

December 31, 2003

## New Disclosure Regime for Annual Reports filed on MJDS Form 40-F

In our memorandum dated February 11, 2003 we described the new disclosure requirements that were proposed to be made part of the Form 40-F by the enactment of the Sarbanes-Oxley Act of 2002 (the "Act"). At that time, many of the new requirements of the Act had not yet been adopted. Following the busiest period of rule-making in SEC history, all of the Act's requirements have now been enacted. With limited exceptions, the new requirements apply to Form 40-Fs covering fiscal years ended on or after December 15, 2003.

Because Canadian public companies with a fiscal year ended December 31, 2003 will soon be preparing their Annual Information Forms covering the 2003 fiscal year, and many in this group will be preparing a Form 40-F, we thought it timely to update our earlier description of the changes the Act brought to the Form 40-F. The main point of our February 2003 memorandum is worth repeating: the Form 40-F is no longer merely a "wrap" of Canadian disclosure documents, and care must be taken that additional new U.S. disclosure rules are met.

In this memorandum, we also address the new corporate governance rules applicable to listed Canadian companies that have been adopted by the New York Stock Exchange, the Nasdaq and the American Stock Exchange, as well as the basis of the exemptions available to Canadian companies from certain of these new rules. Compliance with exchange rules relating to audit committee composition and responsibility is not required until July 31, 2005.

Lastly, we note that Section 408 of the Act requires that the SEC review disclosure made by companies listed on U.S. exchanges on a "regular and systematic" basis, and no less frequently than once every 3 years. As of the date of this memorandum, the SEC has not indicated how it will conduct this review of listed Canadian companies filing on Form 40-F.

To enhance the utility of this memorandum, we have summarized and attempted to express in plain English a number of complex and complicated legal rules. A complete discussion of the rules summarized in this memorandum can be found in publications available on our website ([www.paulweiss.com](http://www.paulweiss.com)) under Practice – Securities and Capital Markets Practice – Corporate Governance Matters – Publications.

---

1285 Avenue of the Americas  
New York, New York 10019-6064  
(212) 373-3000

1615 L Street, NW  
Washington, DC 20036-5694  
(202) 223-7300

Alder Castle, 10 Noble Street  
London EC2V 7JU England  
(44-20) 7367 1600

2, rue du Faubourg Saint-Honoré  
75008 Paris, France  
(33-1) 53.43.14.14

Fukoku Seimei Building 2<sup>nd</sup> Floor  
2-2, Uchisawaicho 2-chome  
Chiyoda-ku, Tokyo 100, Japan  
(81-3) 3597-8120

2918 China World Tower II  
No. 1, Jianguomenwai Dajie  
Beijing 100004, People's Republic of China  
(86-10) 6505-6822

12<sup>th</sup> FL, Hong Kong Club Building  
3A Chater Road, Central  
Hong Kong  
(852) 2536-9933

For your convenience, we have attached a copy of Form 40-F and its revised instructions as Annex A to this memorandum.

\* \* \* \*

**Overview**

**a. Revised Form 40-F.**

The Form 40-F has twelve new requirements that reflect provisions of the Act:

- Item B(6)(a) (CEO and CFO certifications of annual reports),
- Item B(6)(b) (Disclosure of CEO and CFO conclusions regarding effectiveness of disclosure controls and procedures),
- Item B(6)(c) (Management’s report on internal control over financial reporting),
- Item B(6)(d) (Attestation report of registered public accounting firm),
- Item B(6)(e) (Disclosure of any changes in internal control over financial reporting identified in management’s evaluation),
- Item B(7) (Notices relating to pension fund blackout periods),
- Item B(8) (Disclosure relating to audit committee financial expert),
- Item B(9) (Disclosure relating to a code of ethics for senior management),
- Item B(10) (Disclosure of fees paid to principal accountant, audit committee pre-approval policies for accountant services and approval of non-audit services),
- Item B(11) (Disclosure of off-balance sheet arrangements),
- Item B(12) (Tabular disclosure of contractual obligations), and
- Item B(14) (Identification of audit committee).

Item B(7) of Form 40-F requires disclosure in circumstances where a company’s directors and officers are prohibited by new Regulation BTR from trading in equity securities of the company during a pension plan blackout period. These rules apply in a manner such that they will not, except in unique circumstances, require Canadian companies to make disclosure. Specifically, Regulation BTR applies to foreign private issuers where fifty percent or more of the participants or beneficiaries located in the United States in individual account plans are subject to a temporary trading suspension (i.e., blackout). Additionally, affected U.S. participants or beneficiaries must (i) represent at least fifteen percent of a company’s worldwide employees or (ii) be greater than 50,000 in number.

Because Item B(7) of Form 40-F will only rarely result in Form 40-F disclosure, we do not discuss this disclosure requirement in this memorandum.

**b. Timing of implementation of new Form 40-F requirements.**

With the exception of Items B(6)(c), (d) and (e) relating to management evaluation of internal control over financial reporting and auditor attestation relating to this evaluation, all of the provisions listed above apply to Form 40-Fs covering fiscal years ended on or after December 15, 2003. As discussed below in Section 2, management must evaluate internal control over financial reporting (and receive an attestation report relating to this assessment from its auditor) in a Form 40-F for fiscal years ending after April 15, 2005.

**c. New listing requirements of U.S. exchanges.**

Section 303A of the New York Stock Exchange Rules implements new corporate governance rules that are required of NYSE-listed companies. The provisions of Section 303A applicable to listed foreign private issuers, including Canadian companies, are:

- Section 303A.06 (Audit committee independence requirements),
- Section 303A.11 (Disclosure of significant differences between Canadian corporate governance practices and the NYSE corporate governance rules), and
- Section 303A.12(b) (Prompt disclosure by the CEO of any material non-compliance with Section 303A).

Rule 4350 of the Nasdaq Marketplace Rules and Sections 121, 802, 804 and 805 of the American Stock Exchange Company Guide require that listed foreign private issuers, including Canadian companies, comply with audit committee rules and require prompt disclosure of any material non-compliance with their respective corporate governance rules. The various other corporate governance rules of these exchanges are not applicable to foreign private issuers, including Canadian companies, provided an exemption is obtained.

Sections 9 and 10 of this memorandum discuss the NYSE, Nasdaq and Amex corporate governance rules applicable to listed Canadian companies and address the manner in which companies can secure exemptions from other new corporate governance rules.

**d. Timing of implementation of new exchange rules.**

As a general matter, Canadian companies listed on the U.S. exchanges must disclose significant differences between exchange rules and Canadian practice (and/or the receipt of exemptions from exchange rules) early in 2004.

**1. The CEO and CFO must certify the financial and other information included in the Form 40-F.**

Since 2002, Sections 302 and 906 of the Act have required the principal executive and financial officers of companies filing U.S. reports to certify the financial and other information contained in annual and periodic reports filed with the SEC. These requirements extend to annual reports on Form 40-F (although not to reports on Form 6-K as they are “current” not “periodic” reports).

New Item B(6)(a) of Form 40-F requires that the Section 302 and the Section 906 certifications be included separately in the Form 40-F and separately for each principal executive officer and principal financial officer. The instructions to Item B(6)(a) require that the certifications be attached as exhibits to the Form 40-F.

The Section 302 certification is part of the revised Form 40-F and is set forth in Item B(6)(a) of the Form 40-F. We note that the SEC has stated that the text of the Section 302 certification may not be modified in any way, regardless of whether the modification seems inconsequential in nature.

The Section 906 certification that must be filed with the Form 40-F is not part of the revised Form 40-F, and for your convenience we have included it as Annex B to this memorandum. The Section 906 certification will not be deemed to be “filed” for the purposes of Section 18 of the U.S. Securities Exchange Act of 1934 and thus does not attract liability under that section of the Exchange Act.

New Item B(6)(b) of Form 40-F requires disclosure of the CEO’s and CFO’s conclusions regarding the effectiveness of a company’s disclosure controls and procedures based on their evaluation of these controls and procedures as of a date within 90 days of the filing date of the Form 40-F.

**2. Management must make disclosure regarding internal control over financial reporting.**

Items B(6)(c), (d) and (e) of Form 40-F require that each annual report filed on Form 40-F for fiscal years ending after April 15, 2005 must include an assessment by management of internal control over financial reporting, as well as an attestation by a registered public accounting firm relating to management’s evaluation. Although Canadian companies will only have to provide this assessment in Form 40-Fs filed for fiscal years ending after April 15, 2005, as a practical matter, for a company with a December 31 fiscal year end, internal control over financial reporting must be fully evaluated by management and the company’s auditors by December 31, 2004 because the required attestations will cover internal control over financial reporting in place on the first day of the 2005 fiscal year.

