you, except that if you furnish the information specified in Appendix A to Item 4.D of this form you do not need to furnish any additional information specified in Guide 2 relating to oil and gas operations.

*Instructions to Item 4.A.4:* If you are providing the information called for by Item 4.A.4 in an annual report, you only have to provide the required information for the period from the beginning of your last full financial year up to the latest practicable date.

*Instructions to Item 4.B:*

1. The reference in Item 4.B to "the body of accounting principles used in preparing the financial statements" means the accounting principles used in preparing the primary financial statements, not to accounting principles used only to prepare the U.S. GAAP reconciliation.

2. If you:

(a) Are filing a registration statement on Form F-1 under the Securities Act or on Form 20-F under the Exchange Act,

(b) Were not required to file reports under Section 13(a) or 15(d) of the Exchange Act immediately prior to filing that registration statement, and

(c) Have not received (or your predecessor has not received) revenue from operations during each of the three fiscal years immediately prior to filing the registration statement:

you must provide information about your plan of operations. Provide information comparable to the information required by Item 101(a)(2) of Regulation S-K.

*Instructions to Item 4.D:*

1. In the case of an extractive enterprise:

(a) Provide material information about production, reserves, locations, developments and the nature of your interest. If individual properties are of major significance to you, provide more detailed information about those properties and use maps to disclose information about their location.

(b) If you are giving reserve estimates in the registration statement or report:

(i) Consult the staff of the Office of International Corporate Finance of the Division of Corporation Finance. That office may request that you provide supplementally a copy of the full report of the engineer or other expert who estimated the reserves. See Rule 418 of Regulation C (§ 230.418 of this chapter) and Rule 12b-4 of Regulation 12B (§ 240.12b-4 of this chapter) for information about submitting supplemental information to the Commission and requesting its return.

(ii) In documents you file publicly with the Commission, do not disclose estimates of oil or gas reserves unless the reserves are proved (or in the case of other extractive industries, proved or probable) and do not give estimated values of those reserves, unless foreign law requires you to disclose the information. If these types of estimates have already been provided to any person that is offering to acquire you, however, you may include the estimates in documents relating to the acquisition.

(iii) If you represent that the estimates of reserves you provide, or any estimated valuation of those reserves, are based on estimates prepared or reviewed by independent consultants, you must name those consultants in the document.

(c) If oil and gas operations are material to your or your subsidiaries' business operations or financial position, provide the information specified in Appendix A to Item 4.D, located at the end of this Form.

**Item 5. Operating and Financial Review and Prospects**

The purpose of this standard is to provide management's explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are anticipated to have a material effect on the company's financial condition and results of operations in future periods.

Discuss the company's financial condition, changes in financial condition and results of operations for each year and interim period for which financial statements are required, including the causes of material changes from year to year in financial statement line items, to the extent necessary for an understanding of the company's business as a whole. Information provided also shall relate to all separate segments of the company. Provide the information specified below as well as such other information that is necessary for an investor's understanding of the company's financial condition, changes in financial condition and results of operations.

A. *Operating results.* Provide information regarding significant factors, including

unusual or infrequent events or new developments, materially affecting the company's income from operations, indicating the extent to which income was so affected. Describe any other significant component of revenue or expenses necessary to understand the company's results of operations.

1. To the extent that the financial statements disclose material changes in net sales or revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services.

2. Describe the impact of inflation, if material. If the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five year history of the annual rate of inflation and a discussion of the impact of hyperinflation on the company's business shall be disclosed.

3. Provide information regarding the impact of foreign currency fluctuations on the company, if material, and the extent to which foreign currency net investments are hedged by currency borrowings and other hedging instruments.

4. Provide information regarding any governmental economic, fiscal, monetary or political policies or factors that have materially affected, or could materially affect, directly or indirectly, the company's operations or investments by host country shareholders.

B. *Liquidity and capital resources.* The following information shall be provided:

1. Information regarding the company's liquidity (both short and long term), including:

(a) A description of the internal and external sources of liquidity and a brief discussion of any material unused sources of liquidity. Include a statement by the company that, in its opinion, the working capital is sufficient for the company's present requirements, or, if not, how it proposes to provide the additional working capital needed.

(b) An evaluation of the sources and amounts of the company's cash flows, including the nature and extent of any legal or economic restrictions on the ability of subsidiaries to transfer funds to the company in the form of cash dividends, loans or advances and the impact such restrictions have had or are expected to have on the ability of the company to meet its cash obligations.

(c) Information on the level of borrowings at the end of the period under review, the seasonality of borrowing requirements and the maturity profile of borrowings and committed borrowing facilities, with a description of any restrictions on their use.

2. Information regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. The discussion also should include funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed

rates, and the use of financial instruments for hedging purposes.

3. Information regarding the company's material commitments for capital expenditures as of the end of the latest financial year and any subsequent interim period and an indication of the general purpose of such commitments and the anticipated sources of funds needed to fulfill such commitments.

C. *Research and development, patents and licenses, etc.* Provide a description of the company's research and development policies for the last three years, where it is significant, including the amount spent during each of the last three financial years on company-sponsored research and development activities.

D. *Trend information.* The company should identify the most significant recent trends in production, sales and inventory, the state of the order book and costs and selling prices since the latest financial year. The company also should discuss, for at least the current financial year, any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the company's net sales or revenues, income from continuing operations, profitability, liquidity or capital resources, or that would cause reported financial information not necessarily to be indicative of future operating results or financial condition.

*Instructions to Item 5:*

1. Refer to the Commission's interpretive release (No. 33-6835) dated May 18, 1989 for guidance in preparing this discussion and analysis by management of the company's financial condition and results of operations.

2. The discussion should focus on the primary financial statements presented in the document. You should refer to the reconciliation to U.S. GAAP, if any, and discuss any aspects of the differences between foreign and U.S. GAAP, not otherwise discussed in the reconciliation, that you believe are necessary for an understanding of the financial statements as a whole.

3. We encourage you to supply forward-looking information, but that type of information is not required. Forward-looking information is covered expressly by the safe harbor provisions of Section 27A of the Securities Act and Section 27A of the Exchange Act. Forward-looking information is different than presently known data which will have an impact on future operating results, such as known future increases in costs of labor or materials. You are required to disclose this latter type of data if it is material.

*Instruction to Item 5.A:*

1. You must provide the information required by Item 5.A.2 with respect to hyperinflation if hyperinflation has occurred in any of the periods for which you are required to provide audited financial statements or unaudited interim financial statements in the document. See Rule 3-20(c) of Regulation S-X for a discussion of cumulative inflation rates that trigger this requirement.

**Item 6. Directors, Senior Management and Employees**

The purpose of this standard is to provide information concerning the company's directors and managers that will allow investors to assess such individuals' experience, qualifications and levels of compensation, as well as their relationship with the company. Information concerning the company's employees is also required.

