

that are majority owned and shall not consolidate entities that are not majority owned. The determination of *majority ownership* requires a careful analysis of the facts and circumstances of a particular relationship among entities. In rare situations, consolidation of a majority owned subsidiary may not result in a fair presentation, because the registrant, in substance, does not have a controlling financial interest (for example, when the subsidiary is in legal reorganization or in bankruptcy). In other situations, consolidation of an entity, notwithstanding the lack of technical majority ownership, is necessary to present fairly the financial position and results of operations of the registrant, because of the existence of a parent-subsidiary relationship by means other than record ownership of voting stock.

(b) *Different fiscal periods*: Generally, registrants shall not consolidate any entity whose financial statements are as of a date or for periods substantially different from those of the registrant. Rather, the earnings or losses of such entities should be reflected in the registrant's financial statements on the equity method of accounting. However:

(1) A difference in fiscal periods does not of itself justify the exclusion of an entity from consolidation. It ordinarily is feasible for such entity to prepare, for consolidation purposes, statements for a period which corresponds with or closely approaches the fiscal year of the registrant. Where the difference is not more than 93 days, it is usually acceptable to use, for consolidation purposes, such entity's statements for its fiscal period. Such difference, when it exists, should be disclosed as follows: the closing date of the entity should be expressly indicated, and the necessity for the use of different closing dates should be briefly explained. Furthermore, recognition should be given by disclosure or otherwise to the effect of intervening events which materially affect the financial position or results of operations.

(2) Notwithstanding the 93-day provision specified in paragraph (b)(1) of this section, in connection with the retroactive combination of financial statements of entities following a combination between entities under common

control, the financial statements of the constituents may be combined even if their respective fiscal periods do not end within 93 days, except that the financial statements for the latest fiscal year shall be recast to dates which do not differ by more than 93 days, if practicable. Disclosure shall be made of the periods combined and of the sales or revenues, net income before extraordinary items and net income of any interim periods excluded from or included more than once in results of operations as a result of such recasting.

(c) *Bank Holding Company Act*: Registrants shall not consolidate any subsidiary or group of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as amended as to which (1) a decision requiring divestiture has been made, or (2) there is substantial likelihood that divestiture will be necessary in order to comply with provisions of the Bank Holding Company Act.

(d) *Foreign subsidiaries*: Due consideration shall be given to the propriety of consolidating with domestic corporations foreign subsidiaries which are operated under political, economic or currency restrictions. If consolidated, disclosure should be made as to the effect, insofar as this can reasonably be determined, of foreign exchange restrictions upon the consolidated financial position and operating results of the registrant and its subsidiaries.

[51 FR 17330, May 12, 1986, as amended at 74 FR 18615, Apr. 23, 2009]

§210.3A-03 Statement as to principles of consolidation or combination followed.

(a) A brief description of the principles followed in consolidating or combining the separate financial statements, including the principles followed in determining the inclusion or exclusion of (1) subsidiaries in consolidated or combined financial statements and (2) companies in consolidated or combined financial statements, shall be stated in the notes to the respective financial statements.

(b) As to each consolidated financial statement and as to each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement

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for the preceding fiscal period filed with the Commission which has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed. If there have been any changes in the respective fiscal periods of the persons included made during the periods of the report which have a material effect on the financial statements, indicate clearly such changes and the manner of treatment.

[37 FR 14597, July 21, 1972. Redesignated at 45 FR 63687, Sept. 25, 1980, and 46 FR 56179, Nov. 16, 1981]

§ 210.3A-04 Intercompany items and transactions.

In general, there shall be eliminated intercompany items and transactions between persons included in the (a) consolidated financial statements being filed and, as appropriate, (b) unrealized intercompany profits and losses on transactions between persons for which financial statements are being filed and persons the investment in which is presented in such statements by the equity method. If such eliminations are not made, a statement of the reasons and the methods of treatment shall be made.

[37 FR 14597, July 21, 1972. Redesignated at 46 FR 56179, Nov. 16, 1981]

§ 210.3A-05 Special requirements as to public utility holding companies.

There shall be shown in the consolidated balance sheet of a public utility holding company the difference between the amount at which the parent's investment is carried and the underlying book equity of subsidiaries as at the respective dates of acquisition.

[37 FR 14597, July 21, 1972. Redesignated at 45 FR 63687, Sept. 25, 1980, and 46 FR 56179, Nov. 16, 1981]

RULES OF GENERAL APPLICATION

SOURCE: Sections 210.4-01 through 210.4-10 appear at 45 FR 63669, Sept. 25, 1980, unless otherwise noted.

§ 210.4-01 Form, order, and terminology.

(a) Financial statements should be filed in such form and order, and should use such generally accepted ter-

minology, as will best indicate their significance and character in the light of the provisions applicable thereto. The information required with respect to any statement shall be furnished as a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(1) Financial statements filed with the Commission which are not prepared in accordance with generally accepted accounting principles will be presumed to be misleading or inaccurate, despite footnote or other disclosures, unless the Commission has otherwise provided. This article and other articles of Regulation S-X provide clarification of certain disclosures which must be included in any event, in financial statements filed with the Commission.

(2) In all filings of foreign private issuers (see § 230.405 of this chapter), except as stated otherwise in the applicable form, the financial statements may be prepared according to a comprehensive set of accounting principles, other than those generally accepted in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, if a reconciliation to U.S. Generally Accepted Accounting Principles and the provisions of Regulation S-X of the type specified in Item 18 of Form 20-F (§ 249.220f of this chapter) is also filed as part of the financial statements. Alternatively, the financial statements may be prepared according to U.S. Generally Accepted Accounting Principles or International Financial Reporting Standards as issued by the International Accounting Standards Board.

(3)(i) Notwithstanding the effective dates set forth in Statement of Financial Accounting Standards No. 123 (revised 2004), *Share-Based Payment* ("Statement No. 123R"), financial statements shall be prepared in accordance with Statement No. 123R beginning with:

(A) The first interim or annual reporting period of the registrant's first fiscal year beginning on or after June 15, 2005, provided the registrant does