Introduction

This note consolidates the information contained in, and the deadlines required for, the primary U.S. regulatory filings required by the Securities and Exchange Commission (SEC or, sometimes the “Commission”). The Commission has hundreds of regulatory filings, which are summarized at http://www.sec.gov/info/edgar/forms/edgform.htm. I summarize only the principal filings of interest to us in our analyses—notably absent are registration statements, of which there are more than 20.

Learning objectives

Develop an appreciation for the types of information disclosed in the more common required regulatory filings. Learn:

- what these filings are called and how to obtain them,
- where in the filing to look for the information desired, and
- be aware that, because of the integrated disclosure system and the ability for registrants to include duplicative information from one filing in another filing by reference only, examining different filings may be necessary to gather the information desired.

The Securities and Exchange Commission (SEC)

The Securities Act of 1933 regulates public offerings of securities; hence, initial public offerings (IPOs) are governed under the 1933 Act. The Securities Exchange Act of 1934, which also created the Securities Exchange Commission (SEC), extends federal regulation to trading in securities that are already issued and outstanding. The SEC is charged with the principal enforcement and administration of the federal securities laws. It is an independent federal agency whose highest ranking members consist of five Commissioners, each appointed by the President of the United States for five-year terms; the terms are staggered with the term of one Commissioner expiring each year. Not more than three of the five Commissioners may be of the same political party.

The SEC’s mission is “to protect investors and maintain the integrity of the securities markets.” Thus, the SEC is responsible for regulating securities markets and has jurisdiction over all companies that list their stocks or bonds in the U.S. (including the more than 1,200 firms domiciled outside of the United States that list their stocks in the US). In 1990, Congress broadened the Commission’s authority by authorizing it to (i) issue cease-and-desist orders; and (ii) impose fines or require disgorgement of profits in administrative proceedings. The most common type of court action brought by the SEC

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1 The disclosure requirements of the 1934 Act pertain to all companies listed on national securities exchanges or companies with more than 500 shareholders and $10 million in assets. There are other securities laws that the SEC enforces, which I omit in this note, among them: The Public Utility Holding Company Act of 1935, The Trust Indenture Act of 1939, The Investment Company Act of 1940, and The Investment Advisers Act of 1940.
is an application to a federal district court for an injunction against a registrant that violates securities laws (usually, a civil action). In egregious cases, such as Enron, the SEC refers the matter to the Department of Justice for criminal prosecution of the securities laws (the SEC does not undertake criminal prosecutions; it can only bring civil cases against registrants). The securities laws were amended in 1996 to provide that the Commission, when engaged in rulemaking, shall consider, in addition to the protection of investors, whether its actions promote efficiency, competition, and capital formation. Thus, the 1996 amendment is an attempt to impose some notion of “cost benefit analysis” on the SEC’s rulemaking.

The SEC also has ultimate authority to promulgate financial accounting and reporting standards for publicly held companies traded on a US market or exchange. It has long been the SEC’s policy, however, to delegate that authority to the private sector as long as this constituency can demonstrate its ability to fulfill its obligation in the public interest. For more information on the SEC, go to www.sec.gov.

**The Financial Accounting Standards Board (FASB)**

Since 1973, the SEC has delegated its authority to promulgate accounting standards to the Financial Accounting Standards Board (FASB). The FASB, a private sector (non-governmental) organization, is charged with establishing standards of financial accounting and reporting. These standards are viewed as essential to the functioning of the economy because investors and others rely on credible, transparent, and comparable financial information in making informed judgments and investment decisions. These standards are also viewed as authoritative guidance by the SEC and the AICPA (American Institute of Certified Public Accountants). The mission of the FASB is, “to establish and improve standards of financial accounting and reporting for the guidance and education of the public, including issuers, auditors and users of financial information.”