A. *Directors and senior management.* The following information shall be disclosed with respect to the company's directors and senior management, and any employees such as scientists or designers upon whose work the company is dependent:

1. Name, business experience, functions and areas of experience in the company.

2. Principal business activities performed outside the issuing company (including, in the case of directors, other principal directorships).

3. Date of birth or age (if required to be reported in the home country or otherwise publicly disclosed by the company).

4. The nature of any family relationship between any of the persons named above.

5. Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person referred to above was selected as a director or member of senior management.

B. *Compensation.* Provide the following information for the last full financial year for the company's directors and members of its administrative, supervisory or management bodies:

1. The amount of compensation paid, and benefits in kind granted, to such persons by the company and its subsidiaries for services in all capacities to the company and its subsidiaries by any person. Disclosure of compensation is required on an individual basis unless individual disclosure is not required in the company's home country and is not otherwise publicly disclosed by the company. The standard also covers contingent or deferred compensation accrued for the year, even if the compensation is payable at a later date. If any portion of the compensation was paid (a) pursuant to a bonus or profit-sharing plan, provide a brief description of the plan and the basis upon which such persons participate in the plan; or (b) in the form of stock options, provide the title and amount of securities covered by the options, the exercise price, the purchase price (if any), and the expiration date of the options.

2. The total amounts set aside or accrued by the company or its subsidiaries to provide pension, retirement or similar benefits.

C. *Board practices.* The following information for the company's last completed financial year shall be given with respect to, unless otherwise specified, the company's directors, and members of its administrative, supervisory or management bodies.

1. Date of expiration of the current term of office, if applicable, and the period during which the person has served in that office.

2. Details of directors' service contracts with the company or any of its subsidiaries providing for benefits upon termination of employment, or an appropriate negative statement.

3. Details relating to the company's audit committee and remuneration committee, including the names of committee members and a summary of the terms of reference under which the committee operates.

D. *Employees.* Provide either the number of employees at the end of the period or the average for the period for each of the past three financial years (and changes in such numbers, if material) and, if possible, a breakdown of persons employed by main category of activity and geographic location. Also disclose any significant change in the number of employees, and information regarding the relationship between management and labor unions. If the company employs a significant number of temporary employees, include disclosure of the number of temporary employees on an average during the most recent financial year.

E. *Share ownership.*

1. With respect to the persons listed in subsection 6.B, above, provide information as to their share ownership in the company as of the most recent practicable date (including disclosure on an individual basis of the number of shares and percent of shares outstanding of that class, and whether they have different voting rights) held by the persons listed and options granted to them on the company's shares. Information regarding options shall include: the title and amount of securities called for by the options; the exercise price; the purchase price, if any; and the expiration date of the options.

2. Describe any arrangements for involving the employees in the capital of the company, including any arrangement that involves the issue or grant of options or shares or securities of the company.

*Instruction to Item 6.C:* The term "plan" is used very broadly and includes any type of arrangement for compensation, even if the terms of the plan are not contained in a formal document.

*Instruction to Item 6.E:* If (a) any of the persons listed in subsection 6.B beneficially owns less than one percent of the class of shares and (b) that person's individual share ownership previously has not been disclosed to shareholders or otherwise made public, you may indicate, by an asterisk and explanatory footnote or similar means, that the person beneficially owns less than one percent of the class, instead of providing that person's individual share ownership.

**Item 7. Major Shareholders and Related Party Transactions**

The purpose of this standard is to provide information regarding the major shareholders and others that control or may control the company. The standard also provides information regarding transactions the company has entered into with persons affiliated with the company and whether the terms of such transactions are fair to the company. These standards may require disclosure of related party transactions not required to be disclosed under the body of accounting principles used in preparing the financial statements. This standard is not intended to address the thresholds at which shareholders are required, on a continuing basis, to disclose their beneficial ownership of securities.

A. *Major shareholders.* To the extent that the following information is known to the company or can be ascertained from public filings, it should be provided as of the most recent practicable date, with references to the number of shares held in the company including shares beneficially owned.

1. The following information shall be provided regarding the company's major shareholders, which means shareholders that are the beneficial owners of 5% or more of each class of the company's voting securities (unless the company is required to disclose a lesser percentage in its home country, in which case that lesser percentage applies):

(a) Provide the names of the major shareholders, and the number of shares and the percentage of outstanding shares of each class owned by each of them as of the most recent practicable date, or an appropriate negative statement if there are no major shareholders.

(b) Disclose any significant change in the percentage ownership held by any major shareholders during the past three years.

(c) Indicate whether the company's major shareholders have different voting rights, or an appropriate negative statement.

2. Information shall be provided as to the portion of each class of securities held in the host country and the number of record holders in the host country.

3. To the extent known to the company, state whether the company is directly or indirectly owned or controlled by another corporation(s), by any foreign government or by any other natural or legal person(s) severally or jointly, and, if so, give the name(s) of such controlling corporation(s), government or other person(s), and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote.

4. Describe any arrangements, known to the company, the operation of which may at a subsequent date result in a change in control of the company.

B. *Related party transactions.* Provide the information required below for the period since the beginning of the company's preceding three financial years up to the date of the document, with respect to transactions or loans between the company and (a) enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the company; (b) associates; (c) individuals owning, directly or indirectly, an interest in the voting power of the company that gives them significant influence over the company, and close members of any such individual's family; (d) key management personnel, that is, those persons having authority and responsibility for planning, directing and controlling the activities of the company, including directors and senior management of companies and close members of such individuals' families; and (e) enterprises in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such a person is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the company and enterprises that have a member of key management in

common with the company. Close members of an individual's family are those that may be expected to influence, or be influenced by, that person in their dealings with the company. An associate is an unconsolidated enterprise in which the company has a significant influence or which has significant influence over the company. Significant influence over an enterprise is the power to participate in the financial and operating policy decisions of the enterprise but is less than control over those policies. Shareholders beneficially owning a 10% interest in the voting power of the company are presumed to have a significant influence on the company.

1. The nature and extent of any transactions or presently proposed transactions which are material to the company or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the company or any of its parent or subsidiaries was a party.

2. The amount of outstanding loans (including guarantees of any kind) made by the company or any of its parent or subsidiaries to or for the benefit of any of the persons listed above. The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan and the transaction in which it was incurred, and the interest rate on the loan.

C. *Interests of experts and counsel.* If any of the named experts or counselors was employed on a contingent basis, owns an amount of shares in the company or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the company or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.

*Instructions to Item 7.B:*

1. If you are providing the information called for by Item 7.B in an annual report, you only have to provide the required information for the period from the beginning of your last full fiscal year up to the latest practicable date.

2. In response to Item 7.B.2, if the lender is a bank, savings and loan association, or broker dealer extending credit under Federal Reserve Regulation T, and the loans are not disclosed as nonaccrual, past due, restructured or potential problems under Industry Guide 3, your response may consist of a statement, if true, that the loans in question (A) were made in the ordinary course of business, (B) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (C) did not involve more than the normal risk of collectibility or present other unfavorable features.

