

## Securities and Exchange Commission

## § 260.4d-9

filed such a waiver and request whenever, in the judgment of the Commission, such a hearing is necessary or appropriate in the public interest.

(b) If the applicant waives a hearing and requests the Commission to decide the application without a hearing and if no hearing has been ordered by the Commission:

(1) The applicant shall, at the request of the Commission, furnish such additional information or documents as the Commission may deem necessary to decide the application.

(2) The Commission may, with the consent of the applicant, make a part of the record any pertinent information or documents filed with the Commission by the applicant or by any other person.

(3) The Commission shall, in its order deciding the application, designate and describe the information and documents comprising the record on which the decision is based.

[6 FR 981, Feb. 15, 1941]

### § 260.4c-5 Applications under section 304(c)(2).

A hearing shall be held upon every application filed pursuant to section 304(c)(2).

[6 FR 981, Feb. 15, 1941]

### § 260.4d-7 Application for exemption from one or more provisions of the Act.

(a) Three copies of every application for an order under section 304(d) of the Act (15 U.S.C. 77ddd(d)) and of every amendment thereto shall be filed with the Commission at its principal office.

(b) One copy shall be manually signed by a duly authorized officer of the applicant (or individual customarily performing similar functions with respect to an organization, whether incorporated or unincorporated), or by a natural person seeking exemption under section 304(d) of the Act.

(c) Such applications shall be on paper no larger  $8\frac{1}{2} \times 11$  inches in size. If reduction of large documents would render them illegible, such documents may be filed on paper larger than  $8\frac{1}{2} \times 11$  inches in size. The left margin shall be at least  $1\frac{1}{2}$  inches wide and if the

application is bound, it shall be bound on the left side.

(d) The application shall be typed, printed, copied, or prepared by a process which produces copies suitable for repeated photocopying and microfilming. All typewritten or printed matter shall be set forth in black ink to permit photocopying. If printed, the application shall be in type not smaller than 10-point, roman type, at least two points leaded.

(e) Rules 7a-28 through 7a-32 (§§ 260.7a-28 through 260.7a-32 of this chapter) relating to incorporation by reference shall be applicable to applications for exemption pursuant to section 304(d) of the Act.

[56 FR 22319, May 15, 1991]

### § 260.4d-8 Content.

(a) Each application for an order under section 304(d) of the Act (15 U.S.C. 77ddd(d)) shall contain the name, address, and telephone number of each applicant and the name, address, and telephone number of any person to which such applicant wishes any questions regarding the application to be directed.

(b) Each application shall contain a statement of the relevant facts on which the request for relief is based, including a justification for the exemption(s) requested and a discussion of any benefit expected for security holders, trustees and/or obligors.

[56 FR 22319, May 15, 1991]

### § 260.4d-9 Exemption for Canadian Trust Indentures from Specified Provisions of the Act.

Any trust indenture filed in connection with offerings on a registration statement on Form SB-2, [§ 239.10 of this chapter] F-7, F-8, F-9, F-10 or F-80 [§§ 239.37 through 239.41 of this chapter] shall be exempt from the operation of sections 310(a)(3) and 310(a)(4), sections 310(b) through 316(a), and sections 316(c) through 318(a) of the Act; *provided that* the trust indenture is subject to

(a) The Canada Business Corporations Act, R. S. C. 1985;

(b) The Bank Act, R. S. C. 1985;

(c) The Business Corporations Act, 1982 (Ontario), S. O. 1982; or

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(d) The Company Act, R.S.B.C. 1979, C. 59.

[56 FR 30077, July 1, 1991, as amended at 57 FR 36501, Aug. 13, 1992; 58 FR 33190, June 16, 1993]

### **§ 260.4d-10 Exemption for securities issued pursuant to § 230.802 of this chapter.**

Any debt security, whether or not issued under an indenture, is exempt from the Act if made in compliance with § 230.802 of this chapter.

[64 FR 61406, Nov. 10, 1999]

#### RULES UNDER SECTION 305

### **§ 260.5a-1 Forms for statements of eligibility and qualification.**

(a) Form T-1 shall be used for statements of eligibility and qualification of corporations designated to act as trustees under trust indentures to be qualified pursuant to section 305 or 307 of the Act.

(b) Form T-2 shall be used for statements of eligibility and qualification of individuals designated to act as trustees under trust indentures to be qualified pursuant to section 305 or 307 of the Act.

### **§ 260.5a-2 General requirements as to form and content of statements of eligibility and qualification.**

Rules 7a-15 through 7a-37 (§§ 260.7a-15 through 260.7a-37 of this chapter) under section 307 under the Trust Indenture Act shall be applicable to statements filed on Forms T-1, T-2, and T-6.

[56 FR 22320, May 15, 1991]

### **§ 260.5a-3 Number of copies; filing; signatures; binding.**

(a) Three copies of each statement of eligibility and qualification shall be filed with the registration statement or application for qualification.

(b) At least the original of each statement of eligibility and qualification filed with the Commission shall be signed in the manner prescribed by the particular form.

(c) Each statement of eligibility and qualification and the exhibits thereto shall be bound on the left-hand side in one or more parts, without stiff covers. The binding shall be made in such man-

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ner as to leave the reading matter legible.

(d) The statement or statements shall be filed by the obligor upon the indenture securities as a separate part of the registration statement or application for qualification, as the case may be.

[6 FR 667, Jan. 30, 1941, as amended at 16 FR 8737, Aug. 29, 1951]

### **§ 260.5b-1 Application pursuant to section 305(b)(2) of the Trust Indenture Act for determining eligibility of a person designated as trustee for offerings on a delayed basis.**

Forms T-1 and T-2 (17 CFR 269.1 and 269.2) shall be used for applications filed for the purpose of determining the eligibility under section 310(a) of the Act of a person designated as trustee for debt securities registered under the Securities Act of 1933 which are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant.

[56 FR 22320, May 15, 1991]

### **§ 260.5b-2 General requirements as to form and content of applications.**

Rule 5a-2 (§ 260.5a-2 of this chapter) and rules 7a-15 through 7a-37 [§§ 260.7a-15 through 260.7a-37 of this chapter] shall be applicable to applications pursuant to rule 5b-1 (§ 260.5b-1 of this chapter).

[56 FR 22320, May 15, 1991]

### **§ 260.5b-3 Number of copies—Filing—Signatures.**

(a) Three copies of every application pursuant to rule 5b-1 (§ 260.5b-1 of this chapter) and of every amendment thereto shall be filed with the Commission at its principal office by the issuer upon the indenture securities. Such application shall be filed no later than the second business day following the initial date of public offering or sales after effectiveness of the registration statement with respect to such securities, or transmitted by a means reasonably calculated to result in filing with the Commission by that date.

(b) One copy shall be manually signed by the applicant's duly authorized officer (or individual customarily performing similar functions with respect