Seven voting board members serve on the FASB and represent: preparers (2 members), users (1 member), auditors (3 members), and academia (1 member). They have 5 year terms, staggered across members, with the option for reappointment for one additional five-year term. Their annual compensation is approximately $450,000. Board members must (i) sever all ties with the firms or institutions they served prior to their appointment to the FASB and (ii) “possess knowledge of accounting, finance and business and a concern for the public interest in matters of accounting and reporting.” Note that a FASB board member is *not* required to be a Certified Public Accountant (CPA). The board members are assisted by a full time staff of approximately 40 individuals. The international counterpart of the FASB is the IASB, the International Accounting Standards Board, which we will discuss later in the course. For more information on the IASB, go to www.iasb.org.

FASB Statements of Financial Accounting Standards (SFAS) constitute GAAP, Generally Accepted Accounting Principles. The Auditing Standards Board defines GAAP as: “The phrase “generally accepted accounting principles” is a technical
accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.” The FASB is guided in its rulemaking by The Conceptual Framework, which we will take up in another note.

Note that part of the definition of GAAP refers to “conventions.” GAAP also arises in response to questions regarding how to best measure, recognize, disclose, and present financial information. Hence, GAAP is a reaction to and a product of the economic environment in which it is developed. Thus, we see differences in accounting principles across countries (an issue to which we will return when we discuss global convergence in accounting standards later in the course).

The Financial Accounting Foundation (FAF), consisting of 16 members, appoints members to the FASB. Prior to 2003, the FAF also received contributions to support the FASB. The Sarbanes-Oxley Act of 2002 mandated public company support of the FASB. The approximately 7,500 publicly companies in the United States must now provide contributions to support the FASB (just as they must also support the Public Company Accounting Oversight Board, the PCAOB, which we will discuss later in the course). In 2003, these mandatory fees in support of the FASB totaled $19,161,000. The FASB’s revenues also included $536,000 from foreign issuers who trade on US markets or exchanges. For more information on the FASB, go to www.fasb.org.

The filings of interest in FSA and the information they contain

In 1982, the SEC adopted an “integrated disclosure system,” designed to consolidate the disclosure requirements of the 1933 and 1934 Acts. This movement created Regulation S-K, which details the information that must be provided on the various SEC forms. It is from Regulation S-K that I have summarized the information below. The SEC amended Forms 10-K and 10-Q in 1981 to allow registrants to incorporate much of the required information detailed below by reference to the company’s annual and quarterly reports to shareholders.

Form 10-K

Most publicly traded companies file incorporated in the United States Form 10-K with the SEC on an annual basis. It provides a comprehensive overview of the company’s business and financial condition. Some companies choose to send their Form 10-K to their shareholders instead of sending a separate annual report.

On August 27, 2002, the SEC adopted rules that shorten the filing deadlines for certain publicly-traded companies. The shortened time periods will be phased in over a three-
year period, ultimately requiring companies with fiscal years ending on or after December 15, 2004 to file the Form 10-K with the SEC in 60 days (rather than 90 days as required before August 2002).

Reporting companies must give their shareholders upon request a copy of Form 10-K. Companies subject to the new reporting deadlines also must disclose in Form 10-K, beginning with reports for fiscal years ending on or after December 15, 2002, whether the company makes its periodic and current reports available, free of charge, on its website.

The following items are required disclosures in Form 10-K:4

**Item 1. Business.**

Describe the general development of the business of the registrant, its subsidiaries and any predecessor(s) during the past five years, or such shorter period as the registrant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business. In describing developments, information shall be given as to matters such as the following: the year in which the registrant was organized and its form of organization; the nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other material reclassification, merger, or consolidation of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business. Entities are required to provide information on reportable segments. These segments are those that generally account for a sufficient amount of an enterprise’s activities to warrant disclosure of separate information. Typically, if a segment’s revenue comprises 10% or more of the combined revenue or if the segment’s assets comprise 10% or more of the combined assets then the segment should be reported separately. Segment information is required in four areas: (i) general information; (ii) information about segment profit or loss and assets; (iii) reconciliation of segment information to consolidated amounts; (iv) interim period information (in Form 10-Q).

**Item 2. Properties.**

State briefly the location and general character of the principal plants, mines, and other materially important physical properties of the registrant and its subsidiaries. In addition, identify the segment(s) that use the properties described. If any such property is held subject to any major encumbrance, so state.