*Instruction to Item 7.C:* If you are filing Form 20-F as a registration statement or annual report under the Exchange Act, you do not have to provide the information called for by Item 7.C. You must provide this information if you are filing a registration

statement under the Securities Act. Accountants who provide a report on financial statements that are presented or incorporated by reference in a registration statement should note Article 2 of Regulation S-X. That Article contains the Commission's requirements for qualifications and reports of accountants.

**Item 8. Financial Information**

The purpose of this standard is to specify which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature.

A. *Consolidated Statements and Other Financial Information.*

1. The document must contain consolidated financial statements, audited by an independent auditor and accompanied by an audit report, comprised of:

(a) Balance sheet;

(b) Income statement;

(c) Statement showing either (i) changes in equity other than those arising from capital transactions with owners and distributions to owners; or (ii) all changes in equity (including a subtotal of all non-owner items recognized directly in equity);

(d) Cash flow statement;

(e) Related notes and schedules required by the comprehensive body of accounting standards pursuant to which the financial statements are prepared; and

(f) If not included in the primary financial statements, a note analyzing the changes in each caption of shareholders' equity presented in the balance sheet.

2. The document should include comparative financial statements that cover the latest three financial years, audited in accordance with a comprehensive body of auditing standards.

3. The audit report(s) must cover each of the periods for which these international disclosure standards require audited financial statements. If the auditors have refused to provide a report on the annual accounts or if the report(s) contain qualifications or disclaimers, such refusal or such qualifications or disclaimers shall be reproduced in full and the reasons given, so the host country securities regulator can determine whether or not to accept the financial statements. Include an indication of any other information in the document which has been audited by the auditors.

4. The last year of audited financial statements may not be older than 15 months at the time of the offering or listing; provided, however, that in the case of the company's initial public offering, the audited financial statements also shall be as of a date not older than 12 months at the time the document is filed. In such cases, the audited financial statements may cover a period of less than a full year.

5. If the document is dated more than nine months after the end of the last audited financial year, it should contain consolidated interim financial statements, which may be unaudited (in which case that fact should be stated), covering at least the first six months of the financial year. The interim financial statements should include a balance sheet, income statement, cash flow statement, and

a statement showing either (i) changes in equity other than those arising from capital transactions with owners and distributions to owners, or (ii) all changes in equity (including a subtotal of all non-owner items recognized directly in equity). Each of these statements may be in condensed form as long as it contains the major line items from the latest audited financial statements and includes the major components of assets, liabilities and equity (in the case of the balance sheet); income and expenses (in the case of the income statement) and the major subtotals of cash flows (in the case of the cash flow statement). The interim financial statements should include comparative statements for the same period in the prior financial year, except that the requirement for comparative balance sheet information may be satisfied by presenting the year end balance sheet. If not included in the primary financial statements, a note should be provided analyzing the changes in each caption of shareholders' equity presented in the balance sheet. The interim financial statements should include selected note disclosures that will provide an explanation of events and changes that are significant to an understanding of the changes in financial position and performance of the enterprise since the last annual reporting date. If, at the date of the document, the company has published interim financial information that covers a more current period than those otherwise required by this standard, the more current interim financial information must be included in the document. Companies are encouraged, but not required, to have any interim financial statements in the document reviewed by an independent auditor. If such a review has been performed and is referred to in the document, a copy of the auditor's interim review report must be provided in the document.

6. If the amount of export sales constitutes a significant portion of the company's total sales volume, provide the total amount of export sales and the percent and amount of export sales in the total amount of sales volume.

7. Provide information on any legal or arbitration proceedings, including those relating to bankruptcy, receivership or similar proceedings and those involving any third party, which may have, or have had in the recent past, significant effects on the company's financial position or profitability. This includes governmental proceedings pending or known to be contemplated.

8. Describe the company's policy on dividend distributions.

B. *Significant Changes.* Disclose whether or not any significant change has occurred since the date of the annual financial statements, and/or since the date of the most recent interim financial statements, if any, included in the document.

*Instructions to Item 8:*

1. This item refers to the company, but note that under Rules 3-05, 3-09, 3-10 and 3-14 of Regulation S-X, you also may have to provide financial statements or financial information for entities other than the issuer. In some cases, you may have to provide financial statements for a predecessor. See the definition of "predecessor" in Exchange Act Rule 12b-2 and Securities Act Rule 405.

2. For offerings of securities (a) upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if the rights are granted pro rata to all existing securityholders of the class of securities to which the rights attach; or (b) pursuant to a dividend or interest reinvestment plan; or (c) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of that issuer, the 15-month period referred to in Item 8.A.4 is extended to 18 months and the interim financial statements referred to in Item 8.A.5 shall be as of a date within 12 months of the date of the document. The provisions of this paragraph are not applicable if securities are to be offered or sold in a standby underwriting in the United States or similar arrangement.

*Instructions to Item 8.A.2:*

1. You do not have to provide a balance sheet for the earliest of the three-year periods specified in Item 8.A.2 if that balance sheet is not required by a jurisdiction outside the United States.

2. The financial statements must be audited in accordance with U.S. generally accepted auditing standards, and the auditor must comply with the U.S. and Commission standards for auditor independence. Note Article 2 of Regulation S-X, which contains requirements for qualifications and reports of accountants.

*Instruction to Item 8.A.3:* The circumstances in which we would accept an audit report containing a disclaimer or qualification are extremely limited. If you plan to submit this type of report, we recommend that you contact the staff of the Office of Chief Accountant in the Division of Corporation Finance well in advance of filing the document, to discuss the report.

*Instructions to Item 8.A.4:*

1. In calculating the 15-month requirement for the age of financial statements, determine the age based on the period of time that has elapsed between the date of the balance sheet and "the time of the offering or listing," which means the time the registration statement is declared effective. You may satisfy this requirement by providing audited financial statements covering a period of less than a full year.

2. The additional requirement that financial statements be no older than 12 months at the date of filing applies only in those limited cases where a nonpublic company is registering its initial public offering of securities. We will waive this requirement in cases where the company is able to represent adequately to us that it is not required to comply with this requirement in any other jurisdiction outside the United States and that complying with the requirement is impracticable or involves undue hardship. File this representation as an exhibit to the registration statement. If we waive the 12-month requirement, you must comply with the 15-month requirement in this item.

*Instructions to Item 8.A.5:*

1. Item 8.A.5 does not apply to annual reports on Form 20-F.

2. The third sentence of Item 8.A.5 explains that the required interim financial

statements may be in condensed form using major line items from the latest audited financial statements. To determine which major line items must be included in condensed interim information, see Rules 10-01(a) (1) through (7).