The Form 40-F filed for fiscal years ending after April 15, 2005 will need to include a report of management that includes:

- a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the company,
- a statement identifying the framework used by management to evaluate the effectiveness of the company's internal control over financial reporting,
- management's assessment of the effectiveness of internal control over financial reporting as of the end of the most recent fiscal year, including a statement as to whether or not internal control over financial reporting is effective and disclosure of any material weakness in internal control over financial reporting, and
- a statement that the accounting firm that audited the company's financial statements included in the Form 40-F has issued an attestation report on management's assessment of the company's internal control over financial reporting.

Companies must maintain a record, including documentation, to provide support for management's assessment of the effectiveness of internal control over financial reporting.

**3. Companies must disclose whether or not the board of directors has identified an audit committee financial expert.**

Item B(8) of Form 40-F requires that a company disclose whether or not its board of directors has determined that there is at least one audit committee financial expert serving on its audit committee (and if not, the reasons why not). If an expert is identified, disclosure of the expert's name and whether he or she is independent must be provided. Listed companies must use applicable listing standards to determine "independence". Companies filing a Form 40-F but not listed on a U.S. exchange must use a definition of audit committee member independence of a U.S. national securities exchange or association.

The term "audit committee financial expert" means a person who, through education and experience as a principal financial or accounting officer, controller or public accountant, has:

- an understanding of generally accepted accounting principles and financial statements,
- the ability to assess the general application of such principles in connection with accounting for estimates, accruals and reserves,

- experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the company's financial statements, or experience actively supervising one or more persons engaged in such activities,
- an understanding of internal control over financial reporting, and
- an understanding of audit committee functions.

The SEC has indicated that the generally accepted accounting principles referred to in the first bullet point above are, for Canadian companies, Canadian generally accepted accounting principles.

The Form 40-F provides that an audit committee financial expert will not be deemed an expert for any purpose, including Section 11 of the U.S. Securities Act of 1933 (which covers civil liabilities for false statements in U.S. registration statements).

**4. Companies must disclose whether they have adopted a code of ethics.**

Item B(9) of Form 40-F requires that a company disclose whether it has adopted a code of ethics for its principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions (and if not, the reasons why not).

A company must also

- post its code of ethics on its website (and disclose in its Form 40-F its website address and the posting of its code of ethics on its website), or
- file its code of ethics as an exhibit to its annual report, or
- provide an undertaking in its Form 40-F to provide a copy of its code of ethics to any person upon request and without charge.

Companies are also required to disclose in their Form 40-Fs, or on their websites, changes to, and waivers from, their code of ethics.

The new rules define a code of ethics as written standards that are reasonably designed to deter wrongdoing and to promote:

- honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships,

- full, fair, accurate, timely and understandable disclosure in reports and documents that a company files with, or submits to, the SEC and in other public communications made by the company,
- compliance with applicable governmental laws, rules and regulations,
- prompt internal reporting of violations of the code to an appropriate person or persons identified in the code, and
- accountability for adherence to the code.

A draft code of ethics is attached as Annex C to this note.

**5. Companies must disclose any fees paid to its principal accountant, any policies and procedures adopted for pre-approval of permitted non-audit services and the approval of any non-audit services.**

Item B(10) of Form 40-F requires disclosure of:

- fees paid for services from the company's principal accountant in each of the last two fiscal years,
- any policies and procedures adopted by the audit committee to pre-approve the engagement of the company's accountant for any permitted non-audit services, and
- the percentage of non-audit services performed by a company's accountant that the audit committee approved after the fact on the basis that such services were (i) a small part of the services performed by the accountant, (ii) not recognized as non-audit services, or (iii) approved prior to the completion of the audit by the company's audit committee.

If any services are disclosed under the third bullet point immediately above, additional disclosure, not discussed in this memorandum, is required.

*Fees paid to the principal accountant.* The new rules require that a company must disclose in its Form 40-F the aggregate fees paid to its principal accountant in each of the last two fiscal years as:

- audit fees,
- audit-related fees,
- tax fees, and

- all other fees.

“Audit fees” include all fees paid to the company’s principal accountant for professional services rendered for the audit of the company’s financial statements, as well as for services normally provided in connection with statutory and regulatory filings or engagements.

“Audit-related fees” include all fees paid for assurance and related services reasonably related to the performance of the audit or review of the company’s financial statements and not included as “Audit fees.”

“Tax fees” include all fees paid for any services rendered for tax compliance, tax advice and tax planning.

“All other fees” include any fees that do not fit into any of the other categories.

The Form 40-F must contain a description of the services rendered in exchange for the fees listed in each of the “Audit-related fees,” “Tax fees” and “All other fees” categories.

*Policies for pre-approval of non-audit services.* Rule 2-01 of Regulation S-X requires a company’s audit committee to pre-approve all non-audit services to be rendered by its accountant. The new rules allow the audit committee either to pre-approve individually each engagement with the company’s accountant or adopt policies and procedures by which engagement for a particular non-audit service may be pre-approved. If a company chooses to adopt pre-approval policies and procedures, the company must disclose these policies and procedures in its Form 40-F. Any adopted policies and procedures must (i) be detailed as to the particular service to be rendered, (ii) provide that the audit committee is informed of each service and (iii) not include delegation of audit committee responsibilities to management.

## **6. Companies must disclose off-balance sheet arrangements.**

Item B(11) of the Form 40-F requires that a company discuss any off-balance sheet arrangements reasonably likely to have a current or future material effect on its financial condition, results of operations or liquidity. Disclosure of the company’s off-balance sheet arrangements must be made in a separately captioned section of the report. Generally, the required disclosure should cover the most recent fiscal year.

These U.S. rules do not require this disclosure in the MD&A that Canadian public companies prepare under Canadian law and file with Canadian regulators with their quarterly and annual financial statements. However, we recommend that Canadian companies filing Form 40-F include this required U.S. disclosure in their MD&A prepared under Canadian law to avoid having two different MD&As and the accompanying selective disclosure issues.



An “off-balance sheet arrangement” is defined as any contractual arrangement to which an entity that is not consolidated with the company is a party, under which the company has:

- any obligation under certain guarantee contracts identified in paragraph 3 of FASB Interpretation 45 entitled “Guarantor’s Accounting and Disclosure Requirements for Guarantees”,
- a retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as a credit, liquidity or market risk support to that entity for such assets,
- any obligation under a derivative instrument that is both indexed to the company’s own stock and classified in stockholders’ equity, or not reflected, in the company’s statement of financial position, or
- any obligation arising out of a variable interest as discussed in FASB Interpretation 46 entitled “Consolidation of Variable Interest” held by the company in an unconsolidated entity that provides financing, liquidity, market risk or credit risk support to the company, or engages in leasing, hedging or research and development services with the company.

If a company has such off-balance sheet arrangements, it must disclose (i) the nature and purpose of, (ii) importance of, (iii) amount of revenue, expenses and cash flows arising from and (iv) events, trends or uncertainties that might result in the termination of the benefits of such arrangements.

Contingent liabilities arising out of litigation, arbitration or regulatory actions are not off-balance sheet arrangements. The discussion should cross-reference but not duplicate information relating to off-balance sheet arrangements in the footnotes to the financial statements.

The SEC has indicated that all information required by Form 40-F relating to off-balance sheet arrangements (except historical facts) is deemed to be a “forward-looking statement” for purposes of the statutory safe harbors relating to forward-looking statements found in the Securities Act and the Exchange Act. Accordingly, the forward-looking statement safe harbor disclaimer in a Form 40-F should be revised to specify forward-looking statements in disclosure relating to off-balance sheet arrangements.

**7. Companies are required to disclose in tabular form their contractual commitments.**

Item B(12) of Form 40-F requires a tabular presentation of a company’s contractual commitments as of the latest fiscal year end balance sheet date. The tabular presentation may be

presented in any section of the MD&A the company deems appropriate. The rules do not require tabular presentation for interim periods.

As with the rules relating to off-balance sheet arrangements, these U.S. rules do not require disclosure in the MD&A of Canadian public companies prepared under Canadian law and filed with Canadian regulators. However, here too we recommend that Canadian companies include the required U.S. disclosure in their MD&A prepared under Canadian law to avoid selective disclosure issues.

