

(3) If the Commission, or the staff acting pursuant to delegated authority, determines that the grant of the exemption is appropriate and consistent with the public interest and the protection of investors and so notifies the applicant, the electronic filer shall follow the procedures set forth in paragraph (c) of this section.

(b) The request for the continuing hardship exemption shall include, but not be limited to, the following:

(1) The reason(s) that the necessary hardware and software is not available without unreasonable burden and expense;

(2) The burden and expense involved to employ alternative means to make the electronic submission; and/or

(3) The reasons for not submitting electronically the document or group of documents, as well as justification for the requested time period.

(c) If the request is granted, the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate. The following legend shall be placed in capital letters at the top of the cover page of the paper format document(s):

IN ACCORDANCE WITH RULE 202 OF REGULATION S-T, THIS (*specify document*) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARSHIP EXEMPTION

(d) If a continuing hardship exemption is granted for a limited time period, the grant may be conditioned upon the filing of the document or group of documents that is the subject of the exemption in electronic format upon the expiration of the period for which the exemption is granted. The electronic format version shall contain the following statement in capital letters at the top of the first page of the document:

THIS DOCUMENT IS A COPY OF THE (*specify document*) FILED ON (DATE) PURSUANT TO A RULE 202(d) CONTINUING HARSHIP EXEMPTION.

NOTE 1: Where a continuing hardship exemption is granted with respect to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8 and 274.403 of this chapter).

NOTE 2: If the exemption relates to an exhibit only and a confirming electronic copy of the exhibit is required to be submitted, the exhibit should be refiled in electronic format in an amendment to the filing to which it relates. The confirming copy tag should not be used. The amendment should note that the purpose of the amendment is to add an electronic copy of an exhibit previously filed in paper pursuant to a continuing hardship exemption.

NOTE 3: Failure to submit a required confirming electronic copy of a paper filing made in reliance on a continuing hardship exemption granted pursuant to paragraph (d) of this section will result in ineligibility to use Forms S-2, S-3, S-8, F-2 and F-3 (*see*, §§ 239.12, 239.13, 239.16b, 239.32 and 239.33, respectively), restrict incorporation by reference of the document submitted in paper (*see* Rule 303 of Regulation S-T (§ 232.303)), and toll certain time periods associated with tender offers (*see* Rule 13e-4(f)(12) (§ 240.13e-4(f)(12)) and Rule 14e-1(e) (§ 240.14e-1(e))).

[58 FR 14670, Mar. 18, 1993, as amended at 62 FR 36457, July 8, 1997]

PREPARATION OF ELECTRONIC SUBMISSIONS

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for filers using modernized EDGARLink are set forth in EDGAR Filer Manual (Release 8.0), Volume I—Modernized EDGARLink, dated September 2001. Additional provisions applicable to Form N-SAR filers are set forth in EDGAR Filer Manual (Release 7.0), Volume II—N-SAR Supplement, dated July 2001. All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549-0102 or by calling Thomson Financial

§ 232.302

Corp at (800) 638-8241. Electronic format copies are available on the Commission's Web Site. The address for the Filer Manual is <<http://www.sec.gov/info/edgar/filerman.htm>>. You can also photocopy the document at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[66 FR 49830, Oct. 1, 2001]

§ 232.302 Signatures.

(a) Required signatures to, or within, any electronic submission (including, without limitation, signatories within the certifications required by §§ 240.13a-14, 240.15d-14 and 270.30a-2 of this chapter) must be in typed form rather than manual format. Signatures in an HTML document that are not required may, but are not required to, be presented in an HTML graphic or image file within the electronic filing, in compliance with the formatting requirements of the EDGAR Filer Manual. When used in connection with an electronic filing, the term "signature" means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letters or series of letters or characters comprising a name, executed, adopted or authorized as a signature. Signatures are not required in unofficial PDF copies submitted in accordance with § 232.104.

(b) Each signatory to an electronic filing (including, without limitation, each signatory to the certifications required by §§ 240.13a-14, 240.15d-14 and 270.30a-2 of this chapter) shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the electronic filing is made and shall be retained by the filer for a period of five years. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.

(c) Where the Commission's rules require a registrant to furnish to a national securities exchange or national securities association paper copies of a document filed with the Commission in

17 CFR Ch. II (4-1-03 Edition)

electronic format, signatures to such paper copies may be in typed form.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 64 FR 27895, May 21, 1999; 65 FR 24800, Apr. 27, 2000; 67 FR 57287, Sept. 9, 2002]

§ 232.303 Incorporation by reference.

(a) The following documents shall not be incorporated by reference into an electronic filing:

(1) Any document filed in paper in violation of mandated electronic filing requirements;

(2) Any document filed in paper pursuant to a hardship exemption for which a required confirming electronic copy has not been submitted.

(3) For a registered investment company or a business development company, documents that have not been filed in electronic format, unless the document has been filed in paper under a hardship exemption (§ 232.201 or 232.202 of this chapter) and any required confirming copy has been submitted.

(b) If a filer incorporates by reference into an electronic filing any portion of an annual or quarterly report to security holders, it must also file the portion of the annual or quarterly report to security holders in electronic format as an exhibit to the filing, as required by Regulation S-K Item 601(b)(13) (§ 229.601(b)(13) of this chapter) and Regulation S-B Item 601(b)(13) (§ 228.601(b)(13) of this chapter). If a foreign private issuer incorporates by reference into an electronic filing any portion of an annual or other report to security holders, or of a Form 6-K report (§ 249.306 of this chapter) filed or submitted in paper, it also must file the incorporated portion in electronic format as an exhibit to the filing. The requirements of this paragraph do not apply to incorporation by reference by an investment company from an annual or quarterly report to security holders.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 62 FR 36457, July 8, 1997; 64 FR 27895, May 21, 1999; 65 FR 24800, Apr. 27, 2000; 67 FR 36700, May 24, 2002]