

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 202, 230, 240, 260, and 270

[Release Nos. 33-8885, 34-57218, 39-2452, IC-28137]

Amendment of Procedures for Payment of Fees

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its procedures for payment of fees imposed under the federal securities laws to update the procedures and reflect the designation of U.S. Bank, N.A. (“U.S. Bank”) as the Commission’s U.S. Treasury Department (“Treasury”) designated lockbox depository.

EFFECTIVE DATE: February 1, 2008.

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SUPPLEMENTARY INFORMATION

The Commission is amending rule 3a [17 CFR 202.3a] of its Informal and Other Procedures, rule 111 [17 CFR 230.111] under the Securities Act of 1933 (“Securities Act”),¹ rule 0-9 [17 CFR 240.0-9] under the Securities Exchange Act of 1934 (“Exchange Act”),² rule 7a-10 [17 CFR 260.7a-10] under the Trust Indenture Act of 1939 (“Trust

¹ 15 U.S.C. 77a.

² 15 U.S.C. 78a.

Indenture Act”),³ and rule 0-8 [17 CFR 270.0-8] under the Investment Company Act of 1940 (“Investment Company Act”).⁴

I. Discussion

The federal securities laws impose a number of fees.⁵ Many of these fees currently are transmitted to a Treasury designated lockbox depository. Mellon Bank, N.A. (“Mellon”) currently serves as this lockbox depository. As of February 4, 2008, the responsibility for providing lockbox depository services to Treasury will switch from Mellon to U.S. Bank. Mellon is referenced in payment instructions appearing in rule 3a [17 CFR 202.3a] of the Commission’s Informal and Other Procedures and rule 111 [17 CFR 230.111] under the Securities Act. The Commission is amending these rules to reflect the change in depository institutions.

The Commission also is amending rule 111 [17 CFR 230.111] under the Securities Act, rule 0-9 [17 CFR 240.0-9] under the Exchange Act, and rule 0-8 [17 CFR 270.0-8] under the Investment Company Act to clarify that payment of fees pursuant to these rules may be made by wire transfer, as well as by certified check, bank cashiers check, United States postal money order, or bank money order, and to eliminate the option of making payment by cash or personal check.

In addition, the Commission is amending rule 3a [17 CFR 202.3a] of its Informal and Other Procedures, which governs the payment of filing fees under the Securities Act, Exchange Act, and Investment Company Act. The revised rule updates the instructions for payment of filing fees to the Treasury designated lockbox depository, as discussed

³ 15 U.S.C. 77aaa.

⁴ 15 U.S.C. 80a.

⁵ See .e.g., section 6(b) of the Securities Act, sections 13(e), 14(g), and 31 of the Securities Exchange Act and section 24(f) of the Investment Company Act.

above. It also eliminates outdated procedures for the payment of filing fees, such as payment by hand delivery, payment by mail directly to the Commission's headquarters in Washington, DC, the use of Form ID to update a filer's address, and the distinction between "restricted" and "unrestricted" fees. In addition, the revised rule incorporates the special instructions for payment of filing fees for rule 462(b) and rule 110(d) filings previously included in rule 111 [17 CFR 230.111] under the Securities Act.

An explanatory note also is added to rule 3a [17 CFR 202.3a] with respect to filing fee accounts. A filing fee account is maintained for each filer who submits a filing requiring a fee on the Commission's EDGAR system or who submits funds to the Treasury designated lockbox depository in anticipation of paying a filing fee. The note explains that, under current law, the deposit of money into a filing fee account does not constitute payment of a filing fee. Payment of the filing fee occurs at the time the filing is made, commensurate with the drawing down of the balance of the filing fee account.

Finally, the Commission is removing references in its regulations to the payment of fees under the Trust Indenture Act, since fees that were imposed under that Act were repealed by the Investor and Capital Markets Fee Relief Act.⁶

II. Administrative Procedure Act and Other Administrative Laws

The Commission has determined that these amendments to its rules relate solely to the agency's organization, procedure, or practice. Therefore, the provisions of the Administrative Procedure Act ("APA") regarding notice of proposed rulemaking and opportunity for public participation are not applicable.⁷ The APA also requires publication of a rule at least 30 days before its effective date unless the agency finds

⁶ Pub. L. No. 107-123; 115 Stat. 2930 (2002).