3. The third sentence from the end of Item 8.A.5 requires you to include in the document interim financial information that has been published by the company if that information covers a more current period than the statements otherwise required by Item 8. This requirement does not apply to annual reports filed on Form 20-F. The requirement covers any publication of financial information that includes, at a minimum, revenue and income information, even if that information is not published as part of a complete set of financial statements. Whenever you provide more current interim financial information in response to this requirement:

(a) Describe any ways in which the accounting principles, practices and methods used in preparing that interim financial information vary materially from the principles, practices and methods accepted in the United States, and

(b) Quantify any material variations, unless they already are quantified because they occur in other financial statements included in the document.

*Instructions to Item 8.A.7:*

1. This Item also requires disclosure of any material proceeding in which any director, any member of senior management, or any of your affiliates is either a party adverse to you or your subsidiaries or has a material interest adverse to you or your subsidiaries.

2. If you are providing the information called for by Item 8.A.7 in an annual report, also describe the disposition of any previously reported litigation that occurred during the last fiscal year.

## Item 9. The Offer and Listing

The purpose of this standard is to provide information regarding the offer or listing of securities, the plan for distribution of the securities and related matters.

*A. Offer and listing details.*

1. Indicate the expected price at which the securities will be offered or the method of determining the price, and the amount of any expenses specifically charged to the subscriber or purchaser.

2. If there is not an established market for the securities, the document shall contain information regarding the manner of determination of the offering price as well as of the exercise price of warrants and the conversion price of convertible securities, including who established the price or who is formally responsible for the determination of the price, the various factors considered in such determination and the parameters or elements used as a basis for establishing the price.

3. If the company's shareholders have preemptive purchase rights and where the exercise of the right of pre-emption of shareholders is restricted or withdrawn, the company shall indicate the basis for the issue price if the issue is for cash, together with the reasons for such restriction or withdrawal and the beneficiaries of such restriction or

withdrawal if intended to benefit specific persons.

4. Information regarding the price history of the stock to be offered or listed shall be disclosed as follows:

(a) For the five most recent full financial years: the annual high and low market prices;

(b) For the two most recent full financial years and any subsequent period: the high and low market prices for each full financial quarter;

(c) For the most recent six months: the high and low market prices for each month;

(d) For pre-emptive issues, the market prices for the first trading day in the most recent six months, for the last trading day before the announcement of the offering and (if different) for the latest practicable date prior to publication of the document.

Information shall be given with respect to the market price in the host market and the principal trading market outside the host market. If significant trading suspensions occurred in the prior three years, they shall be disclosed. If the securities are not regularly traded in an organized market, information shall be given about any lack of liquidity.

5. State the type and class of the securities being offered or listed and furnish the following information:

(a) Indicate whether the shares are registered shares or bearer shares and provide the number of shares to be issued and to be made available to the market for each kind of share. The nominal par or equivalent value should be given on a per share basis and, where applicable, a statement of the minimum offer price. Describe the coupons attached, if applicable.

(b) Describe arrangements for transfer and any restrictions on the free transferability of the shares.

6. If the rights evidenced by the securities being offered or listed are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification and its effect on the rights evidenced by the securities to be listed or offered.

7. With respect to securities other than common or ordinary shares to be listed or offered, outline briefly the rights evidenced thereby.

(a) If subscription warrants or rights are to be listed or offered, state: the title and amount of securities called for; the amount of warrants or rights outstanding; provisions for changes to or adjustments in the exercise price; the period during which and the price at which the warrants or rights are exercisable; and any other material terms of such warrants or rights.

(b) Where convertible securities or stock purchase warrants to be listed or offered are subject to redemption or call, the description of the conversion terms of the securities or material terms of the warrants shall include whether the right to convert or purchase the securities will be forfeited unless it is exercised before the date specified in the notice of redemption or call; the expiration or termination date of the warrants; the kind, frequency and timing of notice of the

redemption or call, including where the notice will be published; and, in the case of bearer securities, that investors are responsible for making arrangements to prevent loss of the right to convert or purchase in the event of redemption or call.

**B. Plan of distribution.**

1. The names and addresses of the entities underwriting or guaranteeing the offering shall be listed.

2. To the extent known to the company, indicate whether major shareholders, directors or members of the company's management, supervisory or administrative bodies intend to subscribe in the offering, or whether any person intends to subscribe for more than 5% of the offering.

3. Identify any group of targeted potential investors to whom the securities are offered. If the offering is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain of these, indicate any such tranche.

4. If securities are reserved for allocation to any group of targeted investors, including, for example, offerings to existing shareholders, directors, or employees and past employees of the company or its subsidiaries, provide details of these and any other preferential allocation arrangements.

5. Indicate whether the amount of the offering could be increased, such as by the exercise of an underwriter's over-allotment option or "greenshoe," and by how much.

6. Indicate the amount, and outline briefly the plan of distribution, of any securities that are to be offered otherwise than through underwriters. If the securities are to be offered through the selling efforts of brokers or dealers, describe the plan of distribution and the terms of any agreement or understanding with such entities. If known, identify the broker(s) or dealer(s) that will participate in the offering and state the amount to be offered through each.

7. If the securities are to be offered in connection with the writing of exchange-traded call options, describe briefly such transactions.

8. If simultaneously or almost simultaneously with the creation of shares for which admission to official listing is being sought, shares of the same class are subscribed for or placed privately or if shares of other classes are created for public or private placing, details are to be given of the nature of such operations and of the number and characteristics of the shares to which they relate.

9. Unless otherwise described under the response to Item 10.C (Material Contracts), describe the features of the underwriting relationship together with the amount of securities being underwritten by each underwriter in privity of contract with the company or selling shareholders. The foregoing information should include a statement as to whether the underwriters are or will be committed to take and to pay for all of the securities if any are taken, or whether it is an agency or the type of "best efforts" arrangement under which the underwriters are required to take and to pay for only such securities as they may sell to the public.

10. If any underwriter or other financial adviser has a material relationship with the

company, describe the nature and terms of such relationship.

C. *Markets.* The company shall disclose all stock exchanges and other regulated markets on which the securities to be offered or listed are traded. When an application for admission to any exchange and/or regulated market is being or will be sought, this must be mentioned, without creating the impression that the listing necessarily will be approved. If known, the dates on which the shares will be listed and dealt in should be given.

D. *Selling shareholders.* The following information shall be provided:

1. The name and address of the person or entity offering to sell the shares, the nature of any position, office or other material relationship that the selling shareholder has had within the past three years with the company or any of its predecessors or affiliates.

2. The number and class of securities being offered by each of the selling shareholders, and the percentage of the existing equity capital. The amount and percentage of the securities for each particular type of securities beneficially held by the selling shareholder before and immediately after the offering shall be specified.

E. *Dilution.* The following information shall be provided:

1. Where there is a substantial disparity between the public offering price and the effective cash cost to directors or senior management, or affiliated persons, of equity securities acquired by them in transactions during the past five years, or which they have the right to acquire, include a comparison of the public contribution in the proposed public offering and the effective cash contributions of such persons.