The suggested tabular presentation is set forth below:

	Payments due by period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
<i>Contractual Obligations</i>					
[Long-term debt obligations]					
[Capital (finance) lease obligations]					
[Operating lease obligations]					
[Purchase obligations]					
[Other long-term liabilities reflected on the company's balance sheet under the GAAP of the primary financial statements]					
<b>Total</b>					

The contractual obligations in the table are based on the generally accepted accounting principles that the company uses, except that the Form 40-F defines “purchase obligations” to mean agreements to purchase goods or services that are enforceable and legally binding and that specify all significant terms (including quantity, price and timing).

The amounts of contractual commitments must be aggregated by type of contractual obligation. A company may disaggregate the amounts that would be set forth under the specified categories, using categories more suitable to its business. Footnotes to the table should describe contractual provisions that create, increase or accelerate obligations.

As with the rules relating to off-balance sheet arrangements, the SEC has indicated that all required information required relating to contractual commitments (except historical facts) is a “forward-looking statement” for purposes of the U.S. statutory safe harbors relating to forward-looking

statements. Accordingly, the forward-looking statement safe harbor disclaimer in a Form 40-F should be revised to specify forward-looking statements in disclosure relating to contractual commitments.

**8. Companies must state whether they have an audit committee and identify its members.**

Item B(14) of Form 40-F requires, with limited exceptions not likely to apply to Canadian companies filing on Form 40-F, that companies listed on U.S. exchanges state whether they have a committee (or equivalent body) established by the board of directors for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company and if so, identify each committee member.

**9. New NYSE Listing Standards.**

Most (but not all) of the new NYSE corporate governance rules contained in Section 303A of the NYSE Rules do not apply to foreign private issuers, including Canadian companies. NYSE-listed Canadian companies are, however, required to disclose any significant differences between their home country practices and NYSE listing standards. In addition, NYSE-listed Canadian companies will want to consider whether there are NYSE-mandated governance rules that they want to comply with voluntarily, either because they are very similar to those of the Toronto Stock Exchange or because they consider the U.S. rule a beneficial one.

**a. Canadian companies listed on the NYSE must have an independent audit committee.**

Section 303A.06 of the NYSE corporate governance rules requires that all NYSE-listed companies have an audit committee that satisfies Rule 10A-3 under the Exchange Act. This NYSE requirement does not impose new obligations: every foreign private issuer listed on any U.S. exchange is required to comply with Rule 10A-3 of the Exchange Act.

Rule 10A-3, which implements the Act's rules relating to audit committees, sets forth requirements relating to both the composition and the responsibilities of the audit committee. As to audit committee composition, Rule 10A-3 requires that each member of the company's audit committee is a member of the board of directors of the company and is independent.

Independence for the purposes of audit committee membership means that the director (i) has not accepted, *directly or indirectly*, any consulting, advisory, or other compensatory fee from the company or any subsidiary thereof (other than director or board committee fees) or (ii) is an affiliate of the company or any of its subsidiaries. An affiliate for the purposes of this rule is a "significant" shareholder or an executive director, general partner or executive officer of a significant shareholder. A

shareholder is “significant” when a shareholder “controls” the company. A shareholder of less than 10% of a company’s equity will not be an affiliate for this purpose.

The indirect fee prohibition means that partners, managing directors or executive officers (or persons holding similar positions) in a law firm, investment bank, accounting firm or consulting firm that provides services to the company cannot be a member of the audit committee.

Compensatory fees do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the company (provided that such compensation is not contingent in any way on continued service).

As to audit committee responsibilities, Rule 10A-3 requires that:

- the audit committee 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 company,
- each such accounting firm must report directly to the audit committee,
- the audit committee must establish procedures for:
  - the receipt, retention and treatment of complaints received by the listed company regarding accounting, internal accounting controls or auditing matters, and
  - the confidential, anonymous submission by employees of the listed company of concerns regarding questionable accounting or auditing matters,
- each audit committee must have the authority to engage independent counsel and other advisers as it determines necessary to carry out its duties, and
- each listed company must provide for appropriate funding, as determined by the audit committee in its capacity as a committee of the board of directors, for payment of:
  - compensation to any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed company,
  - compensation to any advisers employed by the audit committee, and
  - ordinary administrative expenses of the audit committee that are necessary or appropriate in carrying out its duties.

- b. **Canadian companies listed on the NYSE must disclose any significant differences between their corporate governance practices and the NYSE corporate governance rules.**

Section 303A.11 of the NYSE corporate governance rules requires all foreign private issuers to disclose the significant ways in which their home-country corporate governance practices differ from the NYSE rules. This disclosure need only be a “brief, general summary of the significant differences”; it need not be a detailed itemized comparison and analysis of the differences between corporate governance practices. A summary of the NYSE rules can be found in our memorandum entitled “SEC Approves New York Stock Exchange Corporate Governance Rules”, on our website ([www.paulweiss.com](http://www.paulweiss.com)) under Practice – Securities and Capital Markets Practice – Corporate Governance Matters – Publications.

This disclosure may be provided by the company:

- on its website, if the material is in English and accessible from the United States; or
  - in its annual report to shareholders in the United States.
- c. **CEOs of Canadian companies listed on the NYSE must promptly notify the NYSE of any material non-compliance by the company with the NYSE corporate governance rules.**

Section 303A.12(b) requires the CEO of a Canadian company listed on the NYSE to promptly notify the NYSE in writing after any executive officer becomes aware of any material non-compliance with any applicable provision of Section 303A, which, in the case of Canadian NYSE-listed companies, include only those discussed above: Sections 303A.06 and 303A.11.

- d. **Timing of implementation.**

A Canadian company listed on the NYSE must comply with Section 303A.6 by July 31, 2005, and with Sections 303A.11 and 303A.12 by the sooner of (i) its first annual shareholder meeting after January 15, 2004 or (ii) October 31, 2004.

## 10. **New Nasdaq and Amex Standards.**

A Canadian company traded on Nasdaq is required to comply with each of Nasdaq’s new corporate governance rules unless it has obtained an exemption from the particular rule. Under Nasdaq Marketplace Rule 4350(a)(1), a Canadian company may obtain an exemption (i) if the rule would require it to do anything contrary to the laws, rules, regulations or generally accepted business practices of Canada, and (ii) the company submits a letter from Canadian counsel briefly describing the company’s practice and the applicable conflicting laws, rules, regulations or generally accepted

business practices. A summary of the Nasdaq rules can be found in our memorandum entitled “SEC Approves Nasdaq Corporate Governance Rules”, on our website ([www.paulweiss.com](http://www.paulweiss.com)) under Practice – Securities and Capital Markets Practice – Corporate Governance Matters – Publications.

A Canadian company listed on the Amex is similarly required to comply with each of Amex’s corporate governance rules unless it obtains an exemption from the rules pursuant to Section 110 of the American Stock Exchange Company Guide. To obtain an exemption from particular Amex corporate governance rules, a Canadian company has to provide written certification from independent Canadian counsel that the practice for which relief is sought is not prohibited by Canadian law.

**a. Canadian companies listed on Nasdaq or Amex must have an independent audit committee.**

The Nasdaq, in Marketplace Rule 4350(d) and Amex, in Sections 121 and 803, both impose a variety of audit committee requirements, including, but not limited to, the independent audit committee requirements of Exchange Act Rule 10A-3. Canadian companies may obtain an exemption from all of these requirements, *except* for those of Exchange Act Rule 10A-3.

As discussed above in Section 9, Exchange Act Rule 10A-3, which implements the Act’s rules relating to audit committees, sets forth requirements relating to both the composition and the responsibilities of the audit committee.

**b. Canadian companies listed on Nasdaq or Amex must disclose any significant differences between their corporate governance practices and the exchange’s corporate governance rules.**

Nasdaq Marketplace Rule 4350(a)(1) requires a Canadian company listed on Nasdaq to disclose the receipt of an exemption, as well as describe the home country practice, if any, followed by the company in lieu of the exempted requirement, in its annual filings on Form 40-F. The Nasdaq has stated that it believes this disclosure requirement will not only alert investors that a company has been granted an exemption from certain Nasdaq rules, but may also cause foreign companies to consider carefully their need for an exemption, rather than applying for one as a matter of course.

Amex Company Guide Section 110 requires a Canadian company listed on Amex to provide disclosure of any significant ways in which its corporate governance practices differ from those followed by domestic companies pursuant to Amex’s standards. This disclosure may be provided by the company:

- on its website, if the material is in English and accessible from the United States;  
or
- in its annual report to shareholders in the United States.