**Item 3. Legal Proceedings.**

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of the registrant’s property is the subject. Include the name of the

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4 I summarize the items of information that must be provided. For more detail, please refer to Regulation S-K, available at: http://www.sec.gov/divisions/corpfin/forms/regsk.htm.
court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

**Item 4. Submission of Matters to a Vote of Security Holders.**

If any matter was submitted during the fourth quarter of the fiscal year covered by the report to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information: the date of the meeting and whether it was an annual or special meeting; if the meeting involved the election of directors, the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting; a brief matter of other items voted upon at the meeting, stating the number of votes cast for, against, or withheld.

**Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters, and Issuer Purchases of Equity Securities.**

Identify the principal United States market or markets in which each class of the registrant’s common equity is being traded. Where there is no established public trading market for a class of common equity, furnish a statement to that effect. If the principal United States market for such common equity is an exchange, state the high and low sales prices for the equity for each full quarterly period within the two most recent fiscal years and any subsequent interim period for which financial statements are included. Set forth the approximate number of holders of each class of common equity of the registrant as of the latest practicable date. State the frequency and amount of any cash dividends declared on each class of its common equity by the registrant for the two most recent fiscal years and any subsequent interim period for which financial statements are required to be presented.

**Item 6: Selected Financial Data.**

The purpose of the selected financial data shall be to supply in a convenient and readable format selected financial data that highlight certain significant trends in the registrant’s financial condition and results of operations. Registrants must furnish in comparative columnar form the selected financial data for the registrant for: (i) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less); and (ii) Any additional fiscal years necessary to keep the information from being misleading.

**Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operation.**

Discuss registrant’s financial condition, changes in financial condition, and results of operations. Where in the registrant’s judgment a discussion of segment information or of other subdivisions of the registrant’s business would be appropriate to an understanding
of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole. In particular, the following items must be addressed: (i) Liquidity. Identify any known trends or any known demands, commitments, events, or uncertainties that will result in or that are reasonably likely to result in the registrant’s liquidity increasing or decreasing in any material way; (ii) Capital resources. Describe the registrant’s material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments. Describe any known material trends, favorable or unfavorable, in the registrant’s capital resources; (iii) Results of operations. Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. Describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the financial statements disclose material increases in net sales or revenues, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services being sold or to the introduction of new products or services. Discuss the impact of inflation and changing prices on the registrant’s net sales and revenues and on income from continuing operations; (iv) Off-balance sheet arrangements. 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; (v) Tabular disclosure of contractual obligations. In a tabular format, the registrant shall provide amounts, aggregated by type for known contractual obligations (long-term debt, leases, purchase obligations, other long-term liabilities provided on the registrant’s balance sheet).

The MD&A is part of the basic information package (BIP) of information that is required in most SEC regulatory filings because it is considered so fundamental to understanding the financial statements of an enterprise and its operations.

Section 401(a) of The Sarbanes-Oxley Act of 2002 required the SEC to adopt final rules regarding off-balance sheet transactions by January 26, 2003 (180 days after the enactment of S-O). On January 22, 2003 the SEC adopted the final rule regarding disclosure of off-balance sheet arrangements. That rule, in part, required that “all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition…” be disclosed in the MD&A in a separately captioned subsection.
Item 8. Financial Statements and Supplementary Data.

The registrant files consolidated financial statements under this item. These required statements include: (i) a balance sheet as of the end of each of the two most recent fiscal years; (ii) consolidated statements of income, statements of cash flows, and statement of shareholders’ equity for the three most recent fiscal years.


If during the registrant’s two most recent fiscal years or any subsequent interim period, an independent accountant who was previously engaged as the principal accountant to audit the registrant’s financial statements, or an independent accountant who was previously engaged to audit a significant subsidiary and on whom the principal accountant expressed reliance in its report, has resigned (or indicated it has declined to stand for re-election after the completion of the current audit) or was dismissed, then the registrant shall: (i) State whether the former accountant resigned, declined to stand for re-election, or was dismissed and the date thereof; (ii) State whether the principal accountant’s report on the financial statement for either of the past two years contained an adverse opinion or a disclaimer of opinion, or was qualified or modified as to uncertainty, audit scope, or accounting principles; and also describe the nature of each such adverse opinion, disclaimer of opinion, modification, or qualification; (iii) State whether the decision to change accountants was recommended or approved by any audit or similar committee of the board of directors, if the issuer has such a committee; or the board of directors, if the issuer has no such committee.

