

non-management director, chief executive officer, other executive officer, third-party search firm, or other, specified source. With regard to each such nominee approved by a nominating committee of an investment company, state which one or more of the following additional categories of persons or entities recommended that nominee: security holder, director, chief executive officer, other executive officer, or employee of the investment company's investment adviser, principal underwriter, or any affiliated person of the investment adviser or principal underwriter;

(K) If the registrant pays a fee to any third party or parties to identify or evaluate or assist in identifying or evaluating potential nominees, disclose the function performed by each such third party; and

(L) If the registrant's nominating committee received, by a date not later than the 120th calendar day before the date of the registrant's proxy statement released to security holders in connection with the previous year's annual meeting, a recommended nominee from a security holder that beneficially owned more than 5% of the registrant's voting common stock for at least one year as of the date the recommendation was made, or from a group of security holders that beneficially owned, in the aggregate, more than 5% of the registrant's voting common stock, with each of the securities used to calculate that ownership held for at least one year as of the date the recommendation was made, identify the candidate and the security holder or security holder group that recommended the candidate and disclose whether the nominating committee chose to nominate the candidate, provided, however, that no such identification or disclosure is required without the written consent of both the security holder or security holder group and the candidate to be so identified.

*Instructions to paragraph (d)(2)(ii)(L):*

1. For purposes of Item 7(d)(2)(ii)(L), the percentage of securities held by a nominating security holder may be determined using information set forth in the registrant's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to this Act (or, in the case of a registrant that is an investment company registered under the Investment Company Act of 1940, the registrant's most recent report on Form N-CSR (§§ 249.331 and 274.128)), unless the party relying on such report knows or has reason to believe that the information contained therein is inaccurate.

2. For purposes of the registrant's obligation to provide the disclosure specified in Item 7(d)(2)(ii)(L), where the date of the annual meeting has been changed by more than 30 days from the date of the previous year's meeting, the obligation under that Item will arise where the registrant receives the security holder recommendation a reasonable time before the registrant begins to print and mail its proxy materials.

3. For purposes of Item 7(d)(2)(ii)(L), the percentage of securities held by a recommending security holder, as well as the holding period of those securities, may be determined by the registrant if the security

holder is the registered holder of the securities. If the security holder is not the registered owner of the securities, he or she can submit one of the following to the registrant to evidence the required ownership percentage and holding period:

A. A written statement from the "record" holder of the securities (usually a broker or bank) verifying that, at the time the security holder made the recommendation, he or she had held the required securities for at least one year; or

B. If the security holder has filed a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103), Form 4 (§ 249.104), and/or Form 5 (§ 249.105), or amendments to those documents or updated forms, reflecting ownership of the securities as of or before the date of the recommendation, a copy of the schedule and/or form, and any subsequent amendments reporting a change in ownership level, as well as a written statement that the security holder continuously held the securities for the one-year period as of the date of the recommendation.

4. For purposes of the registrant's obligation to provide the disclosure specified in Item 7(d)(2)(ii)(L), the security holder or group must have provided to the registrant, at the time of the recommendation, the written consent of all parties to be identified and, where the security holder or group members are not registered holders, proof that the security holder or group satisfied the required ownership percentage and holding period as of the date of the recommendation.

*Instruction to paragraph (d)(2)(ii):* For purposes of Item 7(d)(2)(ii), the term "nominating committee" refers not only to nominating committees and committees performing similar functions, but also to groups of directors fulfilling the role of a nominating committee, including the entire board of directors.

(h)(1) State whether or not the registrant's board of directors provides a process for security holders to send communications to the board of directors and, if the registrant does not have such a process for security holders to send communications to the board of directors, state the basis for the view of the board of directors that it is appropriate for the registrant not to have such a process;

(2) If the registrant has a process for security holders to send communications to the board of directors:

(i) Describe the manner in which security holders can send communications to the board and, if applicable, to specified individual directors; and

(ii) If all security holder communications are not sent directly to board members, describe the registrant's process for determining which communications will be relayed to board members; and

*Instruction to paragraph (h)(2)(ii):* For purposes of the disclosure required by this paragraph, a registrant's process for collecting and organizing security holder communications, as well as similar or related activities, need not be disclosed provided that the registrant's process is approved by a majority of the independent directors or, in the case of a registrant that is an investment

company, a majority of the directors who are not "interested persons" of the investment company as defined in section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)).

(3) Describe the registrant's policy, if any, with regard to board members' attendance at annual meetings and state the number of board members who attended the prior year's annual meeting.

*Instruction to paragraphs (h)(2) and (h)(3):* In lieu of providing the information required by paragraphs (h)(2) and (h)(3) in the proxy statement, the registrant may instead provide the registrant's Website address where such information appears.

*Instructions to paragraph (h):*

1. For purposes of this paragraph, communications from an officer or director of the registrant will not be viewed as "security holder communications." Communications from an employee or agent of the registrant will be viewed as "security holder communications" for purposes of this paragraph only if those communications are made solely in such employee's or agent's capacity as a security holder.

2. For purposes of this paragraph, security holder proposals submitted pursuant to § 240.14a-8, and communications made in connection with such proposals, will not be viewed as "security holder communications."

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*Item 22. Information required in investment company proxy statement.*

\* \* \* \* \*

(b) \* \* \*

(14) \* \* \* Identify the other standing committees of the Fund's board of directors, and provide the following information about each committee, including any separately designated audit committee and any nominating committee:

\* \* \* \* \*

(ii) The members of the committee and, in the case of a nominating committee, whether or not the members of the committee are "interested persons" of the Fund as defined in section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)); and

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*Instruction to paragraph (b)(14):* For purposes of Item 22(b)(14), the term "nominating committee" refers not only to nominating committees and committees performing similar functions, but also to groups of directors fulfilling the role of a nominating committee, including the entire board of directors.

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## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 7. The general authority citation for Part 249 is revised to read as follows:

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

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