2. Disclose the amount and percentage of immediate dilution resulting from the offering, computed as the difference between the offering price per share and the net book value per share for the equivalent class of security, as of the latest balance sheet date.

3. In the case of a subscription offering to existing shareholders, disclose the amount and percentage of immediate dilution if they do not subscribe to the new offering.

F. *Expenses of the issue.* The following information shall be provided:

1. The total amount of the discounts or commissions agreed upon by the underwriters or other placement or selling agents and the company or offeror shall be disclosed, as well as the percentage such commissions represent of the total amount of the offering and the amount of discounts or commissions per share.

2. A reasonably itemized statement of the major categories of expenses incurred in connection with the issuance and distribution of the securities to be listed or offered and by whom the expenses are payable, if other than the company. If any of the securities are to be offered for the account of a selling shareholder, indicate the portion of such expenses to be borne by such shareholder. The information may be given subject to future contingencies. If the amounts of any items are not known, estimates (identified as such) shall be given.

*Instruction to Item 9:* If you are using this Form as a registration statement under the

Exchange Act, provide only the information called for by Items 9.A.4-7 and 9.C. If you are using this Form as an annual report, provide only the information called for by Items 9.A.4 and 9.C. If you are providing this information in a Securities Act registration statement, provide the information called for by the entire Item.

**Instruction to Item 9.A:** When you are required to state the title of the securities, the title must indicate the type and general character of the securities, such as whether they are callable, convertible or redeemable and whether there is any preference or fixed rate of dividends.

**Instructions to Item 9.B:**

1. You may satisfy the requirement in Item 9.B.1 to provide the underwriters' addresses by giving the addresses of the lead underwriters for the offering.

2. If previously you have not been required to file reports under section 13(a) or 15(d) of the Exchange Act and any of the managing underwriters (or a majority of the principal underwriters) has been organized, reactivated or first registered as a broker-dealer within the past three years, disclose that fact. Also disclose, if true, that the principal business function of this underwriter will be to sell the securities being registered or that your promoters or founders have a material relationship with this underwriter. Give enough details to provide a clear picture of the underwriter's experience and its relationship with you, your promoters or founders, and their controlling persons.

**Instruction to Item 9.F:** Major categories of expenses include at least the following: registration fees, federal taxes, state taxes and fees, trustees' and transfer agents' fees, printing and engraving costs, legal fees, accounting fees, engineering fees, and any premiums paid to insure directors or officers for liabilities in connection with the registration, offer or sale of the securities you are registering.

### Item 10. Additional Information

The purpose of this standard is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the document.

**A. Share capital.** The following information shall be given as of the date of the most recent balance sheet included in the financial statements and as of the latest practicable date:

1. The amount of issued capital and, for each class of share capital: (a) the number of shares authorized; (b) the number of shares issued and fully paid and issued but not fully paid; (c) the par value per share, or that the shares have no par value; and (d) a reconciliation of the number of shares outstanding at the beginning and end of the year. If more than 10% of capital has been paid for with assets other than cash within the past five years, that fact should be stated.

2. If there are shares not representing capital, the number and main characteristics of such shares shall be stated.

3. Indicate the number, book value and face value of shares in the company held by or on behalf of the company itself or by subsidiaries of the company.

4. Where there is authorized but unissued capital or an undertaking to increase the

capital, for example, in connection with warrants, convertible obligations or other outstanding equity-linked securities, or subscription rights granted, indicate: (i) the amount of outstanding equity-linked securities and of such authorized capital or capital increase and, where appropriate, the duration of the authorization; (ii) the categories of persons having preferential subscription rights for such additional portions of capital; and (iii) the terms, arrangements and procedures for the share issue corresponding to such portions.

5. The persons to whom any capital of any member of the group is under option or agreed conditionally or unconditionally to be put under option, including the title and amount of securities covered by the options; the exercise price; the purchase price, if any; and the expiration date of the options, or an appropriate negative statement. Where options have been granted or agreed to be granted to all the holders of shares or debt securities, or of any class thereof, or to employees under an employees' share scheme, it will be sufficient so far as the names are concerned, to record that fact without giving names.

6. A history of share capital for the last three years identifying the events during such period which have changed the amount of the issued capital and/or the number and classes of shares of which it composed, together with a description of changes in voting rights attached to the various classes of shares during that time. Details should be given of the price and terms of any issue including particulars of consideration where this was other than cash (including information regarding discounts, special terms or installment payments). If there are no such issues, an appropriate negative statement must be made. The reason for any reduction of the amount of capital and the ratio of capital reductions also shall be given.

7. An indication of the resolutions, authorizations and approvals by virtue of which the shares have been or will be created and/or issued, the nature of the issue and amount thereof and the number of shares which have been or will be created and/or issued, if predetermined.

**B. Memorandum and articles of association.** The following information shall be provided:

1. Indicate the register and the entry number therein, if applicable, and describe the company's objects and purposes and where they can be found in the memorandum and articles.

2. With respect to directors, provide a summary of any provisions of the company's articles of association or charter and bylaws with respect to: (a) a director's power to vote on a proposal, arrangement or contract in which the director is materially interested; (b) the directors' power, in the absence of an independent quorum, to vote compensation to themselves or any members of their body; (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied; (d) retirement or non-retirement of directors under an age limit requirement; and (e) number of shares, if any, required for director's qualification.

3. Describe the rights, preferences and restrictions attaching to each class of the

shares, including: (a) dividend rights, including the time limit after which dividend entitlement lapses and an indication of the party in whose favor this entitlement operates; (b) voting rights, including whether directors stand for reelection at staggered intervals and the impact of that arrangement where cumulative voting is permitted or required; (c) rights to share in the company's profits; (d) rights to share in any surplus in the event of liquidation; (e) redemption provisions; (f) sinking fund provisions; (g) liability to further capital calls by the company; and (h) any provision discriminating against any existing or prospective holder of such securities as a result of such shareholder owning a substantial number of shares.

4. Describe what action is necessary to change the rights of holders of the stock, indicating where the conditions are more significant than is required by law.

5. Describe the conditions governing the manner in which annual general meetings and extraordinary general meetings of shareholders are convoked, including the conditions of admission.

6. Describe any limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by foreign law or by the charter or other constituent document of the company or state that there are no such limitations if that is the case.

7. Describe briefly any provision of the company's articles of association, charter or bylaws that would have an effect of delaying, deferring or preventing a change in control of the company and that would operate only with respect to a merger, acquisition or corporate restructuring involving the company (or any of its subsidiaries).

8. Indicate the bylaw provisions, if any, governing the ownership threshold above which shareholder ownership must be disclosed.

9. With respect to items 2 through 8 above, if the law applicable to the company in these areas is significantly different from that in the host country, the effect of the law in these areas should be explained.

10. Describe the conditions imposed by the memorandum and articles of association governing changes in the capital, where such conditions are more stringent than is required by law.