Item 9A. Controls and Procedures.

This item required under Section 404 of The Sarbanes-Oxley Act of 2002. The registrant must provide a report of management on the registrant’s internal control over financial reporting that contains: (i) A statement of management’s responsibility for establishing and maintaining adequate internal control over financial reporting for the registrant; (ii) A statement identifying the framework used by management to evaluate the effectiveness of the registrant’s internal control over financial reporting; (iii) Management’s assessment of the effectiveness of the registrant’s internal control over financial reporting as of the end of the registrant’s most recent fiscal year, including a statement as to whether or not internal control over financial reporting is effective.

Item 10. Directors and Executive Officers of the Registrant.

This item must include: (i) Identification of directors. List the names and ages of all directors of the registrant and all persons nominated or chosen to become directors; indicate all positions and offices with the registrant held by each such person; state his term of office as director and any period(s) during which he has served as such; describe briefly any arrangement or understanding between him and any other person(s) (naming such person(s)) pursuant to which he was or is to be selected as a director or nominee; (ii)
Identification of executive officers. List the names and ages of all executive officers of the registrant and all persons chosen to become executive officers; indicate all positions and offices with the registrant held by each such person; state his term of office as officer and the period during which he has served as such and describe briefly any arrangement or understanding between him and any other person(s) (naming such person(s)) pursuant to which he was or is to be selected as an officer; (iii) Identification of certain significant employees. Where the registrant employs persons such as production managers, sales managers, or research scientists who are not executive officers but who make or are expected to make significant contributions to the business of the registrant, such persons shall be identified and their background disclosed to the same extent as in the case of executive officers.

Item 11. Executive Compensation.

This item requires clear, concise, and understandable disclosure of all plan and non-plan compensation awarded to, earned by, or paid to the named executive officers. Named executive officers (NEOs). NEOs are: (i) All individuals serving as the registrant’s chief executive officer or acting in a similar capacity during the last completed fiscal year (CEO), regardless of compensation level; (ii) The registrant’s four most highly compensated executive officers other than the CEO who were serving as executive officers at the end of the last completed fiscal year; and (iii) up to two additional individuals for whom disclosure would have been provided but for the fact that the individual was not serving as an executive officer of the registrant at the end of the last completed fiscal year. The following six tables of compensation data must be disclosed (refer to Regulation S-K for extensive definitions regarding the components of each table): (i) Summary Compensation Table; (ii) Option/SAR Grants in Last Fiscal Year; (iii) Aggregated Option/SAR Exercises in Last Fiscal Year and FY-End Option/SAR Values; (iv) Long-Term Incentive Plans—Awards in Last Fiscal Year; (v) Pension Plan Table; (vi) Ten-Year Option/SAR Repricings.


Furnish name, address, amount and nature of beneficial owner, and percent of class for any organization or individual who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant’s voting securities.


Describe briefly any transaction, or series of similar transactions, since the beginning of the registrant’s last fiscal year, or any currently proposed transaction, or series of similar transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which the amount involved exceeds $60,000 and in which any of the following persons had, or will have, a direct or indirect material interest, naming such person and indicating the person’s relationship to the registrant, the nature of such person’s interest in the transaction(s), the amount of such transaction(s) and, where practicable, the amount of such person’s interest in the transaction(s): (i) Any director or executive officer of the
registrar; (ii) Any nominee for election as a director; (iii) Any security holder who is known to the registrant to own of record or beneficially more than five percent of any class of the registrant’s voting securities; and (iv) Any member of the immediate family of any of the foregoing persons.

