

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 228, 229, 240, 249 and 274

[Release Nos. 33-8220; 34-47654; IC-26001; File No. S7-02-03]

RIN 3235-AI75

### Standards Relating to Listed Company Audit Committees

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** As directed by the Sarbanes-Oxley Act of 2002, we are adopting a new rule to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the audit committee requirements mandated by the Sarbanes-Oxley Act of 2002. These requirements relate to: The independence of audit committee members; the audit committee's responsibility to select and oversee the issuer's independent accountant; procedures for handling complaints regarding the issuer's accounting practices; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee. The rule implements the requirements of section 10A(m)(1) of the Securities Exchange Act of 1934, as added by section 301 of the Sarbanes-Oxley Act of 2002. Under the rule, listed issuers must be in compliance with the new listing rules by the earlier of their first annual shareholders meeting after January 15, 2004, or October 31, 2004. Foreign private issuers and small business issuers will have additional time to comply. In addition, we are adopting amendments to make several changes to our current disclosure requirements regarding audit committees.

**DATES:** *Effective Date:* April 25, 2003.

*Compliance Dates:* Each national securities exchange and national securities association must provide to the Commission, no later than July 15, 2003, proposed rules or rule amendments that comply with the requirements of Exchange Act Rule 10A-3. Further, each national securities exchange and national securities association must have final rules or rule amendments that comply with Rule 10A-3 approved by the Commission no later than December 1, 2003. Listed issuers, other than foreign private issuers and small business issuers, must

be in compliance with the new listing rules by the earlier of (1) their first annual shareholders meeting after January 15, 2004, or (2) October 31, 2004. Foreign private issuers and small business issuers that are listed must be in compliance with the new listing rules by July 31, 2005. See section II.F.1 for more information regarding implementation and compliance dates. Issuers must comply with the disclosure changes in Regulation S-B, Regulation S-K, Schedule 14A, Form 20-F, Form 40-F and Form N-CSR beginning with reports covering periods ending on or after (or proxy or information statements for actions occurring on or after) the compliance date for the listing standards applicable to the particular issuer. Until such date, issuers should continue to comply with existing Items 7(d)(3)(iv) and 22(b)(14) in their proxy and information statements, if applicable.

#### FOR FURTHER INFORMATION CONTACT:

Jeffrey J. Minton, Special Counsel, or Elizabeth M. Murphy, Chief, Office of Rulemaking, Division of Corporation Finance, at (202) 942-2910, or, with respect to investment companies, Christopher P. Kaiser, Senior Counsel, Office of Disclosure Regulation, Division of Investment Management, at (202) 942-0724, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** We are adopting new Rule 10A-3<sup>1</sup> under the Securities Exchange Act of 1934 (the "Exchange Act"),<sup>2</sup> amendments to Forms 20-F<sup>3</sup> and 40-F<sup>4</sup> and Items 7 and 22 of Schedule 14A<sup>5</sup> under the Exchange Act, amendments to Item 401<sup>6</sup> of Regulation S-B<sup>7</sup> and Item 401<sup>8</sup> of Regulation S-K<sup>9</sup> under the Securities Act of 1933 (the "Securities Act")<sup>10</sup> and amendments to Form N-CSR<sup>11</sup> under the Exchange Act and the Investment Company Act of 1940 (the "Investment Company Act").<sup>12</sup>

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<sup>1</sup> 17 CFR 240.10A-3.

<sup>2</sup> 15 U.S.C. 78a *et seq.*

<sup>3</sup> 17 CFR 249.220f.

<sup>4</sup> 17 CFR 249.240f.

<sup>5</sup> 17 CFR 240.14a-101.

<sup>6</sup> 17 CFR 228.401.

<sup>7</sup> 17 CFR 228.10 *et seq.*

<sup>8</sup> 17 CFR 229.401.

<sup>9</sup> 17 CFR 229.10 *et seq.*

<sup>10</sup> 15 U.S.C. 77a *et seq.*

<sup>11</sup> 17 CFR 249.331 and 17 CFR 274.128.

<sup>12</sup> 15 U.S.C. 80a-1 *et seq.*

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### I. Background and Overview of the New Rule and Amendments

In this release, we implement section 10A(m)(1) of the Exchange Act,<sup>13</sup> as added by section 301 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"),<sup>14</sup> which requires us to direct, by rule, the national securities exchanges<sup>15</sup>

<sup>13</sup> 15 U.S.C. 78j-1(m)(1).

<sup>14</sup> Pub. L. 107-204, 116 Stat. 745 (2002).

<sup>15</sup> A "national securities exchange" is an exchange registered as such under section 6 of the Exchange Act [15 U.S.C. 78f]. There are currently nine national securities exchanges registered under section 6(a) of the Exchange Act: American Stock Exchange (AMEX), Boston Stock Exchange, Chicago Board Options Exchange (CBOE), Chicago Stock Exchange, Cincinnati Stock Exchange, International Securities Exchange, New York Stock Exchange