**C. Material contracts.** Provide a summary of each material contract, other than contracts entered into in the ordinary course of business, to which the company or any member of the group is a party, for the two years immediately preceding publication of the document, including dates, parties, general nature of the contracts, terms and conditions, and amount of any consideration passing to or from the company or any other member of the group.

**D. Exchange controls.** Describe any governmental laws, decrees, regulations or other legislation of the home country of the company which may affect:

1. The import or export of cash, including the availability of cash and cash equivalents for use by the company's group.

2. The remittance of dividends, interest or other payments to nonresident holders of the company's securities.

E. *Taxation.* The company shall provide information regarding taxes (including withholding provisions) to which shareholders in the host country may be subject. Information should be included as to whether the company assumes responsibility for the withholding of tax at the source and regarding applicable provisions of any reciprocal tax treaties between the home and host countries, or a statement, if applicable, that there are no such treaties.

F. *Dividends and paying agents.* Disclose any dividend restrictions, the date on which the entitlement to dividends arises, if known, and any procedures for nonresident holders to claim dividends. Identify the financial organizations which, at the time of admission of shares to official listing, are the paying agents of the company in the countries where admission has taken place or is expected to take place.

G. *Statement by experts.* Where a statement or report attributed to a person as an expert is included in the document, provide such person's name, address and qualifications and a statement to the effect that such statement or report is included, in the form and context in which it is included, with the consent of that person, who has authorized the contents of that part of the document.

H. *Documents on display.* The company shall provide an indication of where the documents concerning the company which are referred to in the document may be inspected. Exhibits and documents on display generally should be translated into the language of the host country, or a summary in the host country language should be provided.

I. *Subsidiary Information.* Certain information relating to the company's subsidiaries must be provided in some countries, if the information is not otherwise called for by the body of generally accepted accounting principles used in preparing the financial statements.

*Instructions to Item 10:*

1. In annual reports filed on Form 20-F:  
(a) You do not have to provide the information called for by Items 10.A, 10.F and 10.G; and

(b) If the information called for by Item 10.B has been reported previously in a registration statement on Form 20-F or a registration statement filed under the Securities Act and has not changed, you may incorporate that information by a specific reference in the annual report to the previous registration statement.

2. In registration statements filed under the Securities Act or the Exchange Act that relate to securities other than common equity, you do not have to provide the information called for by Items 10.A or 10.F.

3. The information referred to in Item 10.I is not required for registration statements and reports filed in the United States.

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**Item 12. Description of Securities Other Than Equity Securities**

A. *Debt Securities.* If you are registering debt securities, provide the following

information if it is relevant to the securities you are registering.

1. Information about interest, conversions, maturity, redemption, amortization, sinking funds or retirement.

2. The kind and priority of any lien securing the issue, as well as a brief identification of the principal properties subject to each lien.

3. Subordination of the rights of holders of the securities to other security holders or creditors. If the securities are designated in their title as subordinated, give the aggregate amount of outstanding indebtedness as of the most recent practicable date that is senior to the subordinated debt and briefly describe any limitations on the issuance of additional senior indebtedness, or state that there is no limitation.

4. Information about provisions restricting the declaration of dividends or requiring the creation or maintenance of any reserves or of any ratio of assets or requiring the maintenance of properties.

5. Information about provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against the issuance of additional securities, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security and similar provisions. You do not need to describe provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance monies, and similar provisions.

6. The general type of event that constitutes a default and whether or not you are required to provide periodic evidence of the absence of a default or of compliance with the terms of the indenture.

7. Modification of the terms of the security or the rights of security holders.

8. If the rights evidenced by the securities you are registering are or may be materially limited or qualified by the rights of any other authorized class of securities, provide enough information about the other class of securities so investors will understand the rights evidenced by the securities you are registering. You do not need to provide information about the other class of securities if all of it will be retired, as long as you have taken appropriate steps to ensure that retirement will be completed on or before the time you deliver the securities you are registering.

9. The tax effects of any "original issue discount" as that term is defined in Section 1232 of the Internal Revenue Code (26 U.S.C. 1232), including cases where the debt security is being sold in a package with another security and the allocation of the offering price between the two securities may have the effect of offering the debt security at an original issue discount.

10. The name and address of the trustee and the nature of any material relationship between the trustee and you or any of your affiliates, the percentage of the class of securities that is needed to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

11. The names and addresses of the paying agents.

12. The currency or currencies in which the debt is payable. If the debt may be paid in two or more currencies, state who has the option to determine the currency conversion and what the basis will be for that determination.

13. Any law or decree determining the extent to which the securities may be serviced.

14. The consequences of any failure to pay principal, interest, or any sinking or amortization installment.

15. If the securities are guaranteed, the name of the guarantor and a brief outline of the contract of guarantee.

B. *Warrants and Rights.* If the securities you are registering are being offered pursuant to warrants or rights, provide the following information, in addition to the description of the securities the warrants or rights represent.

1. The amount of securities called for by the warrants or rights.

2. The period during and the price at which the warrants or rights are exercisable.

3. The amount of warrants or rights outstanding.

4. Provisions for changes or adjustments in the exercise price.

5. Any other material terms of the warrants or rights.

C. *Other Securities.* If you are registering securities other than equity, debt, warrants or rights, briefly describe the rights evidenced by the securities you are registering. The description should be comparable in detail to the description you would be required to provide for equity, debt, warrants or rights.

D. *American Depositary Shares.* If you are registering American depositary shares represented by American depositary receipts, provide the following information.

1. Give the name of the depositary and the address of its principal executive office.

2. Give the title of the American depositary receipts and identify the deposited security. Briefly describe the American depositary shares, including provisions, if any, regarding:

(a) The amount of deposited securities represented by one unit of American depositary receipts;

(b) Any procedure for voting the deposited securities;

(c) The procedure for collecting and distributing dividends;

(d) The procedures for transmitting notices, reports and proxy soliciting material;

(e) The sale or exercise of rights;

(f) The deposit or sale of securities resulting from dividends, splits or plans of reorganization;

(g) Amendment, extension or termination of the deposit arrangements;

(h) The rights that holders of American depositary receipts have to inspect the books of the depositary and the list of receipt holders;

(i) Any restrictions on the right to transfer or withdraw the underlying securities; and

(j) Any limitation on the depositary's liability.

3. Describe all fees and charges that a holder of American depositary receipts may

have to pay, either directly or indirectly. Indicate the type of service, the amount of the fees or charges and to whom the fees or charges are paid. In particular, provide information about any fees or charges in connection with (a) depositing or substituting the underlying shares; (b) receiving or distributing dividends; (c) selling or exercising rights; (d) withdrawing an underlying security; and (e) transferring, splitting or grouping receipts. Provide information about the depository's right, if any, to collect fees and charges by offsetting them against dividends received and deposited securities.

**Instructions to Item 12:**

1. You do not need to provide the information called for by this item if you are using this form as an annual report.

2. You do not need to include any information in a registration statement or prospectus in response to Item 305(a)(2) of the Trust Indenture Act of 1939, 15 U.S.C. 77aaa et seq., as amended, if the information is not otherwise required by this Item.