**Item 14. Principal Accounting Fees and Services.**

Disclose for each of the last two fiscal years for professional services rendered by the principal accountant for: (i) **Audit Fees**, aggregate fees billed for the audit of the registrant’s annual financial statements and review of financial statements included in the registrant’s Form 10-Q; (ii) **Audit-Related Fees**, the aggregate fees billed for assurance and related services; (iii) **Tax Fees**, the aggregate fees billed for professional services rendered by the principal accounts for tax compliance, advice, and planning; (iv) **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 under the previous captions.

**Item 15. Exhibits, Financial Statement Schedules, and Reports on Form 8-K.**

List all financial statements filed, all financial statement schedules required to be filed, all reports on Form 8-K filed during the last quarter of the period covered under Form 10-K.

**Form 20-F**

Companies listed on a US exchange or market but incorporated outside of the United States file Form 20-F, which is due to the SEC six months after the end of the firm’s fiscal year end.

A foreign company that seeks to list its securities on the New York or American Stock Exchanges or the NASDAQ Stock Market must register its securities with the SEC by filing an Exchange Act registration statement, and must subsequently file annual reports. Form 20-F is the form used by most publicly traded, foreign companies for Exchange Act registration and annual reporting because its requirements are tailored specifically for foreign issuers. Form 20-F requires comprehensive disclosure about the company, including information about its business operations and its financial statements.

The Securities Act requires companies to register each public offering of securities in the U.S. In an initial public offering, a foreign company registers its securities using a Form F-1 registration statement. The registration statement includes the prospectus, which is the principal document used to market securities to investors. The disclosure contained in a prospectus generally is the same as that required by Form 20-F and also includes various matters that are specific to the offering.

The integrated disclosure system designed for foreign private issuers provides a number of accommodations to practices in other jurisdictions. These accommodations include:
• interim reporting on the basis of home country and stock exchange practice rather than quarterly reports;
• exemption from the proxy rules and the insider reporting of Section 16;
• aggregate executive compensation disclosure rather than individual disclosure, if so permitted in an issuer's home country;
• acceptance of three International Financial Reporting Standards (IFRS) relating to cash flow statements (IAS # 7), business combinations (IAS # 22) and operations in hyperinflationary economies (IAS # 21);
• offering document financial statements updated principally on a semi-annual, rather than a quarterly basis; and
• foreign companies may prepare their financial statements using a comprehensive body of generally accepted accounting principles (GAAP) other than U.S. GAAP. Foreign companies that present their financial information in accordance with the GAAP of their home country or International Accounting Standards must include a reconciliation of significant variations from U.S. GAAP.

The ARS (Annual report to shareholders)

The annual report to shareholders is the principal document used by most public companies to disclose corporate information to their shareholders. It is usually a state-of-the-company report, including an opening letter from the Chief Executive Officer, financial data, results of continuing operations, market segment information, new product plans, subsidiary activities, and research and development activities on future programs. The Form 10-K, which must be filed with the SEC, typically contains more detailed information about the company’s financial condition than the annual report. The annual report may, however, have additional written communications from management to facilitate its interpretation.

Reporting companies must send annual reports to their shareholders when they hold annual meetings to elect directors. Companies sometimes elect to send their Form 10-K to their shareholders in lieu of providing shareholders with an annual report.

Form 10-Q

Most publicly traded companies file Form 10-Q with the SEC on a quarterly basis.\(^5\) No filing is due for the fourth quarter as any information contained in Form 10-Q is subsumed in the Form 10-K filing. This form is to be filed within 40 days after the end of the fiscal quarter for registrants with fiscal years ending on or after December 15, 2004. This filing deadline will be reduced to 35 days in 2005.

The items that must be disclosed in Form 10-Q.

Part I—Financial Information

\(^5\) Small business issuers file Form 10-QSB.
Item 1. Financial Statements.

Quarterly financial statements need not be audited. They must be reviewed, which is less comprehensive in scope than an audit, by an independent CPA.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Item 4. Controls and Procedures.

**Part II—Other Information**

Item 1. Legal Proceedings.

Item 2. Changes in Securities and Use of Proceeds.

