

controls and procedures required by paragraph (b) of § 240.13a-15 or 240.15d-15 of this chapter.

■ 6. Add § 228.308 to read as follows:

§ 228.308 (Item 308) Internal control over financial reporting.

(a) *Management's annual report on internal control over financial reporting.* Provide a report of management on the small business issuer's internal control over financial reporting (as defined in § 240.13a-15(f) or 240.15d-15(f) of this chapter) that contains:

(1) A statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the small business issuer;

(2) A statement identifying the framework used by management to evaluate the effectiveness of the small business issuer's internal control over financial reporting as required by paragraph (c) of § 240.13a-15 or 240.15d-15 of this chapter;

(3) Management's assessment of the effectiveness of the small business issuer's internal control over financial reporting as of the end of the small business issuer's most recent fiscal year, including a statement as to whether or not internal control over financial reporting is effective. This discussion must include disclosure of any material weakness in the small business issuer's internal control over financial reporting identified by management. Management

is not permitted to conclude that the small business issuer's internal control over financial reporting is effective if there are one or more material weaknesses in the small business issuer's internal control over financial reporting; and

(4) A statement that the registered public accounting firm that audited the financial statements included in the annual report containing the disclosure required by this Item has issued an attestation report on management's assessment of the small business issuer's internal control over financial reporting.

(b) *Attestation report of the registered public accounting firm.* Provide the registered public accounting firm's attestation report on management's assessment of the small business issuer's internal control over financial reporting in the small business issuer's annual report containing the disclosure required by this Item.

(c) *Changes in internal control over financial reporting.* Disclose any change in the small business issuer's internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of § 240.13a-15 or 240.15d-15 of this chapter that occurred during the small business issuer's last fiscal quarter (the small business issuer's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect,

the small business issuer's internal control over financial reporting.

Instructions to Item 308

1. The small business issuer must maintain evidential matter, including documentation, to provide reasonable support for management's assessment of the effectiveness of the small business issuer's internal control over financial reporting.

2. A small business issuer that is an Asset-Backed Issuer (as defined in § 240.13a-14(g) and § 240.15d-14(g) of this chapter) is not required to disclose the information required by this Item.

§ 228.401 [Amended]

■ 7. Amend § 228.401 by removing the phrase "internal controls and procedures for financial reporting" in paragraph (e)(2)(iv) of Item 401 and adding, in its place, the phrase "internal control over financial reporting".

■ 8. Amend § 228.601 by:

■ a. Removing the last sentence of paragraph (a)(1);

■ b. Revising the Exhibit Table;

■ c. Revising paragraph (b)(7) to read "No exhibit required.";

■ d. Revising the heading in paragraph (b)(11) to read "Statement re: computation of per share earnings"; and

■ e. Revising paragraphs (b)(27) through (b)(98).

■ The revisions read as follows.

§ 228.601 (Item 601) Exhibits.

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EXHIBIT TABLE

	Securities act forms						Exchange act forms		
	SB-2	S-2	S-3	S-4 ³	S-8	10-SB	8-K	10-QSB	10-KSB
(1) Underwriting agreement	X	X	X	X	.....	.....	X	.....	.....
(2) Plan of purchase, sale, reorganization, arrangement, liquidation or succession	X	X	X	X	.....	X	X	X	X
(3) (i) Articles of Incorporation	X	.....	.....	X	.....	X	.....	X	X
(ii) By-laws	X	.....	.....	X	.....	X	.....	X	X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X
(5) Opinion on legality	X	X	X	X	X	.....	.....	.....	.....
(6) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(7) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(8) Opinion on tax matters	X	X	X	X	.....	.....	.....	.....	.....
(9) Voting trust agreement and amendments	X	.....	.....	X	.....	X	.....	.....	X
(10) Material contracts	X	X	.....	X	.....	X	.....	X	X
(11) Statement re: computation of per share earnings	X	X	.....	X	.....	X	.....	X	X
(12) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(13) Annual report to security holders for the last fiscal year, Form 10-Q or 10-QSB or quarterly report to security holders ¹	X	X	.....	X	.....	.....	.....	.....	X
(14) Code of ethics .....	.....	.....	.....	.....	.....	.....	.....	.....	X
(15) Letter on unaudited interim financial information	X	X	X	X	X	.....	.....	X	.....