3. If you are registering convertible securities or stock purchase warrants that are subject to redemption or call, include the following information in your description of the securities.

a. Whether holders will forfeit the right to convert or purchase the securities unless they exercise that right before the date specified in the notice of redemption or call;

b. The expiration or termination date of the warrants;

c. The kinds, frequency and timing of the redemption or call notice, including the cities or newspapers in which you will publish the notice; and

d. In the case of bearer securities, that investors are responsible for making arrangements to avoid losing the right to convert or purchase if there is a redemption or call, such as by reading the newspapers in which you will publish the redemption or call notice.

4. When you are required to state the title of the securities, the title must indicate the type and general character of the securities.

**Part II**

**Item 13. Defaults, Dividend Arrearages and Delinquencies**

A. If there has been:

1. A material default in the payment of principal, interest, a sinking or purchase fund installment, or

2. Any other material default not cured within 30 days, relating to indebtedness of you or any of your significant subsidiaries, and if the amount of the indebtedness exceeds 5% of your total assets on a consolidated basis, identify the indebtedness and state the nature of the default. If the default falls under paragraph A.1 above, state the amount of the default and the total arrearage on the date you file this report.

B. If the payment of dividends is in arrears or there has been any other material delinquency not cured within 30 days, relating to:

1. Any class of your preferred stock which is registered or ranks prior to any class of registered securities, or

2. Any class of preferred stock of your significant subsidiaries, state the title of the class and the nature of the arrearage or delinquency. If the payment of dividends is in arrears, state the amount of this arrearage and the total arrearage on the date you file this report.

**Instructions to Item 13:**

1. If you previously have reported information called for by this item in a report on Form 6-K, you may incorporate the information by specifically referring in this report to the previous report.

2. You do not have to provide the information called for by this Item if the default or arrearage relates to a class of securities held entirely by or for the account of you or any of your wholly owned subsidiaries.

**Instructions to Item 13.A:** This requirement only applies to events that have become defaults under the governing instruments, i.e., after any grace period has expired and any notice requirements have been satisfied.

**Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds**

A. If you or anyone else has modified materially the instruments defining the rights of holders of any class of registered securities, identify that class of securities and briefly describe the general effect of the modification on the rights of those security holders.

B. If you or anyone else has modified materially or qualified the rights evidenced by any class of registered securities by issuing or modifying any other class of securities, briefly describe the general effect of the issuance or modification on the rights of holders of the registered securities.

C. If you or anyone else has withdrawn or substituted a material amount of the assets securing any class of your registered securities, provide the following information.

1. Give the title of the securities.

2. Identify and describe briefly the assets withdrawn or substituted.

3. Indicate the provisions in the underlying indenture, if any, that authorize the withdrawal or substitution.

D. If the trustees or paying agents for any registered securities have changed during the last financial year, give the names and addresses of the new trustees or paying agents.

E. *Use of proceeds.* If required pursuant to Rule 463 under the Securities Act, report the use of proceeds after the effective date of the first Securities Act registration statement filed by you or your predecessor. You must report the use of proceeds:

(i) On the first Form 20-F annual report you file pursuant to sections 13(a) and 15(d) of the Exchange Act after the Securities Act registration statement is effective, and

(ii) On each of your subsequent Form 20-F annual reports filed pursuant to sections 13(a) and 15(d) of the Exchange Act.

You may cease reporting the use of proceeds on the later of the date you disclose application of all the offering proceeds, or the date you disclose termination of the offering. If a required report on the use of proceeds relates to the first effective registration statement of your predecessor, you must provide the report.

Provide the information required by paragraphs E.1 through E.4 below in the first Form 20-F annual report you file pursuant to sections 13(a) and 15(d) of the Exchange Act. In subsequent Form 20-F annual reports, you only need to provide the information required by paragraphs E.2 through E.4 if that information has changed since the last Form 20-F annual report you filed.

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 that registration statement;

2. The offering date, if the offering has commenced, or an explanation of why it has not commenced;

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

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

(a) Whether the offering has terminated and, if so, whether it terminated before all of the registered securities were sold;

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

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

(d) For each class of securities (other than a class into which a class of registered convertible securities 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 shareholder(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;

(e) 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 registered securities 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 is provided instead of the actual amount of the expense. Indicate whether the payments were:

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

(ii) Direct or indirect payments to others;

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

(g) 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 5% 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:

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

(ii) Direct or indirect payments to others; and

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

*Instruction to Item 14:* If you previously have reported information called for by this item in a report on Form 6-K, you may incorporate the information by specifically referring in this report to the previous report.

*Instruction to Item 14.B:* You should report any working capital restrictions or other limitations on the payment of dividends.

*Instruction to Item 14.C:* You do not have to provide the information called for by Item 14.C. if the withdrawal or substitution is made pursuant to the terms of an indenture qualified under the Trust Indenture Act of 1939.

#### Item 15. [Reserved]

#### Item 16. [Reserved]

### Part III

[See General Instruction E(c)]

\* \* \* \* \*

#### Item 18. Financial Statements

Provide the following information:

(a) All of the information required by Item 17 of this Form, and

(b) All other information required by U.S. generally accepted accounting principles and Regulation S-X unless such requirements specifically do not apply to the registrant as a foreign issuer. However, information may be omitted (i) for any period in which net income has not been presented on a basis reconciled to United States generally accepted accounting principles, or (ii) if the financial statements are furnished for a business acquired or to be acquired pursuant to § 210.3-05 or less-than-majority-owned investee pursuant to § 210.3-09 of this chapter.

*Instruction to Item 18:* All of the instructions to Item 17 also apply to this Item, except Instruction 3 to Item 17, which does not apply.

#### Item 19. Exhibits

List all exhibits filed as part of the registration statement or annual report, including exhibits incorporated by reference.

*Instruction to Item 19:* If you incorporate any financial statement or exhibit by reference, include the incorporation by reference in the list required by this Item. Note Rule 1b2-23 regarding incorporation by reference. Note also the Instructions to Exhibits at the end of this Form.

#### Signatures

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this registration statement [annual report] on its behalf.

(Registrant) \_\_\_\_\_

(Signature)\* \_\_\_\_\_

Date: \_\_\_\_\_

\*Print the name and title of the signing officer under this signature.

#### Instructions as to Exhibits

File the exhibits listed below as part of an Exchange Act registration statement or report. Rule 12b-32 explains the circumstances in which you may incorporate exhibits by reference. Rule 24b-2 explains the procedure to be followed in requesting confidential treatment of information required to be filed.

Previously filed exhibits may be incorporated by reference. If any previously filed exhibits have been amended or modified, file copies of the amendment or modification or copies of the entire exhibit as amended or modified.

