

provide tax services, as appropriate, despite their local definition and local licensing requirements.

The Commission is mindful of the fact that this rule may overlap with foreign requirements designed to achieve auditor independence. The Commission has taken foreign requirements into account, and afforded accommodations to foreign accounting firms in a manner and to the extent consistent with the spirit and intent of the Act. As the rule is implemented, the Commission, as well as the PCAOB, will monitor its international impact and continue to dialogue with its foreign counterparts.

### III. Paperwork Reduction Act

Certain provisions of our final amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").<sup>241</sup> We published a notice requesting comment on the collection of information requirements in the proposing release for the rule amendments, and we submitted these requirements to the Office of Management and Budget ("OMB") for review in accordance with the PRA.<sup>242</sup> The titles for the collection of information are:

(1) "Proxy Statements—Regulation 14A (Commission Rules 14a-1 through 14a-15 and Schedule 14A)" (OMB Control No. 3235-0059);

(2) "Information Statements—Regulation 14C (Commission Rules 14c-1 through 14c-7 and Schedule 14C)" (OMB Control No. 3235-0057);

(3) "Form 10-K" (OMB Control No. 3235-0063);

(4) "Form 10-KSB" (OMB Control No. 3235-0420);

(5) "Form 20-F" (OMB Control No. 3235-0288);

(6) "Form 40-F" (OMB Control No. 3235-0381);

(7) "Regulation S-X" (OMB Control No. 3235-0009); and

(8) "Form N-CSR" (OMB Control No. 3235-0570).

These regulations and forms were adopted pursuant to the Securities Act, the Exchange Act and the Investment Company Act and set forth the disclosure requirements for periodic reports, registration statements and proxy and information statements filed by companies to ensure that investors are informed. The hours and costs associated with preparing, filing and sending these forms constitute reporting and cost burdens imposed by each collection of information. 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. Compliance with the requirements will be mandatory. There will be no mandatory retention period for the information disclosed, and responses to the requirements will not be kept confidential.

Regulation S-X is the central repository for rules related to the form and content of financial statements with the Commission. Regulation S-X, however, does not direct registrants to file financial statements or to collect financial data. Regulation S-X indicates what should be in the financial statements and how financial statements should be presented when they are required to be filed by other rules and forms under the securities laws. Burden hours and costs associated with the preparation of financial statements in accordance with Regulation S-X are allocated to the rules or forms that require the financial statements to be filed. Because Regulation S-X does not require any information to be filed with the Commission, we previously have assigned one burden hour to Regulation S-X for administrative convenience to reflect the fact that this regulation does not impose any direct burden on companies.

#### A. Summary of Amendments

##### 1. Communication With Audit Committees

As required by Section 204 of the Sarbanes-Oxley Act, we are amending Regulation S-X to require each public accounting firm registered with the Board that audits an issuer's financial statements to report to the issuer's or investment company's audit committee: (1) All critical accounting policies and practices used by the issuer, (2) all material alternative accounting treatments within GAAP that have been discussed with management, including the ramifications of the use of the alternative treatments and the treatment preferred by the accounting firm, (3) other material written communications between the accounting firm and management of the issuer such as any management letter or schedule of "unadjusted differences," and (4) in the case of registered investment companies, all non-audit services provided to certain entities in the investment company complex that were not pre-approved by the investment company's audit committee. The required reports need not be in writing but the report is required to be presented to the audit committee before the auditor's report on the financial

statements is filed with the Commission.<sup>243</sup>

##### 2. Disclosures of Audit and Non-Audit Services

Item 9 of Schedule 14A requires the disclosure of certain information regarding the registrant's relationship with the independent auditor of the company's financial statements when there is a solicitation relating to: (1) A meeting at which directors to the company's board of directors are to be elected (or the solicitation of consents or authorizations in lieu of such a meeting) or (2) the election of the auditor, or the approval or ratification of the company's selection of the auditor. We are amending paragraph (e) of Item 9 to provide more detailed information regarding the categories of fees paid by the registrant to the auditor and to inform investors about the critical role that audit committees play in assuring the auditor's independence. We believe that the disclosure will allow investors to better assess an auditor's independence and certain activities of an audit committee.

Item 9(e) previously required disclosure of fees billed by the auditor in the last fiscal year, with the fees broken down into three categories: audit fees, financial information systems design and implementation fees, and all other fees. The final rules add disclosure of two categories (tax fees and audit-related fees), while eliminating one category (financial information systems design and implementation), and require disclosure of one more past year of each of these fees. Because these fees are already being disclosed, repeating the prior year's disclosures for comparison purposes should not increase significantly a registrant's compliance burden. In addition, breaking tax fees and audit-related fees out of the "all other" category of fees currently being disclosed should not result in any significant incremental burden.

With respect to investment companies, the final rules also will require disclosure of all non-audit fees paid to the investment company's

<sup>243</sup> See, Release No. 33-8040, Dec. 12, 2001 (66 FR 65013). In this release the Commission provided cautionary advice regarding disclosure about critical accounting policies. See also, Release No. 33-8098, May 10, 2002, (67 FR 35620). In this release the Commission proposed rules to require disclosures that would enhance investors' understanding of the application of companies' critical accounting policies. The proposed disclosures would focus on accounting estimates a company makes in applying its accounting policies and the initial adoption by a company of an accounting policy that has a material impact on its financial presentation.

<sup>241</sup> 44 U.S.C. 3501 *et seq.*

<sup>242</sup> 44 U.S.C. 3507(d) and 5 CFR 1320.11.