

## §210.3-16

Income or loss before gain or loss on sale of properties, extraordinary items and cumulative effects of accounting changes, and (ii) gain or loss on sale of properties, less applicable income tax.

(2) The balance sheet required by §210.5-02 shall set forth in lieu of the captions required by §210.5-02.31(a)(3): (i) The balance of undistributed income from other than gain or loss on sale of properties and (ii) accumulated undistributed net realized gain or loss on sale of properties. The information specified in §210.3-04 shall be modified similarly.

(b) The trust's status as a *real estate investment trust* under applicable provisions of the Internal Revenue Code as amended shall be stated in a note referred to in the appropriate statements. Such note shall also indicate briefly the principal present assumptions on which the trust has relied in making or not making provisions for Federal income taxes.

(c) The tax status of distributions per unit shall be stated (e.g., ordinary income, capital gain, return of capital).

[45 FR 63687, Sept. 25, 1980, as amended at 50 FR 49532, Dec. 3, 1985]

## §210.3-16 Financial statements of affiliates whose securities collateralize an issue registered or being registered.

(a) For each of the registrant's affiliates whose securities constitute a substantial portion of the collateral for any class of securities registered or being registered, there shall be filed the financial statements that would be required if the affiliate were a registrant and required to file financial statements. However, financial statements need not be filed pursuant to this section for any person whose statements are otherwise separately included in the filing on an individual basis or on a basis consolidated with its subsidiaries.

(b) For the purposes of this section, securities of a person shall be deemed to constitute a substantial portion of collateral if the aggregate principal amount, par value, or book value of the securities as carried by the registrant, or the market value of such securities, whichever is the greatest, equals 20 percent or more of the principal

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amount of the secured class of securities.

[65 FR 51710, Aug. 24, 2000]

## §210.3-17 Financial statements of natural persons.

(a) In lieu of the financial statements otherwise required, a natural person may file an unaudited balance sheet as of a date within 90 days of date of filing and unaudited statements of income for each of the three most recent fiscal years.

(b) Financial statements conforming with the instructions as to financial statements of subsidiaries not consolidated and 50 percent or less owned persons under §210.3-09(a) shall be separately presented for: (1) Each business owned as a sole proprietor, (2) each partnership, business trust, unincorporated association, or similar business organization of which the person holds a controlling interest and (3) each corporation of which the person, directly or indirectly, owns securities representing more than 50 percent of the voting power.

(c) Separate financial statements may be omitted, however, for each corporation, business trust, unincorporated association, or similar business organization if the person's total investment in such entity does not exceed 5 percent of his total assets and the person's total income from such entity does not exceed 5 percent of his gross income; *Provided*, that the person's aggregate investment in and income from all such omitted entities shall not exceed 15 percent of his total assets and gross income, respectively.

[46 FR 12491, Feb. 17, 1981, as amended at 50 FR 25215, June 18, 1985]

## §210.3-18 Special provisions as to registered management investment companies and companies required to be registered as management investment companies.

(a) For filings by registered management investment companies, the following financial statements shall be filed:

(1) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(2) An audited statement of operations for the most recent fiscal year

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conforming to the requirements of § 210.6-07.

(3) An audited statement of cash flows for the most recent fiscal year if necessary to comply with generally accepted accounting principles. (Further references in this rule to the requirement for such statement are likewise applicable only to the extent that they are consistent with the requirements of generally accepted accounting principles.)

(4) Audited statements of changes in net assets conforming to the requirements of § 210.6-09 for the two most recent fiscal years.

(b) If the filing is made within 60 days after the end of the registrant's fiscal year and audited financial statements for the most recent fiscal year are not available, the balance sheet or statement of assets and liabilities may be as of the end of the preceding fiscal year and the filing shall include an additional balance sheet or statement of assets and liabilities as of an interim date within 245 days of the date of filing. In addition, the statements of operations and cash flows (if required by generally accepted accounting principles) shall be provided for the preceding fiscal year and the statement of changes in net assets shall be provided for the two preceding fiscal years and each of the statements shall be provided for the interim period between the end of the preceding fiscal year and the date of the most recent balance sheet or statement of assets and liabilities being filed. Financial statements for the corresponding period of the preceding fiscal year need not be provided.

(c) If the most current balance sheet or statement of assets and liabilities in a filing is as of a date 245 days or more prior to the date the filing is expected to become effective, the financial statements shall be updated with a balance sheet or statement of assets and liabilities as of an interim date within 245 days. In addition, the statements of operations, cash flows, and changes in net assets shall be provided for the interim period between the end of the most recent fiscal year for which a balance sheet or statement of assets and liabilities is presented and the date of the most recent interim balance sheet

or statement of assets and liabilities filed.

(d) Interim financial statements provided in accordance with these requirements may be unaudited but shall be presented in the same detail as required by §§ 210.6-01 to 210.6-10. When unaudited financial statements are presented in a registration statement, they shall include the statement required by § 210.3-03(d).

(Secs. 7 and 19a of the Securities Act, 15 U.S.C. 77g, 77s(a), 77aa(25)(26); secs. 12, 13, 14, 15(d), and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78l, 78m, 78n, 78o(d), 78w(a), secs. 5(b), 10(a), 14, 20(a) of the Public Utility Holding Company Act, 15 U.S.C. 79e(a), 79n, 79t(a); secs. 8, 20, 30, 31(c), 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a-8, 80a-20, 80a-29, 80a-30(c), 80a-37(a))

[46 FR 36125, July 14, 1981; 46 FR 46795, Sept. 22, 1981, as amended at 47 FR 29837, July 9, 1982; 47 FR 56838, Dec. 21, 1982; 57 FR 45292, Oct. 1, 1992]

### § 210.3-19 [Reserved]

### § 210.3-20 Currency for financial statements of foreign private issuers.

(a) A foreign private issuer, as defined in § 230.405 of this chapter, shall state amounts in its primary financial statements in the currency which it deems appropriate.

(b) The currency in which amounts in the financial statements are stated shall be disclosed prominently on the face of the financial statements. If dividends on publicly-held equity securities will be declared in a currency other than the reporting currency, a note to the financial statements shall identify that currency. If there are material exchange restrictions or controls relating to the issuer's reporting currency, the currency of the issuer's domicile, or the currency in which the issuer will pay dividends, prominent disclosure of this fact shall be made in the financial statements. If the reporting currency is not the U.S. dollar, dollar-equivalent financial statements or convenience translations shall not be presented, except a translation may be presented of the most recent fiscal year and any subsequent interim period presented using the exchange rate as of the most recent balance sheet included in the filing, except that a rate as of