

## MISCELLANEOUS RULES

**§ 250.100 Orders granting<sup>6</sup> or withdrawing exemptions.**

(a) *Orders granting exemption from rules.* Any transaction subject to the requirements of any rule promulgated under the act may be exempted therefrom by the Commission upon application, or upon its own motion provided an application for approval of such transaction or a declaration with respect thereto is pending, if it appears to the Commission that such requirements as applied to such transaction are not necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) *Orders withdrawing exemption.* Any unexecuted transaction which is within the exemption provided in any rule from the requirements of any provision of the act or of the rules, may nevertheless be subjected thereto by order, after notice and opportunity for hearing, if it appears to the Commission that the withdrawal of such exemption as applied to such transaction would be appropriate in the public interest or the interest of investors or consumers. The Commission may by such notice suspend the applicability of any such exemption to any transaction pending final determination.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 47 FR 5224, Feb. 4, 1982]

**§ 250.101 Standards and interpretations of rules.**

All rules shall be construed in the light of, and so as to be consistent with, any applicable requirements of, and standards contained in, the act. Such standards shall be deemed to be incorporated in and a part of every rule.

**§ 250.102 Effective date of rules.**

Unless the Commission otherwise prescribes in any case, the manner of publication of rules of the Commission shall be by making a copy of such rule or amendment available for public inspection in the office of the Secretary of the Commission, by filing a copy thereof with the Office of the Federal Register, The National Archives, and

by publication in the FEDERAL REGISTER. Rules shall not become effective prior to the effective date therein specified if such date is later than the date of publication. In any case where the method of publication prescribed as to any rule is other than that above specified, such rule shall not be effective as against any person who has not had actual knowledge thereof prior to the filing of a copy thereof with the Office of the Federal Register, and the making available for inspection of such a copy as prescribed in section 7 of the Federal Register Act (49 Stat. 502; U.S.C. 307).

**§ 250.103 References and definitions.**

As used in the rules in this part, unless the context indicates otherwise:

(a) The term *Commission* means the Securities and Exchange Commission.

(b) The term *act* means the Public Utility Holding Company Act of 1935.

(c) The term *section* refers to a section of the act.

(d) The term *rule* includes *rule* and *regulation*, as those words are used in the Act and refers to the rules prescribed by the Commission pursuant to the Act. All forms and instructions thereto shall be deemed rules and regulations adopted by the Commission pursuant to the Act.

(e) Any definition of a term contained in the act shall be applicable to such term as used in the rules.

(f) The term *parent* or *parent company* of a specified company means a company of which such specified company is a subsidiary, whether by virtue of direct or indirect ownership or control of securities.

(g) The phrase *direct subsidiary* of a specified company means a company of which such specified company itself directly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities, and directly owns a greater percentage of such voting securities than are owned by any other company.

(h) The phrase "any person having a bona fide interest as used in sections 11(d), 11(f), and 11(g) (49 Stat. 820; 15 U.S.C. 79k), shall, with respect to the reorganization of any company, be deemed to include such company; any creditor or stockholder of such company or any authorized representative

<sup>6</sup> See § 250.20(a).

thereof; any receiver or trustee of such company; any trustee under an indenture pursuant to which securities of such company are outstanding; any State commission having regulatory jurisdiction over such company; any person authorized to prepare a plan by any court before which a reorganization proceeding is pending; and any other person found by the Commission to have a substantial interest in the reorganization.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 30 FR 4129, Mar. 30, 1965]

**§ 250.103A Liability for certain statements by issuers.**

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to the following statements:

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a document filed with the Commission, in Part I of a quarterly report on Form 10-Q and Form 10-QSB, § 249.308a of this chapter, or in an annual report to shareholders meeting the requirements of Rules 14a-3 (b) and (c) or 14c-3(a) and (b) under the Securities Exchange Act of 1934, a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available, or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document, in Part I of a quarterly report on Form 10-Q and Form 10-QSB, or in an annual report made publicly available within a reasonable time after the making of such forward-looking statement: *Provided, That*;

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securi-

ties Exchange Act of 1934 and has complied with the requirements of Rule 13a-1 or 15d-1 thereunder, if applicable, to file its most recent annual report on Form 10-K and Form 10-KSB; or, if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940; and

(2) Information which is disclosed in a document filed with the Commission, in part I of a quarterly report on Form 10-Q and Form 10-QSB or in an annual report to shareholders meeting the requirements of Rules 14a-3 (b) and (c) or 14c-3 (a) and (b) under the Securities Exchange Act of 1934 and which relates to:

(i) The effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S-K (§ 229.303 of this chapter), "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S-K (§ 229.302 of this chapter), "Supplementary financial information," or

(ii) The value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas reserves as set forth in paragraphs 30-34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S-K (§ 229.302 of this chapter).

(c) For the purpose of this rule, the term *forward-looking statement* shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;