⁷ 5 U.S.C. 553(b).

otherwise for good cause.⁸ Since the Commission's Treasury designated lockbox depository will change on February 4, 2008, we find that immediate effectiveness of these amendments will clarify the obligations of payors and prevent the confusion that might otherwise occur if the Commission's rules are not amended contemporaneously. Consequently, we find there is good cause for the amendments to take effect immediately upon publication in the Federal Register. For the same reasons, and because these amendments do not substantially affect the rights or obligations of non-agency parties, the provisions of the Small Business Regulatory Enforcement Fairness Act are not applicable.⁹ In addition, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or other law, are not applicable.¹⁰ Finally, these amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.¹¹

III. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The rule amendments the Commission is adopting today amend the Commission's rules to reflect a change of the Commission's Treasury designated lockbox depository and to update the procedures for payment of fees required under the securities laws. The Commission does not believe that the rule amendments will impose any costs on non-agency parties, or that if there are any such costs, they are negligible.

⁸ 5 U.S.C. 553(d)(3).

⁹ 5 U.S.C. 804.

¹⁰ 5 U.S.C. 601-12.

¹¹ 44 U.S.C. 3501-20.

IV. Consideration of Burden on Competition

Section 23(a)(2) of the Exchange Act requires the Commission, in making rules pursuant to any provision of the Exchange Act, to consider among other matters the impact any such rule would have on competition. Section 2(c) of the Investment Company Act requires the Commission to give the same consideration in making rules under the Investment Company Act. The Commission does not believe that the amendments that the Commission is adopting today will have any impact on competition.

V. Statutory Basis

The Commission is adopting amendments pursuant to sections 6(b) and 19 of the Securities Act, sections 13(e), 14(g), 23, and 31 of the Exchange Act, section 319 of the Trust Indenture Act, and sections 24(f) and 38 of the Investment Company Act.

VI. Text of Final Amendments

List of Subjects

17 CFR Part 202

Administrative practice and procedure, Securities.

17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

17 CFR Part 260

Reporting and recordkeeping requirements, Securities, Trusts and Trustees.

17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, 17 CFR, Chapter II of the Code of Federal Regulations is amended as follows:

PART 202- INFORMAL AND OTHER PROCEDURES

1. The authority citation for Part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d-1, 78u, 78w, 78ll(d), 79r, 79t, 77sss, 77uuu, 80a-37, 80a-41, 80b-9, 80b-11, 7202 and 7211 et seq., unless otherwise noted.

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2. Section 202.3a is revised to read as follows:

§ 202.3a Instructions for filing fees.

(a) General instructions for remittance of filing fees. Payment of filing fees specified by the following sections shall be made according to the directions listed in this section: § 230.111 of this chapter, § 240.0-9 of this chapter, and § 270.0-8 of this chapter. All such fees are to be paid through the U.S. Treasury designated lockbox depository and may be paid by wire transfer, certified check, bank cashier's check, United States postal money order, or bank money order pursuant to the specific instructions set forth in paragraph (b) of this section. Personal checks will not be accepted for payment of fees. To ensure proper posting, all filers must include their Commission-assigned Central Index Key (CIK) number (also known as the Commission-assigned registrant or payor account number) on fee payments. If a third party submits a fee payment, the fee payment must specify the account number to which the fee is to be applied.

(b) Instructions for payment of filing fees. Except as provided in paragraph (c) of this section, these instructions provide direction for remitting fees specified in paragraph

(a) of this section. You may contact the Fee Account Services Branch in the Office of Financial Management at (202) 551-8989 for additional information if you have questions.

(1) Instructions for payment of fees by wire transfer (FEDWIRE). U.S. Bank, N.A. in St. Louis, Missouri is the U.S. Treasury designated lockbox depository and financial agent for Commission filing fee payments. The hours of operation at U.S. Bank are 8:30 a.m. to 6:00 p.m. Eastern time for wire transfers. Any bank or wire transfer service may initiate wire transfers of filing fee payments through the FEDWIRE system to U.S. Bank. A filing entity does not need to establish an account at U.S. Bank in order to remit filing fee payments.

(i) To ensure proper credit and prompt filing acceptance, in all wire transfers of filing fees to the Commission, you must include:

- (A) The Commission's account number at U.S. Bank (152307768324); and
- (B) The payor's CIK number.

(ii) You may refer to the examples found on the Commission's Web site at www.sec.gov for the proper format.

(2) Instructions for payment of fees by check or money order. To remit a filing fee payment by check (certified or bank cashier's check) or money order (United States postal or bank money order), you must make it payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. On the front of the check or money order, you must include the Commission's account number (152307768324) and CIK number of the account to which the fee is to be applied.