- c. **Canadian companies listed on the Nasdaq and Amex must promptly notify the respective exchange of any material non-compliance by the company with applicable corporate governance rules.**

Nasdaq Marketplace Rule 4350(m) and Amex Company Guide Section 801 require listed Canadian companies to notify promptly the respective exchange after any executive officer becomes aware of any material non-compliance with any applicable provision of the corporate governance rules.

- d. **Timing of implementation.**

Canadian companies traded on Nasdaq must comply with rules requiring disclosure of the receipt of an exemption from any Nasdaq requirements and describe the home country practice followed by the company in lieu of the exempted requirement in their Form 40-F after January 1, 2004. Similarly, Canadian companies listed on Amex must disclose significant differences in home country corporate governance practices from Amex standards after January 1, 2004.

Audit committee requirements based on Exchange Act Rule 10A-3 must be met by July 31, 2005. Other implementation dates may be relevant if an exemption is not obtained from other exchange rules.

\* \* \* \*

This memorandum is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content.

Should you have any questions, please call Andrew J. Foley at (212) 373-3078, Edwin S. Maynard at (212) 373-3024 or Leonard V. Quigley at (212) 373-3320.

Andrew J. Foley

Edwin S. Maynard

Leonard V. Quigley

© 2003 Paul, Weiss, Rifkind, Wharton & Garrison LLP

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 40-F

(Check one)

OMB APPROVAL	
OMB NUMBER	3235-0381
Expires	April 30, 2006
Estimated average burden hours per response .....	427

REGISTRATION STATEMENT PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13(a) OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended \_\_\_\_\_ Commission File Number \_\_\_\_\_

\_\_\_\_\_  
(Exact name of Registrant as specified in its charter)

\_\_\_\_\_  
(Translation of Registrant's name into English (if applicable))

\_\_\_\_\_  
(Province or other jurisdiction of incorporation or organization)

\_\_\_\_\_  
(Primary Standard Industrial Classification Code Number (if applicable))

\_\_\_\_\_  
(I.R.S. Employer Identification Number (if applicable))

\_\_\_\_\_  
(Address and telephone number of Registrant's principal executive offices)

\_\_\_\_\_  
(Name, address (including zip code) and telephone number (including area code) of agent for service in the United States)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class	Name of each exchange on which registered
_____	_____
_____	_____
_____	_____

Securities registered or to be registered pursuant to Section 12(g) of the Act.

\_\_\_\_\_  
(Title of Class)

\_\_\_\_\_  
(Title of Class)



Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

---

(Title of Class)

SEC 2285 (08-08) Persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

For annual reports, indicate by check mark the information filed with this Form:

Annual information form       Audited annual financial statements

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

Indicate by check mark whether the Registrant by filing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934 (the "Exchange Act"). If "Yes" is marked, indicate the file number assigned to the Registrant in connection with such Rule.

Yes       82- \_\_\_\_\_ No

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes       No

#### GENERAL INSTRUCTIONS

##### A. Rules As To Use of Form 40-F

- (1) Form 40-F may be used to file reports with the Commission pursuant to Section 15(d) of the Exchange Act and Rule 15d-4 thereunder by Registrants that are subject to the reporting requirements of that Section solely by reason of their having filed a registration statement on Form F-7, F-8, F-9, F-10 or F-80 under the Securities Act of 1933 (the "Securities Act").

*Note:* No reporting obligation arises under Section 15(d) of the Securities Act from the registration of securities on Form F-7, F-8 or F-80 if the issuer, at the time of filing such Form, is exempt from the requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b). See Rule 12h-4 under the Exchange Act.

- (2) Form 40-F may be used to register securities with the Commission pursuant to Section 12(b) or 12(g) of the Exchange Act, to file reports with the Commission pursuant to Section 13(a) of the Exchange Act and Rule 13a-3 thereunder, and to file reports with the Commission pursuant to Section 15(d) of the Exchange Act if:
- (i) the Registrant is incorporated or organized under the laws of Canada or any Canadian province or territory;
  - (ii) the Registrant is a foreign private issuer or a crown corporation;
  - (iii) the Registrant has been subject to the periodic reporting requirements of any securities commission or equivalent regulatory authority in Canada for a period of at least 12-calendar months immediately preceding the filing of this Form and is currently in compliance with such obligations; and
  - (iv) the aggregate market value of the public float of the Registrant's outstanding equity shares is \$75 million or more; provided, however, that no market value threshold need be satisfied in connection with non-convertible securities eligible for registration on Form F-9.

## Instructions

1. For purposes of this Form, “foreign private issuer” shall be construed in accordance with Rule 405 under the Securities Act.
  2. For purposes of this Form, the term “crown corporation” shall mean a corporation all of whose common shares or comparable equity is owned directly or indirectly by the Government of Canada or a Province or Territory of Canada.
  3. For purposes of this Form, the “public float” of specified securities shall mean only such securities held by persons other than affiliates of the issuer.
  4. For purposes of this Form, an “affiliate” of a person is anyone who beneficially owns, directly or indirectly, or exercises control or direction over, more than 10 percent of the outstanding equity shares of such person. The determination of a person’s affiliates shall be made as of the end of such person’s most recently completed fiscal year.
  5. For purposes of this Form, “equity shares” shall mean common shares, non-voting equity shares and subordinate or restricted voting equity shares, but shall not include preferred shares.
  6. For purposes of this Form, the market value of outstanding equity shares (whether or not held by affiliates) shall be computed by use of the price at which the shares were last sold, or the average of the bid and asked prices of such shares, in the principal market for such shares as of a date within 60 days prior to the date of filing. If there is no market for any of such securities, the book value of such securities computed as of the latest practicable date prior to the filing of this Form shall be used for purposes of calculating the market value, unless the issuer of such securities is in bankruptcy or receivership or has an accumulated capital deficit, in which case one-third of the principal amount, par value or stated value of such securities shall be used.
- (3) If the Registrant is a successor Registrant subsisting after a business combination, it shall be deemed to meet the 12-month reporting requirement of A.(2)(iii) above if:
- (1) the time the successor registrant has been subject to the continuous disclosure requirements of any securities commission or equivalent regulatory authority in Canada, when added separately to the time each predecessor had been subject to such requirements at the time of the business combination, in each case equals at least 12-calendar months, *provided, however*, that any predecessor need not be considered for purposes of the reporting history calculation if the reporting histories of predecessors whose assets and gross revenues, respectively, would contribute at least 80 percent of the total assets and gross revenues from continuing operations of the successor Registrant, as measured based on pro forma combination of such participating companies’ most recently completed fiscal years immediately prior to the business combination, when combined with the reporting history of the successor Registrant in each case satisfy such 12-month reporting requirement and
  - (2) the successor Registrant has been subject to such continuous disclosure requirements since the business combination, and is currently in compliance with its obligations thereunder.
- (4) This Form shall not be used if the Registrant is an investment company registered or required to be registered under the Investment Company Act of 1940.

## B. Information To Be Filed on this Form

- (1) Except as hereinafter noted, Registrants registering securities under Section 12 shall file with the Commission on this Form all information material to an investment decision that the Registrant, since the beginning of its last full fiscal year:
  - (i) made or was required to make public pursuant to the law of any Canadian jurisdiction,

- (ii) filed or was required to file with a stock exchange on which its securities are traded and which was made public by such exchange, or
- (iii) distributed or was required to distribute to its securityholders.

A list of all documents filed with the Commission as a part of the registration statement shall be set forth in or attached as an exhibit to the Form.

- (2) Unless otherwise furnished in information provided pursuant to General Instruction B.(1), all registration statements on this Form shall include that portion of its home jurisdiction reports, forms or listing applications containing a description of the securities to be registered.
- (3) Registrants reporting pursuant to Section 13(a) or 15(d) of the Exchange Act should file under cover of this Form the annual information form required under Canadian law and the Registrant's audited annual financial statements and accompanying management's discussion and analysis. All other information material to an investment decision that a Registrant
  - (i) makes or is required to make public pursuant to the law of the jurisdiction of its domicile,
  - (ii) files or is required to file with a stock exchange on which its securities are traded, or
  - (iii) distributes or is required to distribute to its securityholders shall be furnished by Registrants under cover of Form 6-K.
- (4) A filer must file the Form 40-F registration statement or annual report in electronic format in the English language in accordance with Regulation S-T Rule 306 (17 CFR 232.306). A filer may file part of an exhibit or other attachment to the Form 40-F registration statement or annual report in both French and English if it included the French text to comply with the requirements of the Canadian securities administrator or other Canadian authority and, for an electronic filing, if the filing is an HTML document, as defined in Regulation S-T Rule 11 (17 CFR 232.11). For both an electronic filing and a paper filing, a filer may provide an English translation or English summary of a foreign language document as an exhibit or other attachment to the registration statement or amendment as permitted by the rules of the applicable Canadian securities administrator.
- (5) If a report filed on this Form incorporates by reference any information not previously filed with the Commission, such information must be attached as an exhibit and filed with this Form.
- (6) Where the Form is being used as an annual report filed under Section 13(a) or 15(d) of the Exchange Act:
  - (a)(1) Provide the certifications required by Rule 13a-14(a) (17 CFR 240.13a-14(a)) or Rule 15d-14(a) (17 CFR 240.15d-14(a)) as an exhibit to this report exactly as set forth below.