Item 3. Defaults Upon Senior Securities.

Item 4. Submission of Matters to a Vote of Security Holders.

Item 5. Other Information.

The registrant may, at its option, report under this item any information not previously reported on Form 8-K, with respect to which information is not otherwise called for by this form.

Item 6. Exhibits and Reports on Form 8-K.

**Form 8-K**

Form 8-K is used to report material events or corporate changes that have previously not been reported by the company in a quarterly report (Form 10-Q) or annual report (Form 10-K). These events, referred to as “triggering events” (they trigger an 8-K filing), are:

- Entry into a material definitive agreement
- Termination of a material definitive agreement
- Bankruptcy or receivership
- Completion of acquisition or disposition of assets
- Results of operations and financial condition
- Creation of a direct financial obligation or an obligation under an off-balance sheet arrangement of a registrant
- Triggering events that accelerate or increase a direct financial obligation or an obligation under an off-balance sheet arrangement
- Costs associated with exit or disposal activities
• Material impairments
• Notice of delisting or failure to satisfy a continued listing rule or standard; transfer of listing
• Unregistered sales of equity securities
• Material modifications to rights of security holders
• Changes to registrant’s certifying accountant
• Non-reliance on previously issued financial statements or a related audit report or completed interim review
• Changes in control of registrant
• Departure of directors or principal officers; election of directors; appointment of principal officers
• Amendments to articles of incorporation or bylaws; change in fiscal year
• Temporary suspension of trading under registrant’s employee benefit plans
• Amendments to the registrant’s code of ethics, or waiver of a provision of the code of ethics
• Regulation FD disclosure

In response to Section 409 of The Sarbanes-Oxley Act of 2002, Form 8-K was amended effective August 23, 2004 to: (i) reduce its filing deadline from 15 calendar days (for most triggering events) to 4 business days (for all triggering events); (ii) increase the number of triggering events by 8.

Staff Accounting Bulletin 99 (issued August 13, 1999) defines an event as material “if there is a substantial likelihood that a reasonable person would consider it important.” SAB 99 explicitly states that numerical heuristics (i.e., “If the event is greater than 5% of reported net income then file a Form 8-K”) are inappropriate for determining whether an event is material. This materiality definition has been operationalized by some executives as a “newspaper test.” Executives should ask themselves, “If the event were to be reported in the newspaper the next day, would I be embarrassed?”

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6 On October 23, 2000, the Securities and Exchange Commission (SEC) implemented Regulation Fair Disclosure (Regulation FD). Reg FD prohibits firms from privately communicating material information to selected market participants (such as securities analysts or institutional investors) without simultaneous public disclosure of the same information. The public disclosure must be made as soon as practical, but no later than 24 hours after the initial disclosure. The intent of Regulation FD, according to the SEC, was to eliminate favored access to information that potentially led to a non-level playing field among investors and to superior trading opportunities for selected market participants.

7 Section 409 of The Sarbanes-Oxley Act of 2002 states, “Each issuer reporting under section 13(a) or 15(d) [most public issuers] shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.”

8 Previously, registrants had 15 calendar days for all triggering events except for change in an auditor, which was required to be disclosed in a Form 8-K filing within 5 business days of the change.

Schedule 14A

Provides official notification to designated classes of shareholders of matters to be brought to a vote at a shareholders meeting. This form is commonly referred to as a “proxy.” You may see this form listed as DEF14A to indicate that it is a definitive, as opposed to preliminary (PRE14A) proxy. This schedule must be filed with the SEC at the time it is first mailed to security holders. When the definitive proxy is mailed to shareholders it also must be mailed to the exchange or market on which the registrant’s stock trades (the NYSE requires five copies of the proxy be sent to it; the AMEX requires six copies). Most registrants mail proxy statements between 30 and 50 days prior to the annual shareholders meeting so there is adequate time for beneficial owners to give instructions to the record holders as to how to vote their proxy. Most states have statutory requirements for mailing notices for meetings, and proxy statements are often mailed with such notices. For example, state law may require that written notice of the meeting be given no less than 10 nor more than 60 days before the date of the meeting.

