

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

1. The authority citations for Part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, 7202, 7241, 7262, and 7263; and 18 U.S.C. 1350, unless otherwise noted.

2. The authority citations following §§ 240.13d-1, 240.13d-102, 240.14a-4 and 240.14a-5 are removed.

3. Section 240.13a-11 is amended by revising paragraph (b) to read as follows:

**§ 240.13a-11 Current reports on Form 8-K  
(§ 249.308 of this chapter).**

(b) This section shall not apply to foreign governments, foreign private issuers required to make reports on Form 6-K (17 CFR 249.306) pursuant to § 240.13a-16, issuers of American Depositary Receipts for securities of any foreign issuer, or investment companies required to file reports pursuant to § 270.30b1-1 of this chapter under the Investment Company Act of 1940, except where such an investment company is required to file:

- (1) Notice of a blackout period pursuant to § 245.104 of this chapter; or
- (2) Disclosure pursuant to Instruction 5 to § 240.14a-11(a) of the date by which a security holder or security holder group must submit the notice required pursuant to § 240.14a-11(c).

4. By amending § 240.13d-1 by adding an Instruction after paragraph (c)(3) to read as follows:

**§ 240.13d-1 Filing of Schedules 13D and 13G.**

\* \* \* \* \*

(c)(3) \* \* \*

*Instruction to paragraphs (b) and (c):* purposes of paragraphs (b) and (c), a beneficial owner who acquires or holds a registrant's securities in connection with a nomination under § 240.14a-11 will not be deemed to have a purpose or effect of changing or influencing the control of the registrant solely by virtue of acquiring or holding the securities in connection with a director nomination pursuant to § 240.14a-11, a solicitation for the election of that director nominee and/or against a registrant nominee, or the election of that director nominee.

\* \* \* \* \*

5. By amending § 240.13d-102 to:

- a. Add a box on the cover page after the box titled "[ ] Rule 13d-1(d)"; and

b. Add paragraph (c) to Item 10 before the "Signature" section.

The additions read as follows:

**§ 240.13d-102 Schedule 13G—Information to be included in statements filed pursuant to § 240.13d-1(b), (c), and (d) and amendments thereto filed pursuant to § 240.13d-2.**

\* \* \* \* \*

[ ] Rule 13d-1(b) or (c), filed in connection with Rule 14a-11

\* \* \* \* \*

**Item 10. Certifications**

(a) \* \* \*

(c) The following certification shall be included, in addition to the certification required under paragraph (a) or (b) of this Item, as applicable, if the statement is filed in connection with a security holder nomination pursuant to § 240.14a-11:

By signing below, I further certify that \_\_\_% of the securities referred to above have been held continuously for at least 2 years.

*Instruction to paragraph (c).*

The percentage of securities listed above shall be used both for the purpose of determining eligibility to submit a security holder nomination pursuant to § 240.14a-11 and, where more than one eligible security holder or security holder group provides notice of its intention to submit a nomination pursuant to § 240.14a-11, for the purpose of determining the security holder or security holder group with the largest percentage of subject securities.

\* \* \* \* \*

6. By amending § 240.14a-4 to:

- a. Revise the first sentence of paragraph (b)(2); and
- b. Add a sentence to the end of the paragraph following paragraph (b)(2)(iv), immediately preceding the Instructions.

The revision and addition read as follows:

**§ 240.14a-4 Requirements as to proxy.**

\* \* \* \* \*

(b) \* \* \*

(2) A form of proxy that provides for the election of directors must set forth the names of persons nominated for election as directors, including any person whose nomination by a security holder or security holder group satisfies the requirements of § 240.14a-11. \* \* \*

\* \* \* \* \*

(iv) \* \* \* Means to grant authority to vote for any nominees as a group or to withhold authority for any nominees as a group may not be provided if the proxy card includes one or more

security holder nominees in accordance with § 240.14a-11.

\* \* \* \* \*

7. By amending § 240.14a-5 to add paragraphs (g) and (h) to read as follows:

**§ 240.14a-5 Presentation of information in proxy statement.**

\* \* \* \* \*

(g) If the proxy statement includes a security holder proposal providing that the registrant become subject to the security holder nomination procedure in § 240.14a-11 that was submitted pursuant to § 240.14a-8 by any security holder or group of security holders that has held more than 1% of the securities entitled to vote on that proposal for at least one year as of the date of the nomination and has provided evidence of such holding to the registrant, the registrant must disclose that the security holder vote on that proposal may determine whether the registrant will become subject to the security holder nomination procedure pursuant to § 240.14a-11 for the annual (or, in lieu of annual, special) meetings at which directors are elected during the remainder of the calendar year in which the subject vote was held, the following calendar year and the portion of the next calendar year up to and including the annual meeting (or special meeting held in lieu of an annual meeting) during that calendar year.

(h) If the registrant received a security holder nomination that indicated that it was submitted pursuant to § 240.14a-11 and the registrant determined that it was not required to include that nominee in its proxy materials, describe the determination made by the registrant's board of directors (including an affirmative statement of its determination not to include that specific nominee), discuss the specific provisions of § 240.14a-11 that the registrant's board of directors relied upon to exclude the nominee, and discuss the specific basis for the belief of the registrant's board of directors that the registrant is permitted to not include that nominee in its proxy materials.

8. By amending § 240.14a-6 to:

- a. Redesignate paragraphs (a)(4), (a)(5) and (a)(6) as paragraphs (a)(5), (a)(6) and (a)(7) respectively;
- b. Add new paragraph (a)(4);
- c. Add a sentence at the end of Note 3; and
- d. Add paragraphs (p) and (q).

The additions read as follows:

**§ 240.14a-6 Filing requirements.**

(a) \* \* \*