#### **CERTIFICATIONS\***

I, [identify the certifying individual], certify that:

- 1. I have reviewed this annual report on Form 40-F of [identify issuer];
- 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this report;
- 4. The issuer's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the issuer and have:

- a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the issuer's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and
5. The issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee of the issuer's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Title]

\* Provide a separate certification for each principal executive officer and principal financial officer of the registrant. See Rules 13a-14 and 15d-14. The required certification must be in the exact form set forth above.

- (2) (i) Provide the certifications required by Rule 13a-14(b) (17 CFR 240.13a-14(b)) or Rule 15d-14(b) (17 CFR 240.15d-14(b)) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) as an exhibit to this report.
- (ii) A certification furnished pursuant to Rule 13a-14(b) (17 CFR 240.13a-14(b)) or Rule 15d-14(b) (17 CFR 240.15d-14(b)) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) will not be deemed "filed" for purposes of Section 18 of the Exchange Act [15 U.S.C. 78r], or otherwise subject to the liability of that section. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the issuer specifically incorporates it by reference.
- (b) Disclosure Controls and Procedures. Where the Form is being used as an annual report filed under Section 13(a) or 15(d) of the Exchange Act, disclose the conclusions of the issuer's principal executive and principal financial officers, or persons performing similar functions, regarding the effectiveness of the issuer's disclosure controls and procedures (as defined in 17 CFR 240.13a-15(e) or 240.15d-15(e)) as of the end of the period covered by the report, based on the evaluation of these controls and procedures required by paragraph (b) of 17 CFR 240.13a-15 or 240.15d-15.

- (c) Management’s annual report on internal control over financial reporting. Where the Form is being used as an annual report filed under Section 13(a) or 15(d) of the Exchange Act, provide a report of management on the issuer’s internal control over financial reporting (as defined in 17 CFR 240.13a-15(f) or 240.15d-15(f)) that contains:
- (1) (A) statement of management’s responsibility for establishing and maintaining adequate internal control over financial reporting for the issuer;
  - (2) A statement identifying the framework used by management to evaluate the effectiveness of the issuer’s internal control over financial reporting as required by paragraph (c) of 17 CFR 240.13a-15 or 240.15d-15;
  - (3) Management’s assessment of the effectiveness of the issuer’s internal control over financial reporting as of the end of the issuer’s most recent fiscal year, including a statement as to whether or not internal control over financial reporting is effective. This discussion must include disclosure of any material weakness in the issuer’s internal control over financial reporting identified by management. Management is not permitted to conclude that the issuer’s internal control over financial reporting is effective if there are one or more material weaknesses in the issuer’s internal control over financial reporting; and
  - (4) A statement that the registered public accounting firm that audited the financial statements included in the annual report containing the disclosure required by this Item has issued an attestation report on management’s assessment of the issuer’s internal control over financial reporting.
- (d) Attestation report of the registered public accounting firm. Where the Form is being used as an annual report filed under Section 13(a) or 15(d) of the Exchange Act, provide the registered public accounting firm’s attestation report on management’s assessment of internal control over financial reporting in the annual report containing the disclosure required by this Item.
- (e) Changes in internal control over financial reporting. Disclose any change in the issuer’s internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of 17 CFR 240.13a-15 or 240.15d-15 that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the issuer’s internal control over financial reporting.

Instructions to paragraphs (b), (c), (d) and (e) of General Instruction B. 6.

1. The issuer must maintain evidential matter, including documentation, to provide reasonable support for management’s assessment of the effectiveness of the issuer’s internal control over financial reporting.
2. An issuer that is an Asset-Backed Issuer (as defined in 17 CFR 240.13a-14(g) and 240.15d-14(g)) is not required to disclose the information required by this Item.
- (7) An issuer must attach as an exhibit to an annual report filed on Form 40-F a copy of any notice required by Rule 104 of Regulation BTR (17 CFR 245.104 of this chapter) that it sent during the past fiscal year to directors and executive officers (as defined in 17 CFR 245.100 (d) and (h) of this chapter) concerning any equity security subject to a blackout period (as defined in 17 CFR 245.100 (c) of this chapter) under Rule 101 of this chapter). Each notice must have included the information specified in 17 CFR 245.104 (b) of this chapter.

**Note:** The Commission will consider the attachment of any Rule 104 notice as an exhibit to a timely filed Form 40-F annual report to satisfy an issuer’s duty to notify the Commission of a blackout period in a timely manner. Although an issuer need not submit a Rule 104 notice under cover of a Form 6-K, if an issuer has already submitted this notice under cover of Form 6-K, it need not attach the notice as an exhibit to a Form 40-F annual report.

- (8) (a) (1) Disclose that the registrant’s board of directors has determined that the registrant either:

- (i) Has at least one audit committee financial expert serving on its audit committee; or
  - (ii) Does not have an audit committee financial expert serving on its audit committee.
- (2) If the registrant provides the disclosure required by paragraph (8)(a)(1)(i) of this General Instruction B, it must disclose the name of the audit committee financial expert and whether that person is independent, as that term is defined in the listing standards applicable to the registrant if the registrant is a listed issuer, as defined in 17 CFR 240.10A-3. If the registrant is not a listed issuer, it must use a definition of audit committee member independence of a national securities exchange registered pursuant to section 6(a) of the Exchange Act (15 U.S.C. 78f(a)) or a national securities association registered pursuant to section 15A(a) of the Exchange Act (15 U.S.C. 78o-3(a)) that has been approved by the Commission (as such definition may be modified or supplemented) in determining whether its audit committee financial expert is independent, and state which definition was used.
- (3) If the registrant provides the disclosure required by paragraph (8)(a)(1)(ii) of this General Instruction B, it must explain why it does not have an audit committee financial expert.

**Note to paragraph (8)(a) of General Instruction B:**

If the registrant's board of directors has determined that the registrant has more than one audit committee financial expert serving on its audit committee, the registrant may, but is not required to, disclose the names of those additional persons.

- (b) For purposes of paragraph (8) of General Instruction B, an "audit committee financial expert" means a person who has the following attributes:
- (1) An understanding of generally accepted accounting principles and financial statements;
  - (2) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
  - (3) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;
  - (4) An understanding of internal control over financial reporting;
  - (5) An understanding of audit committee functions.
- (c) A person shall have acquired such attributes through:
- (1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;
  - (2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;
  - (3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or
  - (4) Other relevant experience.
- (d) Safe Harbor
- (1) A person who is determined to be an audit committee financial expert will not be deemed an "expert" for any purpose, including without limitation for purposes of section 11 of the Securities Act of 1933 (15

U.S.C. 77k), as a result of being designated or identified as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B.

- (2) The designation or identification of a person as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.
- (3) The designation or identification of a person as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

**Notes to Paragraph (8) of General Instruction B:**

1. Paragraph (8) of General Instruction B applies only to annual reports, and does not apply to registration statements, on Form 40-F.
  2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (8)(c)(4) of General Instruction B, the registrant shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosure in the annual report relating to the business experience of that director.
  3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of this paragraph (8) of General Instruction B, the term "board of directors" means the supervisory or non-management board. Also, the term "generally accepted accounting principles" in paragraph (8)(b)(1) of General Instruction B means the body of generally accepted accounting principles used by the foreign private issuer in its primary financial statements filed with the Commission.
  4. A registrant that is an Asset-Backed Issuer (as defined in §240.13a-14(g) and §240.15d-14(g) of this chapter) is not required to disclose the information required by this paragraph (8) of General Instruction B.
- (9) (a) Disclose whether the registrant has adopted a code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the registrant has not adopted such a code of ethics, explain why it has not done so.
- (b) For purposes of this paragraph (9) of General Instruction B, the term "code of ethics" means written standards that are reasonably designed to deter wrongdoing and to promote:
- (1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
  - (2) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a registrant files with, or submits to, the Commission and in other public communications made by the registrant;
  - (3) Compliance with applicable governmental laws, rules and regulations;
  - (4) The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and
  - (5) Accountability for adherence to the code.
- (c) The registrant must:
- (1) File with the Commission a copy of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report;

- (2) Post the text of such code of ethics on its Internet website and disclose, in its annual report, its Internet address and the fact that it has posted such code of ethics on its Internet website; or
  - (3) Undertake in its annual report filed with the Commission to provide to any person without charge, upon request, a copy of such code of ethics and explain the manner in which such request may be made.
- (d) The registrant must briefly describe the nature of any amendment to a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in paragraph (9)(b) of General Instruction B, which has occurred during the registrant's most recently completed fiscal year. File a copy of the amendment as an exhibit to the annual statement.
- (e) If the registrant has granted a waiver, including an implicit waiver, from a provision of the code of ethics to one of the officers or persons described in paragraph (9)(a) that relates to one or more of the items set forth in paragraph (9)(b) of General Instruction B during the registrant's most recently completed fiscal year, the registrant must briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, and the date of the waiver.

**Notes to paragraph (9) of General Instruction B:**

1. Paragraph (9) of General Instruction B applies only to annual reports, and does not apply to registration statements, on Form 40-F.
2. A registrant may have separate codes of ethics for different types of officers. Furthermore, a "code of ethics" within the meaning of paragraph (9)(b) of this General Instruction may be a portion of a broader document that addresses additional topics or that applies to more persons than those specified in paragraph (9)(a). In satisfying the requirements of paragraph (9)(c), a registrant need only file, post or provide the portions of a broader document that constitutes a "code of ethics" as defined in paragraph (9)(b) and that apply to the persons specified in paragraph (9)(a).
3. If a registrant elects to satisfy paragraph (9)(c) of this General Instruction by posting its code of ethics on its website pursuant to paragraph (9)(c)(2), the code of ethics must remain accessible on its website for as long as the registrant remains subject to the requirements of this paragraph (9) of General Instruction B and chooses to comply with this paragraph (9) of General Instruction B by posting its code on its website pursuant to paragraph (9)(c)(2).
4. A registrant that is an Asset-Backed Issuer (as defined in §240.13a-14(g) and §240.15d-14(g) of this chapter) is not required to disclose the information required by this paragraph (9) of General Instruction B.
5. The registrant does not need to provide any information pursuant to paragraphs (9)(d) and (9)(e) of General Instruction B if it discloses the required information on its Internet website within five business days following the date of the amendment or waiver and the registrant has disclosed in its most recently filed annual report its Internet address and intention to provide disclosure in this manner. If the registrant elects to disclose the information required by paragraphs (9)(d) and (9)(e) of General Instruction B through its website, such information must remain available on the website for at least a 12-month period. Following the 12-month period, the registrant must retain the information for a period of not less than five years. Upon request, the registrant must furnish to the Commission or its staff a copy of any or all information retained pursuant to this requirement.
6. The registrant does not need to disclose technical, administrative or other non-substantive amendments to its code of ethics.
7. For purposes of this paragraph (9) of General Instruction B:
  - a. The term "waiver" means the approval by the registrant of a material departure from a provision of the code of ethics; and



- b. The term “implicit waiver” means the registrant’s failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b-7 (§240.3b-7 of this chapter), of the registrant.

(10) Principal Accountant Fees and Services.

- (1) Disclose, under the caption Audit Fees, the aggregate fees billed for each of the last two fiscal years for professional services rendered by the principal accountant for the audit of the registrant’s annual financial statements or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.
- (2) Disclose, under the caption Audit-Related Fees, the aggregate fees billed in each of the last two fiscal years for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the registrant’s financial statements and are not reported under paragraph B.(10)(1) of this Instruction. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (3) Disclose, under the caption Tax Fees, the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (4) Disclose, under the caption All Other Fees, the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant, other than the services reported in paragraphs B.(10)(1) through B.(10)(3) of this Instruction. Registrants shall describe the nature of the services comprising the fees disclosed under this category.
- (5) (i) Disclose the audit committee’s pre-approval policies and procedures described in paragraph (c)(7)(i) of Rule 2-01 of Regulation S-X.  
  
(ii) Disclose the percentage of services described in each of paragraphs B.(10)(2) through B.(10)(4) of this Instruction that were approved by the audit committee pursuant to paragraph (c)(7)(i)(C) of Rule 2-01 of Regulation S-X.
- (6) If greater than 50 percent, disclose the percentage of hours expended on the principal accountant’s engagement to audit the registrant’s financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant’s full-time, permanent employees.

Notes to Instruction B.(10)

1. You do not need to provide the information called for by this Instruction B.(10) unless you are using this form as an annual report.
  2. A registrant that is an Asset-Backed Issuer (as defined in §240.13a-14(g) and §240.15d-14(g) of this chapter) is not required to disclose the information required by this Instruction B.(10).
- (11) Off-balance sheet arrangements. (i) In a separately-captioned section, discuss the registrant’s off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the registrant’s financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors. The disclosure shall include the items specified in this General Instruction B.(11)(i)(A), (B), (C) and (D) to the extent necessary to an understanding of such arrangements and effect and shall also include such other information that the registrant believes is necessary for such an understanding.
- (A) The nature and business purpose to the registrant of such off-balance sheet arrangements;
  - (B) The importance to the registrant of such off-balance sheet arrangements in respect of its liquidity, capital resources, market risk support, credit risk support or other benefits; and

- (C) The amounts of revenues, expenses and cash flows of the registrant arising from such arrangements; the nature and amounts of any interests retained, securities issued and other indebtedness incurred by the registrant in connection with such arrangements; and the nature and amounts of any other obligations or liabilities (including contingent obligations or liabilities) of the registrant arising from such arrangements that are or are reasonably likely to become material and the triggering events or circumstances that could cause them to arise.
- (D) Any known event, demand, commitment, trend or uncertainty that will result in or is reasonably likely to result in the termination, or material reduction in availability to the registrant, of its off-balance sheet arrangements that provide material benefits to it, and the course of action that the registrant has taken or proposes to take in response to any such circumstances.
- (ii) As used in this General Instruction B.(11), the term off-balance sheet arrangement means any transaction, agreement or other contractual arrangement to which an entity unconsolidated with the registrant is a party, under which the registrant has:
- (A) Any obligation under a guarantee contract that has any of the characteristics identified in paragraph 3 of FASB Interpretation No. 45, Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others (November 2002) (“FIN 45”), as may be modified or supplemented, excluding the types of guarantee contracts described in paragraphs 6 and 7 of FIN 45;
- (B) A retained or contingent interest in assets transferred to an unconsolidated entity or similar arrangement that serves as credit, liquidity or market risk support to such entity for such assets;
- (C) Any obligation under a derivative instrument that is both indexed to the registrant’s own stock and classified in stockholders’ equity, or not reflected, in the company’s statement of financial position; or
- (D) Any obligation, including a contingent obligation, arising out of a variable interest (as referenced in FASB Interpretation No. 46, Consolidation of Variable Interest Entities (January 2003), as may be modified or supplemented) in an unconsolidated entity that is held by, and material to, the registrant, where such entity provides financing, liquidity, market risk or credit risk support to, or engages in leasing, hedging or research and development services with, the registrant.
- (12) Tabular disclosure of contractual obligations. (i) In a tabular format, provide the information specified in this General Instruction B.(12) as of the latest fiscal year end balance sheet date with respect to the registrant’s known contractual obligations specified in the table that follows this General Instruction B.(12). The registrant shall provide amounts, aggregated by type of contractual obligation. The registrant may disaggregate the specified categories of contractual obligations using other categories suitable to its business, but the presentation must include all of the obligations of the registrant that fall within the specified categories. A presentation covering at least the periods specified shall be included. The tabular presentation may be accompanied by footnotes to describe provisions that create, increase or accelerate obligations, or other pertinent data to the extent necessary for an understanding of the timing and amount of the registrant’s specified contractual obligations.

	Payments due by period				
	<b>Total</b>	<b>Less than 1 year</b>	<b>1-3 years</b>	<b>3-5 years</b>	<b>More than 5 years</b>
<i>Contractual Obligations</i>					
[Long-Term Debt Obligations]					
[Capital (Finance) Lease Obligations]					
[Operating Lease Obligations]					
[Purchase Obligations]					
[Other Long-Term Liabilities Reflected on the Company’s Balance Sheet under the GAAP of the primary financial statements]					
<b>Total</b>					

- (ii) As used in this General Instruction B.(12), the term purchase obligation means an agreement to purchase goods or services that is enforceable and legally binding on the registrant that specifies all significant terms, including: fixed

or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction.

(13) Safe harbor.

- (i) The safe harbor provided in Section 27A of the Securities Act and Section 21E of the Exchange Act (“statutory safe harbors”) shall apply to forward-looking information provided pursuant to General Instruction B.(11) and (12) of this Form 40-F, provided that the disclosure is made by: an issuer; a person acting on behalf of the issuer; an outside reviewer retained by the issuer making a statement on behalf of the issuer; or an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.
- (ii) For purposes of paragraph (i) of this General Instruction B.(13) only, all information required by General Instruction B.(11) and (12) of this Form 40-F is deemed to be a “forward looking statement” as that term is defined in the statutory safe harbors, except for historical facts.
- (iii) With respect to General Instruction B.(11), the meaningful cautionary statements element of the statutory safe harbors will be satisfied if a registrant satisfies all requirements of that same General Instruction B.(11).

Instructions

1. No obligation to make disclosure under General Instruction B.(11) shall arise in respect of an off-balance sheet arrangement until a definitive agreement that is unconditionally binding or subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs.
2. Registrants should aggregate off-balance sheet arrangements in groups or categories that provide material information in an efficient and understandable manner and should avoid repetition and disclosure of immaterial information. Effects that are common or similar with respect to a number of off-balance sheet arrangements must be analyzed in the aggregate to the extent the aggregation increases understanding. Distinctions in arrangements and their effects must be discussed to the extent the information is material, but the discussion should avoid repetition and disclosure of immaterial information.
3. For purposes of paragraph General Instruction B.(11) only, contingent liabilities arising out of litigation, arbitration or regulatory actions are not considered to be off-balance sheet arrangements.
4. Generally, the disclosure required by General Instruction B.(11) shall cover the most recent fiscal year. However, the discussion should address changes from the previous year where such discussion is necessary to an understanding of the disclosure.
5. In satisfying the requirements of General Instruction B.(11), the discussion of off-balance sheet arrangements need not repeat information provided in the footnotes to the financial statements, provided that such discussion clearly cross-references to specific information in the relevant footnotes and integrates the substance of the footnotes into such discussion in a manner designed to inform readers of the significance of the information that is not included within the body of such discussion.
6. The registrant is not required to include the table required by General Instruction B.(12) for interim periods. Instead, the registrant should disclose material changes outside the ordinary course of the registrant’s business in the specified contractual obligations during the interim period.
7. Except for “purchase obligations,” the contractual obligations in the table required by General Instruction B.(12) should be based on the classifications used in the generally accepted accounting principles under which the registrant prepares its primary financial statements. If the generally accepted accounting principles under which the

registrant prepares its primary financial statements do not distinguish between capital (finance) leases and operating leases, then present all leases under one category.

(14) Identification of the Audit Committee.

(a) If you meet the following requirements, provide the disclosure in paragraph (b) of this section:

(1) You are a listed issuer, as defined in Exchange Act Rule 10A-3 (17 CFR 240.10A-3) of this chapter;

(2) You are using this form as an annual report; and

(3) You are neither:

(i) A subsidiary of another listed issuer that is relying on the exemption in Exchange Act Rule 10A-3(c)(2) (17 CFR 240.10A-3(c)(2)); nor

(ii) Relying on any of the exemptions in Exchange Act Rule 10A-3(c)(4) through (c)(7) (17 CFR 240.10A-3(c)(4) through (c)(7)).

(b) (1) State whether or not the registrant has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)), or a committee performing similar functions. If the registrant has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the registrant's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(2) If applicable, provide the disclosure required by Exchange Act Rule 10A-3(d) (17 CFR 240.10A-3(d)) regarding an exemption from the listing standards for audit committees.

**C. Compliance with Auditor Independence and Reconciliation Requirements**

(1) The Commission's rules on auditor independence, as codified in Section 600 of the Codification of Financial Reporting Policies, apply to auditor reports on all financial statements that are included in this registration statement or annual report, except that such rules do not apply with respect to periods prior to the most recent fiscal year for which financial statements are included in a registration statement under the Securities Act filed by the issuer on Form F-8, Form F-9, Form F-10 or Form F-80 or under the Exchange Act filed by the issuer on Form 40-F. Notwithstanding the exception in the previous sentence, such rules do apply with respect to any periods prior to the most recent fiscal year if the issuer previously was required to file with the Commission a report or registration statement containing an audit report on financial statements for such prior periods as to which the Commission's rules on auditor independence applied.

(2) Any financial statements, other than interim financial statements, included in this Form by registrants registering securities pursuant to Section 12 of the Exchange Act or reporting pursuant to the provisions of Section 13(a) or 15(d) of the Exchange Act must be reconciled to U.S. GAAP as required by Item 17 of Form 20-F under the Exchange Act, unless this Form is filed with respect to securities that would be eligible for registration under the Securities Act on Form F-9, in which case no such reconciliation is required, or unless this Form is filed with respect to a reporting obligation under Section 15(d) that arose solely as a result of a filing made on Form F-7, F-8, F-9 or F-80, in which case no such reconciliation is required.

#### **D. Application of General Rules and Regulations**

- (1) Rules 12b-2, 12b-5, 12b-10, 12b-11, 12b-12, 12b-13, 12b-14, 12b-21, 12b-22, 12b-23, 12b-25, 12b-33 and 12b-37 under the Exchange Act shall not apply to filings on this Form. The rules and regulations applicable in the home jurisdiction regarding the form and method of preparation of disclosure documents shall apply to filings on this Form. Exchange Act rules and regulations other than Rules 12b-2, 12b-5, 12b-10, 12b-11, 12b-12, 12b-13, 12b-14, 12b-21, 12b-22, 12b-23, 12b-25, 12b-33 and 12b-37 shall apply to filings on this Form unless specifically excluded in this Form. Pursuant to Rule 13a-3, an eligible registrant that files reports on Form 40-F and Form 6-K is deemed to satisfy the requirements of Regulation 13A under the Exchange Act.
- (2) A registration statement on this Form shall be deemed to be filed on the proper form unless objection to the Form is made by the Commission prior to the effective date.
- (3) An annual report on this Form or any amendment thereto shall be filed the same day the information included therein is due to be filed with any securities commission or equivalent regulatory authority in Canada.
- (4) A registration statement filed pursuant to Section 12 of the Exchange Act on this Form shall become effective in accordance with Section 12(d) and Rule 12b-6 or Section 12(g)(1) of such Act, as applicable.
- (5) Rule 12b-20, which provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading, shall apply to filings on this Form.
- (6) Pursuant to Rule 12b-15, all amendments to this Form shall be filed under cover of Form 8.
- (7) A filer must file the Form 40-F registration statement or annual report in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S-T (17 CFR Part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942-8900. For assistance with the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942-2940.

If filing the Form 40-F registration statement or annual report in paper under a hardship exemption in Rule 201 or 202 of Regulation S-T (17 CFR 232.201 or 232.202), or as otherwise permitted, a filer must file with the Commission at its principal office five copies of the complete registration statement or annual report, including exhibits and all other documents filed as a part of the registration statement or annual report. The filer must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The filer must further bind the registration statement or annual report on the side or stitching margin in a manner that leaves the reading matter legible. The filer must provide three additional copies of the registration statement or annual report without exhibits to the Commission.

- (8) An electronic filer must provide the signatures required for the Form 40-F registration statement or annual report in accordance with Regulation S-T Rule 302 (17 CFR 232.302). A paper filer must have at least one copy of the Form 40F registration statement or annual report signed by an officer authorized to sign the registration statement or annual report. A paper filer must also conform the unsigned copies.
- (9) If any accountant, engineer or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified any part of the registration statement or annual report, or is named as having prepared or certified a report or valuation for use in connection with the registration statement or annual report, the manually signed, written consent of such person shall be filed.

If any person is named as having prepared or certified any other report or valuation (other than a public official document or statement) which is used in connection with the registration statement or annual report, but is not named as having prepared or certified such report or valuation for use in connection with the registration statement or annual report, the manually signed, written consent of such person also shall be filed unless the Commission dispenses with such filing as impracticable or as involving undue hardship.