I summarize the primary items of interest to us in this class below (Schedule 14A contains 23 items for which information, if pertinent, must be disclosed. Refer to the complete schedule, available on the SEC website at http://www.sec.gov/about/forms/sched14a.pdf, for further details).

**Items 1 through 6.**

Contain information regarding the date, time, and place of the meeting and other details regarding the solicitation of proxies.

**Item 7. Directors and Officers.**

Information on the directors and officers of the registrant. Information on the various committees that the board of directors contains and their functions.

**Item 8. Compensation of Directors and Executive Officers.**

Furnished if any action is to be taken at the meeting regarding the election of directors, any compensation, pension, or retirement plan, or the granting of any options, warrants, or rights to purchase any securities.

**Item 9. Independent Public Accountant.**

The name of the principal accountant being recommended to security holders for election, approval, or ratification for the current year.

**Item 10. Compensation Plans.**
If any action is to be taken with regard to any compensation plan describe the material features of the plain being acted upon and disclose the benefits to be received by the individuals affected in tabular format.

**Schedule 13D (Beneficial Ownership)**

When a person or group of persons acquires beneficial ownership of more than 5% of a class of a company’s equity securities registered under Section 12 of the Securities Exchange Act of 1934, they must file a Schedule 13D with the SEC. “Beneficial owner” under SEC rules includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares: (i) **Voting power** which includes the power to vote, or to direct the voting of, such security; and/or, (ii) **Investment power** which includes the power to dispose, or to direct the disposition of, such security.

Schedule 13D reports the acquisition and other information within ten days after the purchase. The schedule is filed with the SEC and is provided to the company that issued the securities and each exchange where the security is traded. Any material changes in the facts contained in the schedule require a prompt amendment. The schedule is often filed in connection with a tender offer. You may encounter a Schedule 13G, which is an abbreviated form of Schedule 13D.10

**Forms 3, 4, and 5 (Insider Trading)**

Relate to insider holdings or insider trading. Insider trading refers to transactions in a registrant’s securities by individuals designated as insiders; insider trading, which is legal, differs from trading on inside information, which is illegal, and can be committed by an insider or an outsider privy to inside information.

Effective June 30, 2003, the SEC adopted a rule, “to mandate the electronic filing, and website posting by issuers with corporate websites” for Forms 3, 4, and 5.11 The Commission stated, “Website posting of Forms 3, 4 and 5 by issuers with corporate websites will provide a convenient, rapidly disseminated electronic source in addition to EDGAR that is conducive to research and data analysis. One objective of the amendments is to encourage availability of this information in a variety of locations, so that it is broadly accessible.” The forms must be available on the corporate website for at least 12 months, must be free of charge, must contain all exhibits or attachments, must not be “burdensome” for the typical user to access. For the full text of this rule, please see http://www.sec.gov/rules/final/33-8230.htm.

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10 Schedule 13G is used to disclose beneficial ownership of more than 5% of a class of registered equity securities of certain issuers by a limited category of entities, such as banks, brokers/dealers, and insurance companies, but typically not individuals. These entities may use this form when the securities were acquired in the ordinary course of business and not for the purpose or effectuating, influencing, or changing control of the issuer.

11 In 1993, the SEC adopted rules, primarily Regulation S-T, that required domestic issuers to file most documents electronically but did not permit electronic filing of Forms 3, 4 and 5. In 1995, the SEC revised Regulation S-T to permit voluntary electronic filing of Forms 3, 4 and 5.
Forms 3, 4, and 5 filings are collectively called Section 16 filings because they are mandated under Section 16 of the 1934 Securities Exchange Act.

**Form 3**

An initial filing of equity securities filed by every director, officer, or owner of more than ten percent of a class of equity securities. Contains information on the reporting person’s relationship to the company and on purchases and sales of equity securities. Must be filed within 10 days of the individual becoming a director, officer, or owner of more than ten percent of a class of equity securities.

**Form 4**

Any changes to a previously filed Form 3 (i.e., when an insider buys/sells the registrant’s securities). Must be filed within two business days of the transaction.

