

in listed securities] corporate governance.

When used in this Section 3, "officer" shall have the meaning specified in Rule 16a-1(f) under the Securities Exchange Act of 1934, or any successor rule.

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303.00 Corporate Governance Standards

Pending the implementation of the new corporate governance standards set forth in Section 303A *infra*, in accordance with the transition provisions adopted by the Exchange, the standards contained in this Section 303.00 will continue to apply.

303A

General Application

Companies listed on the Exchange must comply with certain standards regarding corporate governance as codified in this Section 303A.

Consistent with the NYSE's traditional approach, as well as the requirements of the Sarbanes-Oxley Act of 2002, certain provisions of Section 303A are applicable to some listed companies but not to others.

Equity Listings

Section 303(A) applies in full to all companies listing common equity securities, with the following exceptions:

Controlled Companies—

A company of which more than 50% of the voting power is held by an individual, a group or another company need not comply with the requirements of Sections 303A(1), (4) or (5). A controlled company that chooses to take advantage of any or all of these exemptions must disclose in its annual meeting proxy that choice, that it is a controlled company and the basis for the determination. Controlled companies must comply with the remaining provisions of Section 303A.

Limited Partnerships and Companies in Bankruptcy—

Due to their unique attributes, limited partnerships and companies in bankruptcy proceedings need not comply with the requirements of Sections 303A(1), (4) or (5). However, all limited partnerships (at the general partner level) and companies in bankruptcy proceedings must comply with the remaining provisions of Section 303A.

Closed-End Funds—

The Exchange considers the significantly expanded standards and requirements provided for in Section 303A to be unnecessary for closed-end management companies given the pervasive federal regulation applicable

to them. However, closed-end management companies must comply with the requirements set out in Sections 303A(6), (7) and (12)(b).

Other Entities—

Section 303A does not apply to passive business organizations in the form of trusts (such as royalty trusts) or to derivatives and special purpose securities (such as those described in Sections 703.16, 703.19, 703.20 and 703.21).

Foreign Private Issuers—

Listed companies that are foreign private issuers (as such term is defined in Rule 3b-4 under the Exchange Act) are permitted to follow home country practice in lieu of the provisions of this Section 303A, except that such companies are required to comply with the requirements of Sections 303A(6) (including the applicable commentary), (7)(a) and (c), (11) and (12)(b).

Preferred and Debt Listings

Section 303A does not generally apply to companies listing only preferred or debt securities on the Exchange. To the extent required by Rule 10A-3 under the Exchange Act, all companies listing only preferred or debt securities on the NYSE are required to comply with the requirements of Sections 303A(6) (including the applicable commentary), (7)(a) and (c), and (12)(b).

Effective Dates/Transition Periods

Companies that do not already have majority-independent boards will need time to recruit qualified independent directors, and companies with classified boards may need additional time to implement the new standards in a series of director elections. Accordingly, all listed companies will be required to comply with the standards in Sections 303A(1) and (2) no later than eighteen months following publication of SEC approval of these standards in the **Federal Register**. If a company has a classified board and a change would be required for a director who would not normally stand for election within the 18-month period, the company will have an additional year, or a total of 30 months after publication of SEC approval of Section 303A in the **Federal Register**, to effect the change in that director position.

Companies will have the same 18-month and 30-month periods described above to comply with the new qualification standards applicable to audit, nominating and compensation committee members. As a general matter, the existing audit committee requirements provided for in Section 303 continue to apply to NYSE listed

companies pending the transition to the new rules.

Companies listing in conjunction with their initial public offering must comply within 24 months of listing. Companies listing upon transfer from another market have 24 months from the date of transfer in which to comply with any requirement to the extent the market on which they were listed did not have the same requirement. To the extent the other market has a substantially similar requirement but also had a transition period from the effective date of that market's rule, which period had not yet expired, the company will have at least as long a transition period as would have been available to it on the other market.

While the above time periods are needed to recruit directors, the Exchange believes that listed companies, IPOs and transfers can much more quickly implement the other requirements of Section 303A. The provision for a public reprimand letter set out in Section 303A(13) is effective upon publication of SEC approval of Section 303A in the **Federal Register**. The remaining requirements can also be implemented quickly.

Accordingly, the following standards are effective six months from publication of SEC approval of Section 303A in the **Federal Register**:

- Executive sessions of non-management directors (subsection 3);
- Nomination and compensation committees with requisite charters (subsections 4 and 5);
- Audit committee with requisite charter (subsection 7);
- Corporate governance guidelines and code of business conduct and ethics (subsections 9 and 10);
- Foreign private issuer statement of significant differences from NYSE standards (subsection 11); and
- CEO certification of compliance with listing standards (subsection 12).

Once those six months are expired, we expect all newly listed companies, both IPOs and transfers, to have provided for these requirements by the time of listing on the Exchange.

1. Listed companies must have a majority of independent directors.

Commentary: Effective boards of directors exercise independent judgment in carrying out their responsibilities. Requiring a majority of independent directors will increase the quality of board oversight and lessen the possibility of damaging conflicts of interest.

2. In order to tighten the definition of "independent director" for purposes of these standards: