

company's executives, and to produce an annual report on executive compensation for inclusion in the company's proxy statement, in accordance with applicable rules and regulations.

- The committee's duties and responsibilities, which, at a minimum, would be required to be to:

- (i) Review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO's performance in light of those goals and objectives, and set the CEO's compensation level based on this evaluation.

- (ii) Make recommendations to the board with respect to incentive-compensation plans and equity-based plans.

- An annual performance evaluation of the compensation committee.

- Committee member qualifications, committee member appointment and removal, committee structure and operations (including authority to delegate to subcommittees), and committee reporting to the board.

- The committee's authority to retain and terminate a consultant to assist in the evaluation of a director, CEO or senior executive compensation. The Committee would need to have the sole authority to approve the consultant's fees and other retention terms.

Controlled companies would not need to comply with the requirements of this provision.

(8) Audit Committee.

Each listed company would be required to have an audit committee as defined by Section 3(a)(58) of the Act.¹⁰ The audit committee would have to be composed entirely of independent directors. The audit committee would be required to comply with all the rules and procedures set forth in Rule 10A-3 of the Act.¹¹ If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the issuer to the Exchange, could remain an audit committee member of the listed issuer until the earlier of the next annual or special meeting of the listed issuer or one year from the occurrence of the event that caused the member to be no longer independent. Should an individual who ceases to be independent for reasons outside the member's reasonable control remain a member of the audit committee after the time permitted, then the Exchange would be required to remove the issuer's securities from listing.

Listed issuers, other than foreign private issuers and small business issuers (as defined in Rule 12b-2 of the Act¹²), would have to be in compliance with Rule 5.3(k)(5) by the earlier of their first annual shareholders meeting after January 15, 2004, or October 31, 2004. Foreign private issuers and small business issuers would have to be in compliance with Rule 5.3(k)(5) by July 31, 2005.

If an executive officer of a listed issuer becomes aware of any material noncompliance by the listed issuer with the audit committee requirements, the listed issuer would be required to promptly notify the Exchange of such noncompliance.

To be eligible for continued listing, a listed issuer would have to comply with all of the audit committee requirements. Except for the situation where an audit committee member ceases to be independent for reasons outside the member's reasonable control, should a listed issuer fail to comply with any of the audit committee requirements for a period of 6 consecutive months, then the Exchange would be required to remove the issuer's securities from listing. A listed issuer who is not in compliance with the requirements of Rule 5.3(k)(5) would have to provide the Corporation with a plan of remediation within 15 days after notifying the Corporation of such noncompliance. The listed issuer would have to provide the Corporation with written monthly updates on the progress of the plan of remediation.

The audit committee would be required to have a written charter that addresses:

- The committee's purpose, which, at a minimum, would be required to be to:

- (i) Assist board oversight of: (a) The integrity of the company's financial statements, (b) the company's compliance with legal and regulatory requirements, (c) the independent auditor's qualifications and independence, and (d) the performance of the company's internal audit function and independent auditors.

- (ii) Prepare the report that SEC rules require be included in the company's annual proxy statement.

- The duties and responsibilities of the audit committee, which, at a minimum, would be required to be to:

- (i) Be directly responsible for the appointment, compensation, retention, and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial

reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee.

- (ii) At least annually, obtain and review a report by the independent auditor describing the firm's internal quality control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (to assess the auditor's independence) all relationships between the independent auditor and the company.

- (iii) Discuss the annual audited financial statements and quarterly financial statements with management and the independent auditor, including the company's disclosure under "Management Discussion and Analysis of Financial Condition and Results of Operations."

- (iv) Discuss earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies.

- (v) Engage independent counsel and other advisers, as it determines necessary to carry out its duties.

- (vi) Discuss policies with respect to risk assessment and risk management.

- (vii) Meet separately, periodically, with management, with internal auditors (or other personnel responsible for the internal audit function), and with independent auditors.

- (viii) Review with the independent auditor any audit problems or difficulties and management's response.

- (ix) Set clear policies for hiring employees or former employees of the independent auditors.

- (x) Report regularly to the board of directors.

- (xi) Review major issues regarding accounting principles and financial statement presentations, including any significant changes in the company's selection or application of accounting principles, and major issues as to the adequacy of the company's internal controls and any special audit steps adopted in light of material control deficiencies.

- (xii) Review analyses prepared by management and/or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses

¹⁰ 15 U.S.C. 78c(a)(58).

¹¹ 17 CFR 240.10A-3.

¹² 17 CFR 240.12b-2.