**Form 5**

An annual statement of ownership of securities filed by every director, officer, or owner of more than ten percent of a class of equity securities. Also contains information on the reporting person’s relationship to the company and on purchases and sales of equity securities. Must be filed by the 45th day of the end of the registrant’s fiscal year.

**Overview**

The required regulatory filings on which we will focus in this class contain a wealth of information that is useful in better understanding an enterprise from the perspective of an outsider. In most cases, Form 10-K, the ARS, and Schedule 14A are not completely subsumed by one of the two other filings. Therefore, a prudent financial analyst will often focus on Form 10-K and Schedule 14A for quantitative results and specific disclosures and peruse the narrative discussions present in the ARS for additional qualitative insights into the enterprise. Further, the integrated disclosure system allows registrants to incorporate by reference disclosures that are duplicated in other filings. Hence, it may literally be necessary to have all three filings in hand to find the actual information desired—information required in one filing that is not included because it is present in another filing is designated as “Incorporated by reference” and the reader is directed to the filing containing the actual information. Fortunately, companies with corporate websites are required by the SEC to make all the filings discussed in this note available on their website.

The next page contains a summary of the filings discussed in this note, their filing deadline with the SEC, and a brief description of their contents.

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12 Form 4 is not an amended Form 3 filing. An amended filing, when the previously filing was incomplete or inaccurate, is designated with “/A,” such as Form 3/A. Form 4 reflects changes in the amount of shares held (as a result of the insider buying or selling the registrant’s stock).
<table>
<thead>
<tr>
<th>Form/Schedule</th>
<th>Filing Deadline with SEC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form 10-K</td>
<td>60 days after fiscal year end</td>
<td>Annual filing; provides comprehensive overview of registrant’s business and financial condition. Contains financial statements that are audited by an independent CPA. May substitute for ARS in certain cases.</td>
</tr>
<tr>
<td>ARS/Form 20-F</td>
<td>Not required filing with SEC for US domiciled registrants. Foreign private issuers, companies domiciled outside of US and listed in US, must file Form 20-F</td>
<td>Companies may send Form 10-K to shareholders instead. ARS need not be filed with SEC. ARS may contain additional management discussions. Foreign private issuers must file Form 20-F with SEC within six months after end of fiscal year.</td>
</tr>
<tr>
<td>Form 10-Q</td>
<td>40 days after quarter end; will reduce to 35 days in 2005</td>
<td>Quarterly filing; provides abbreviated discussion of registrant’s business and financial condition. Contains financial statements that are reviewed by an independent CPA.</td>
</tr>
<tr>
<td>Form 8-K</td>
<td>4 business days after event</td>
<td>Report material, “unplanned,” events or corporate changes (“triggers”) that were not previously reported in Form 10-K or Form 10-Q. SAB 99 defines what constitutes materiality.</td>
</tr>
<tr>
<td>Schedule 14A</td>
<td>Typically 30-50 days before annual shareholder meeting</td>
<td>“Proxy” statement. Provides official notification of upcoming matters to be brought to a vote at a shareholders’ meeting.</td>
</tr>
<tr>
<td>Schedule 13D</td>
<td>10 business days of event</td>
<td>Report beneficial ownership of issuer’s securities. Beneficial ownership is defined as owning 5% or more of a class of equity securities.</td>
</tr>
<tr>
<td>Form 3</td>
<td>10 days of becoming insider</td>
<td>Initial filing of equity securities when individual becomes director, officer, or owner of more than 10% of a class of equity securities of an issuer.</td>
</tr>
<tr>
<td>Form 4</td>
<td>2 business days</td>
<td>Reports transactions in registrant’s securities by insiders.</td>
</tr>
<tr>
<td>Form 5</td>
<td>45 days after end of fiscal year</td>
<td>Annual statement of ownership of securities filed by every director, officer, or owner of more than 10% of a class of equity securities.</td>
</tr>
</tbody>
</table>

Note: Registrants with corporate websites will have electronic copies of all of the above documents (look under “Investing” or “Investor relations”).