U.S. Bank does not accept walk-in deliveries by individuals. You must mail checks or money orders to the following U.S. Bank addresses:

(i) Remittances through the U.S. Postal Service must be sent to the following address:

Securities and Exchange Commission
P.O. Box 979081
St. Louis, MO 63197-9000

(ii) The following address can be used for remittances through other common carriers:

U.S. Bank
Government Lockbox 979081
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Note to paragraph (b). Wire transfers are not instantaneous. The time required to process a wire transfer through the FEDWIRE system, from origination to receipt by U.S. Bank, varies substantially. Specified filings, such as registration statements pursuant to section 6(b) of the Securities Act of 1933 that provide for the registration of securities and mandate the receipt of the appropriate fee payment upon filing, and transactional filings pursuant to the Securities Exchange Act of 1934, such as many proxy statements involving extraordinary business transactions, will not be accepted if sufficient funds have not been received by the Commission at the time of filing. You should obtain from your bank or wire transfer service the reference number of the wire transfer. Having this

number can greatly facilitate tracing the funds if any problems occur. If a wire transfer of filing fees does not contain the required information in the proper format, the Commission may not be able to identify the payor and the acceptance of filings may be delayed. To ensure proper credit, you must provide all required information to the sending bank or wire transfer service. Commission data must be inserted in the proper fields. The most critical data are the Commission's account number at U.S. Bank and the Commission-assigned account number identified as the CIK number.

(c) Special instructions for §§ 230.462(b) and 230.110(d) of this chapter.

Notwithstanding paragraphs (a) and (b) of this section, for registration statements filed pursuant to §§ 230.462(b) and § 230.110(d) of this chapter, payment of filing fees for the purposes of this section may be made by:

(1) The registrant or its agent instructing its bank or a wire transfer service to transmit to the Commission the applicable filing fee by a wire transfer of such amount from the issuer's account or its agent's account to the U.S. Treasury designated lockbox depository as soon as practicable, but no later than the close of the next business day following the filing of the registration statement; and

(2) The registrant submitting with the registration statement at the time of filing a certification that:

- (i) The registrant or its agent has so instructed its bank or a wire transfer service;
- (ii) The registrant or its agent will not revoke such instructions; and
- (iii) The registrant or its agent has sufficient funds in such account to cover the amount of such filing fee.

Note to paragraph (c). Such instructions may be sent on the date of filing the registration statement after the close of business of such bank or wire transfer service, provided that the registrant undertakes in the certification sent to the Commission with the registration statement that it will confirm receipt of such instructions by the bank or wire transfer service during regular business hours on the following business day.

(d) Filing fee accounts. A filing fee account is maintained for each filer who submits a filing requiring a fee on the Commission's EDGAR system or who submits funds to the U.S. Treasury designated depository in anticipation of paying a filing fee. Account statements are regularly prepared and provided to account holders. Account holders must maintain a current account address with the Commission to ensure timely access to these statements.

Note to paragraph (d). The deposit of money into a filing fee account does not constitute payment of a filing fee. Payment of the filing fee occurs at the time the filing is made, commensurate with the drawing down of the balance of the fee account.

(e) Return of funds from inactive accounts. Funds held in any filing fee account in which there has not been a deposit, withdrawal or other adjustment for more than 180 calendar days will be returned to the account holder, and account statements will not be sent again until a deposit, withdrawal or other adjustment is made with respect to the account. Filers must maintain a current account address to assure the timely return of funds. It may not be possible to return funds from inactive accounts if the Commission is unable to identify a current account address of an account holder after making reasonable efforts to do so.

Note to paragraph (e). A company must update its account and other addresses using the EDGAR Web site. This method ensures data integrity and the timeliest update. Simply changing an address in the text of the cover page of a filing made on the EDGAR system will not be sufficient to update the Commission's account address records.

PART 230- GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

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4. Section 230.111 is revised to read as follows:

§ 230.111 Payment of fees.

All payments of fees for registration statements under the Act shall be made by wire transfer, or by certified check, bank cashier's check, United States postal money order, or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. There will be no refunds. Payment of fees required by this section shall be made in accordance with the directions set forth in § 202.3a of this chapter.

PART 240 - GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

5. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n,

78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

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6. Section. 240.0-9 is revised to read as follows:

§ 240.0-9 Payment of fees.

All payment of fees shall be made by wire transfer, or by certified check, bank cashier's check, United States postal money order, or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. Payment of filing fees required by this section shall be made in accordance with the directions set forth in § 202.3a of this chapter.

PART 260 - GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

7. The authority citation for Part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78ll(d), 80b-3, 80b-4, and 80b-11.

8. Section 260.7a-10 is removed.

PART 270 - RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

9. The authority citation for Part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a-1 et seq., 80a-34(d), 80a-37, and 80a-39, unless otherwise noted.

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10. Section 270.0-8 is revised to read as follows:

§ 270.0-8 Payment of fees.

All payment of fees shall be made by wire transfer, or by certified check, bank cashier's check, United States postal money order, or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. Payment of fees required by this section shall be made in accordance with the directions set forth in § 202.3a of this chapter.

By the Commission.

Nancy M. Morris
Secretary

Date: January 29, 2008