Include an exhibit index in each registration statement or report you file, immediately preceding the exhibits you are filing. The exhibit index must list each exhibit according to the number assigned to it below. If an exhibit is incorporated by reference, note that fact in the exhibit index. The pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

1. The articles of incorporation or association and bylaws, or comparable instruments, as currently in effect and any amendments to those documents. If you are filing an amendment, file a complete copy of the document as amended.

2. (a) All instruments defining the rights of holders of the securities being registered. You do not have to file instruments that define the rights of participants, rather than security holders, in an employee benefit plan.

(b) All instruments defining the rights of holders of long-term debt issued by you or any subsidiary for which you are required to file consolidated or unconsolidated financial statements, except that you do not have to file:

(i) Any instrument relating to long-term debt that is not being registered on this registration statement, if the total amount of securities authorized under that instrument does not exceed 10% of the total assets of you and your subsidiaries on a consolidated basis and you have filed an agreement to furnish us a copy of the instrument if we request it;

(ii) Any instrument relating to a class of securities if, on or before the date you deliver the securities being registered, you take appropriate steps to assure that class of securities will be redeemed or retired; or

(iii) Copies of instruments evidencing script certificates for fractions of shares.

(c) A copy of the indenture, if the securities being registered are or will be issued under an indenture qualified under the Trust Indenture Act of 1939. Include a reasonably itemized and informative table of contents and a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to sections 310 through 318(a) inclusive of the Trust Indenture Act.

3. Any voting trust agreements and any amendments to those agreements.

4. (a) Every contract that is material to you and (i) is to be performed in whole or in part on or after the date you file the registration statement or (ii) was entered into not more than two years before the filing date. Only file a contract if you or your subsidiary is a party or has succeeded to a party by assumption or assignment or if you or your subsidiary has a beneficial interest.

(b) If a contract is the type that ordinarily accompanies the kind of business you and your subsidiaries conduct, we will consider it have been made in the ordinary course of business and will not require you to file it, unless it falls within one or more of the following categories. Even if it falls into one of these categories, you do not have to file the contract if it is immaterial in amount or significance.

(i) Any contract to which (A) directors, (B) officers, (C) promoters, (D) voting trustees or (E) security holders named in the registration statement are parties, unless the contract involves only the purchase or sale of current assets that have a determinable market price and the assets are purchased or sold at that price;

(ii) Any contract upon which your business is substantially dependent. Examples of these types of contracts might be (a) continuing contracts to sell the major part of your products or services or to purchase the major part of your requirement of goods, services or raw materials, or (b) any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name if your business depends to a material extent on that patent, formula, trade secret processor trade name;

(iii) Any contract for the acquisition or sale of any property, plant or equipment if the consideration exceeds 15% of your fixed assets on a consolidated basis; or

(iv) Any material lease under which you hold part of the property described in the registration statement.

(c) We will consider any management contract or compensatory plan, contract or arrangement in which your directors or members of your administrative, supervisory or management bodies participate to be material. File these management contracts or compensatory plans, contracts or arrangements unless they fall into one of the following categories:

(i) Ordinary purchase and sale agency agreements;

(ii) Agreements with managers of stores in a chain or similar organization;

(iii) Contracts providing for labor or salesmen's bonuses or for payments to a class of security holders in their capacity as security holders;

(iv) Any compensatory plan, contract or arrangement that is available by its terms to

employees, officers or directors generally, if the operation of the plan, contract or arrangement uses the same method to allocate benefits to management and nonmanagement participants; and

(v) Any compensatory plan, contract or arrangement if you are furnishing compensation information on an aggregate basis as permitted by Item 6.B.

If you are filing compensatory plans, contracts or arrangements, only file copies of the plans and not copies of each individual's personal agreement under the plans, unless there are particular provisions in a personal agreement that should be filed as an exhibit so investors will understand that individual's compensation under the plan.

5. A list showing the number and a brief identification of each material foreign patent for an invention not covered by a United States patent, but only if we request you to file the list.

6. A statement explaining in reasonable detail how earnings per share information was calculated, unless the computation is clear from material contained in the registration statement or report.

7. A statement explaining in reasonable detail how any ratio of earning to fixed charges, any ratio of earnings to combined fixed charges and preferred stock dividends or any other ratios in the registration statement or report were calculated.

8. A list of all your subsidiaries, their jurisdiction of incorporation and the names under which they do business. You may omit the names of subsidiaries that, in the aggregate, would not be a "significant subsidiary" as defined in rule 1-02(w) of Regulation S-X as of the end of the year covered by the report. You may omit the names of multiple wholly owned subsidiaries carrying on the same line of business, such as chain stores or service stations, if you give the name of the immediate parent company, the line of business and the number of omitted subsidiaries broken down by U.S. and foreign operations.

9. Statement pursuant to the instructions to Item 8.A.4, regarding the financial statements filed in registration statements for initial public offerings of securities.

10. (a) Any additional exhibits you wish to file as part of the registration statement or report, clearly marked to indicate their subject matter, and (b) any document or part of a document incorporated by reference in this filing if it is not otherwise required to be filed or is not a Commission filed document incorporated in a Securities Act registration statement.

\* \* \* \* \*

## PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

51. The authority citation for part 260 continues to read as follows:

**Authority:** 15 U.S.C. 77eee, 77ggg, 77nnn, 78sss, 78ll(d), 80b-3, 80b-4, and 80b-11.

### § 260.0-11 [Amended]

51. Amend § 260.0-11 by removing in paragraph (b)(2) the words "Item 9 of Form 20-F (§ 249.220f of this chapter), management's discussion and analysis

of financial condition and results of operations," and adding, in their place, the words "Item 5 of Form 20-F (§ 249.220f of this chapter), "Operating and Financial Review and Prospects,""; and by removing in paragraph (c)(3) the words "Item 9 of Form 20-F" and adding, in their place, the words "Item 5 of Form 20-F".

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-25699 Filed 10-4-99; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 178

[Docket No. 99F-1422]

#### Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

**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 expanded safe use of 2,4-di-*tert*-pentyl-6-[1-(3,5-di-*tert*-pentyl-2-hydroxyphenyl)ethyl]phenyl acrylate as an antioxidant and/or stabilizer for polypropylene, polystyrene, rubber-modified polystyrene, and styrene block copolymers intended for use in contact with food. This action responds to a petition filed by Sumitomo Chemical Co., Ltd.

**DATES:** This regulation is effective October 5, 1999. Submit written objections and requests for a hearing by November 4, 1999.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of May 26, 1999 (64 FR 28501), FDA announced that a food additive petition (FAP 9B4661) had been filed by Sumitomo Chemical Co., Ltd., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for*

*polymers* (21 CFR 178.2010) to provide for the expanded safe use of 2,4-di-*tert*-pentyl-6-[1-(3,5-di-*tert*-pentyl-2-hydroxyphenyl)ethyl]phenyl acrylate as an antioxidant and/or stabilizer for polypropylene, polystyrene, rubber-modified polystyrene, and styrene block copolymers intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4661 (64 FR 28501). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before November 4, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in