REPORT TO CONGRESS AND THE GENERAL ACCOUNTING OFFICE PURSUANT TO 5 U.S.C. §801

November 24, 2003

1. Amendments Adopted by the Securities and Exchange Commission, and Copy of the Amendments.

On November 19, 2003 the Securities and Exchange Commission adopted new rules and amendments to existing rules under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940. These amendments are hereby submitted to each House of Congress and to the Comptroller General pursuant to 5 U.S.C. § 801. A copy of Commission Release No. 33-8340, which contains the amendments, is attached at Tab A.

2. Concise General Statement of the Amendments.

The amendments are designed to increase the transparency of a company's nominating committee functions and help address the concern among security holders over the lack of sufficient input into the decisions made by the boards of directors of the companies in which they invest. The SEC currently has rules requiring some disclosure in the company's proxy or information statement about nominating committees, but has decided that more specificity would be helpful. The amendments are also designed to elicit a discussion of the means by which security holders can communicate with the board of directors. Finally, the amendments will require companies to report any material changes to the procedures for security holders to nominate directors in their periodic reports.

3. The Amendments are Not a Major Rule.

Based upon the following analysis, the Office of Management and Budget ("OMB") has determined that the amendments are not "major" for purposes of 5 U.S.C. §804(2).

Annual Effect on the Economy. We estimate that the amendments will impose a disclosure requirement on approximately 8,692 operating companies and investment companies. The new disclosures are designed to build upon existing disclosure requirements regarding the composition, functions and policies and procedures of a company's nominating committee. Thus, the task of complying with the new disclosure requirements could be performed by the same person or group of persons already responsible for compliance under the current rules. For purposes of the Paperwork Reduction Act, we estimate the annual incremental paperwork burden for all companies to prepare the new disclosure to be approximately 20,868 hours of company personnel time (2.4 hours per company), which translates into an estimated cost of $1,774,000 ($204 per company), assuming the average hourly cost of in-house personnel is $85. We

also estimate a cost of approximately $2,086,700 for the services of outside professionals ($240 per company), assuming an average hourly rate of $300. Therefore, the total estimated cost of preparing the disclosure is $3,860,700.

No Major Increase in Costs or Prices. We believe the amendments will not substantially increase companies' costs to collect the information necessary to prepare the required disclosure. This information should be readily available within each company. Since the nominating committee of boards of directors should already know the policies that they follow in determining which nominees to include in the company proxy statement – and do not require companies to adopt policies if they do not have them – the disclosure should not impose significant incremental costs to collect the information. Similarly, it should be only a minimal burden for a company that maintains a procedure for security holders to communicate directly with members of boards of directors to describe such a procedure in its proxy or information statement.

Significant Adverse Effects on Competition or Investment. We have identified one possible area where the rules could potentially affect competition among public companies, although we do not believe the effect is "adverse." The new disclosure will enable investors to better compare companies' policies and procedures for director nominations and communications with directors. To the extent that investors differentiate between companies based on their director nomination and communication procedures, a company may be at a disadvantage to other companies who maintain more favorable procedures.

4. Proposed Effective Date.

The amendments will become effective on January 1, 2004.

5. Cost-Benefit Analysis.

The Commission considers generally the costs and benefits of a rule. Sections 2(b) of the Securities Act, 3(f) of the Exchange Act and 2(c) of the Investment Company Act expressly require the Commission to consider whether an action will promote efficiency, competition, and capital formation. The disclosure required by the amendments is readily available to a reporting company and we therefore expect the cost of compiling and reporting this information to be relatively minimal on a per company basis. In addition, pursuant to Section 23(a) of the Exchange Act, the Commission is directed to consider, among other matters, the impact any rule would have on competition. The Commission may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As discussed in Section 3, above, companies may compete to adopt policies that effectively balance security holder and director interests and therefore attract investors. The Commission also believes that the new disclosure may enable investors to make more informed voting and investment decisions, and capital may be allocated on a more efficient basis.

A copy of the cost-benefit analysis for the rule is in Sections IV and V of Release 33-8340, which is attached at Tab A.

6. Regulatory Flexibility Act.

The Initial Regulatory Flexibility Analysis ("IRFA") appeared in the Proposing Release, Release No. 34-48301. The Final Regulatory Flexibility Analysis ("FRFA") was included in the adopting release, Release No. 33-8340, which will be published in the Federal Register.

The amendments would impose reporting and recordkeeping requirements on the class of small entities who become subject to our reporting requirements, by registration under the Exchange Act. The amendments would subject that class of small entities to reporting and recordkeeping in connection with drafting, reviewing, filing, printing and disseminating additional disclosure in annual reports, semi-annual reports, proxy and information statements and quarterly reports.

Because the issues of corporate accountability and security holder rights affect small companies as much as they affect large companies, the Commission does not believe it to be appropriate to exempt small entities from the new disclosure requirements.

7. Unfunded Mandates Reform Act.

The Unfunded Mandates Reform Act of 1995 is inapplicable to the Commission. See Public Law 104-4, Section 421(1), 109 Stat. 50.

8. Other Relevant Information.

The relevant sections of the Administrative Procedure Act and the Paperwork Reduction Act have been satisfied. The Commission is unaware of any other relevant information or applicable requirements under any other Act or Executive Order applicable to it that should be brought to the attention of the Congress or the Comptroller General in connection with this rulemaking.

ATTACHMENT

Tab A: Release No. 33-8340