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any liability to the company or its security holders to which he or she would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his or her office.

[47 FR 11444, Mar. 16, 1982, as amended at 58 FR 18146, Apr. 8, 1993; 60 FR 26615, 26617, May 17, 1995; 62 FR 543, Jan. 3, 1997; 63 FR 6385, Feb. 6, 1998]

§ 230.462 Immediate effectiveness of certain registration statements and post-effective amendments.

(a) A registration statement on Form S-8 (§ 239.16b of this chapter) and a registration statement on Form S-3 (§ 239.13 of this chapter) or on Form F-3 (§ 239.33 of this chapter) for a dividend or interest reinvestment plan shall become effective upon filing with the Commission.

(b) A registration statement and any post-effective amendment thereto shall become effective upon filing with the Commission if:

(1) The registration statement is for registering additional securities of the same class(es) as were included in an earlier registration statement for the same offering and declared effective by the Commission;

(2) The new registration statement is filed prior to the time confirmations are sent or given; and

(3) The new registration statement registers additional securities in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth for each class of securities in the "Calculation of Registration Fee" table contained in such earlier registration statement.

(c) If the prospectus contained in a post-effective amendment filed prior to the time confirmations are sent or given contains no substantive changes from or additions to the prospectus previously filed as part of the effective registration statement, other than price-related information omitted from the registration statement in reliance on Rule 430A of the Act (§ 230.430A), such post-effective amendment shall become effective upon filing with the Commission.

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(d) A post-effective amendment filed solely to add exhibits to a registration statement shall become effective upon filing with the Commission.

[59 FR 21650, Apr. 26, 1994, as amended by 60 FR 26617, May 17, 1995; 62 FR 39763, July 24, 1997]

§ 230.463 Report of offering of securities and use of proceeds therefrom.

(a) Except as provided in this section, following the effective date of the first registration statement filed under the Act by an issuer, the issuer or successor issuer shall report the use of proceeds pursuant to Item 701 of Regulation S-B or S-K or Item 14(e) of Form 20-F, as applicable, on its first periodic report filed pursuant to Sections 13(a) and 15(d) (15 U.S.C. 78m(a) and 78o(d)) of the Securities Exchange Act of 1934 after effectiveness, and thereafter on each of its subsequent periodic reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934 through the later of disclosure of the application of all the offering proceeds or disclosure of the termination of the offering.

(b) A successor issuer shall comply with paragraph (a) of this section only if a report of the use of proceeds is required with respect to the first effective registration statement of the predecessor issuer.

(c) For purposes of this section:

(1) The term *offering proceeds* shall not include any amount(s) received for the account(s) of any selling security holder(s).

(2) The term *application* shall not include the temporary investment of proceeds by the issuer pending final application.

(d) This section shall not apply to any effective registration statement for securities to be issued:

(1) In a business combination described in Rule 145(a) (§ 230.145(a));

(2) By an issuer which pursuant to a business combination described in Rule 145(a) has succeeded to another issuer that prior to such business combination had a registration statement become effective under the Act and on the date of such business combination was not subject to paragraph (a) of this section;