Any other consent required by Rule 12b-36 also shall be filed. Every amendment relating to a certified financial statement shall include the manually signed, written consent of the certifying accountant to the use of such accountant's certificate in connection with the amended financial statements in the registration statement or annual report and to being named as having certified such financial statements.

*Note:* The consents required by this item shall specifically indicate consent regarding use of the report or valuation in the registration statement filed in the United States.

## UNDERTAKING AND CONSENT TO SERVICE OF PROCESS

### A. Undertaking

This Form shall set forth the following undertaking of the Registrant:

Registrant undertakes to make available, in person or by telephone, representatives to respond to inquiries made by the Commission staff, and to furnish promptly, when requested to do so by the Commission staff, information relating to: the securities registered pursuant to Form 40-F; the securities in relation to which the obligation to file an annual report on Form 40-F arises; or transactions in said securities.

### B. Consent to Service of Process

- (1) Registrants registering securities on this Form, and Registrants filing annual reports on this Form who have not previously filed a Form F-X in connection with the class of securities in relation to which the obligation to file this report arises, shall file a Form F-X with the Commission together with this Form.
- (2) Any change to the name or address of a Registrant's agent for service shall be communicated promptly to the Commission by amendment to Form F-X referencing the file number of the Registrant.

## SIGNATURES

Pursuant to the requirements of the Exchange Act, the Registrant certifies that it meets all of the requirements for filing on Form 40-F and has duly caused this registration statement [annual report] to be signed on its behalf by the undersigned, thereto duly authorized.

Registrant \_\_\_\_\_

By (Signature and Title) \_\_\_\_\_

Date \_\_\_\_\_

### *Instructions*

- A. The name and title of the officer who signs the registration statement or annual report shall be typed or printed beneath such person's signature. Any such person who occupies more than one position shall indicate each capacity in which the registration statement is signed.
- B. By signing this Form, the Registrant consents without power of revocation that any administrative subpoena may be served, or any administrative proceeding, civil suit or civil action where the cause of action arises out of or relates to or concerns any purchases or sales of any security registered pursuant to Form 40-F on the securities in relation to which the obligation to file an annual report on Form 40-F arises, or transactions in said securities, may be commenced against it in any administrative tribunal or in any appropriate court in any place subject to the jurisdiction of any state or of the United States or of the District of Columbia or Puerto Rico by service of said subpoena or process upon the Registrant's designated agent.

FORM CERTIFICATIONS UNDER  
SECTION 906 OF SARBANES-OXLEY

CERTIFICATION

In connection with the annual report of \_\_\_\_\_ (the "Company") on Form 40-F for the fiscal year ending \_\_\_\_\_, 20\_\_ as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, \_\_\_\_\_, [Chief Executive Officer] of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

\_\_\_\_\_

Name: \_\_\_\_\_  
Title: [Chief Executive Officer]

\_\_\_\_\_, 200\_



**CERTIFICATION**

In connection with the annual report of \_\_\_\_\_ (the "Company") on Form 40-F for the fiscal year ending \_\_\_\_\_, 20\_\_ as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, \_\_\_\_\_, [Chief Financial Officer] of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: [Chief Financial Officer]

\_\_\_\_\_, 200\_

**FORM CODE OF ETHICS FOR OUR PRINCIPAL EXECUTIVE  
OFFICER AND SENIOR FINANCIAL OFFICERS**

*Set forth below is a template for a Code of Ethics that complies with the requirements of Section 406 of the Sarbanes-Oxley Act of 2002. Pursuant to rules adopted by the U.S. Securities and Exchange Commission, all issuers will be required to disclose whether or not, and if not, the reason why not, such issuer has adopted a Code of Ethics for its principal executive officer and its senior financial officers.*

### **Introduction**

This Code of Ethics is applicable to the Company's principal executive officer, principal financial officer and controller or principal accounting officer, or any person performing similar functions (which are referred to in this Code of Ethics as "Financial Managers"). References in this Code of Ethics to the Company mean the Company or any of its subsidiaries.

While the Company and its shareholders expect honest and ethical conduct in all aspects of our business from all employees, the Company and its shareholders expect the highest possible standards of honest and ethical conduct from our Financial Managers. You are setting an example for other employees and are expected to foster a culture of transparency, integrity and honesty. Compliance with this Code [and the Code of Business Conduct and Ethics] is a condition to your employment and any violations will be dealt with severely.

In accordance with the rules of the U.S. Securities and Exchange Commission (the "SEC"), any change or waiver of this Code will be disclosed in our annual report on Form 40-F.

### **Conflicts of Interest**

A conflict of interest occurs when your personal interests interfere, or appear to interfere, in any way, with the interests of the Company. A conflict of interest can arise either when you have interests that may make it difficult for you to perform your professional obligations fully or when you otherwise take action for your direct or indirect benefit or the direct or indirect benefit of a third party that is inconsistent with the interests of the Company. Conflicts of interest also arise when you, or a member of your family, receive improper personal benefits as a result of your position in the Company. Loans to, or guarantees of obligations of, any employees, officers, directors or any of their family members are likely to pose conflicts of interest, as are transactions of any kind between the Company and any other entity in which you or any member of your family have a material interest.

As a Financial Manager, it is imperative that you avoid any investment, interest, association or other relationship that interferes, might interfere, or might be thought to interfere, with your independent exercise of judgment in the Company's best interest and otherwise with your professional obligations to the Company.

Any material transaction or relationship that reasonably could be expected to give rise to a conflict of interest must be disclosed as soon as possible to the Chairman of the [Audit Committee][Nominating/Corporate Governance Committee].

### **Accurate Periodic Reports**

As you are aware, full, fair, accurate, timely and understandable disclosure in the reports and other documents that we file with, or submit to, the SEC and in our other public communications is critical for us to maintain our good reputation, to comply with our obligations under the securities laws and to meet the expectations of our shareholders and other members of the investment community. You are to exercise the highest standard of care in preparing such reports, documents and other public communications, or in ensuring that such reports, documents and other public communications are prepared, in accordance with the guidelines set forth below.

- Compliance with generally accepted accounting principles is required at all times. However, technical compliance with GAAP may not be sufficient and, to the extent that technical compliance with GAAP would render financial information that the Company reports misleading, additional disclosure will be required.

- Compliance with the Company's system of internal accounting controls is required at all times, and no action designed to circumvent such controls and procedures will be tolerated.
- Compliance with the Company's disclosure controls and procedures is required at all times, and no action designed to circumvent such controls and procedures will be tolerated.

### **Financial Records**

Financial Managers are responsible for establishing and managing our financial reporting systems to ensure that:

- all business transactions are properly authorized;
- all records fairly and accurately reflect the transactions or occurrences to which they relate.
- all records fairly and accurately reflect in reasonable detail the Company's assets, liabilities, revenues and expenses.
- the Company's accounting records do not contain any false or intentionally misleading entries.
- no transactions are intentionally misclassified as to accounts, departments or accounting periods.
- all transactions are supported by accurate documentation in reasonable detail and recorded in the proper account and in the proper accounting period.
- no information is concealed from the internal auditors, the independent auditors, the audit committee or the full board of directors.

### **Compliance with Laws**

Financial Managers are expected to comply with both the letter and spirit of all applicable laws and governmental rules and regulations. You will be responsible for establishing and maintaining procedures to:

- educate members of the finance department about applicable laws and governmental rules and regulations;
- monitor compliance of the finance department with applicable laws and governmental rules and regulations; and
- identify any possible violations of applicable laws and governmental rules and regulations and report to the audit committee and correct in a timely and effective manner any violations of applicable laws or governmental rules and regulations.

### **Ethical Conduct**

Financial Managers will promote the highest standards of ethical and honest conduct in the finance department. You will be responsible for establishing and maintaining procedures that:

- encourage and reward professional integrity;
- eliminate any pressure or incentive to achieve specific financial results by altering any records or other entries, or willfully misapplying accounting policies or GAAP, or by entering into transactions that are designed to circumvent accounting controls or otherwise disguise the true nature of the transaction; and
- encourage members of the finance department to report deviations from accounting policies and practices

## **Compliance with this Code**

If you fail to comply with this Code of Ethics or applicable laws, rules or regulations (including without limitation all rules and regulations of the Securities and Exchange Commission) you will be subject to disciplinary measures, up to and including discharge from the Company.

You are expected to report any violations of this Code of Ethics promptly to the Chairman of the [Audit Committee][Nominating/Corporate Governance Committee].