Revenue Code. In such circumstances, Enron will no longer charge companies with income the stand-alone tax that they would pay on their income but for the consolidated losses. Enron generally would no longer pay loss companies for the benefit of their losses used to offset income on the consolidated return, except that it is expected that payments to Enron under the Portland General and CrossCountry tax allocation agreements would be shared with all loss companies consistent with past practice. Portland General, Transwestern and Prisma (discussed further below) are not part of this arrangement. Applicants request authorization for Enron and the other Enron group companies subject to the contract rejection described above to file consolidated returns in accordance with the method described above.

K. U5B Registration Statement

Enron seeks a modification to the Commission's reporting requirement to permit it to submit the Disclosure Statement in lieu of a Registration Statement on Form U5B. If the Commission staff indicates to Enron that it requires additional information called for in Form U5B but not included in the Disclosure Statement, Enron will undertake to promptly provide such additional information.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3111 Filed 2–11–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27800]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 6, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 27, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After February 27, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Enron Corp., et al. (File No. 70–10199)

Enron Corporation (''Enron''), a public-utility holding company by reason of its ownership of Portland General Electric Company (''Portland General''), an Oregon public-utility company, has filed an application, on its own behalf and on behalf of its subsidiaries and affiliates in the bankruptcy cases under Chapter 11 of the United States Code (''Bankruptcy Code'') in the United States Bankruptcy Court for the Southern District of New York (''Bankruptcy Court'') (together with Enron, ''Debtors''),[1] for an order: (i) approving the Debtors'' Fifth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the Bankruptcy Code, dated January 9, 2004 (''Plan'') under section 11(f) of the Act; (ii) issuing a report on the Plan under section 11(g) of the Act; and (iii) authorizing Debtors under rules 62 and 64 to continue the Bankruptcy Court's authorized solicitation of votes of the Debtors' creditors for acceptances or rejections of the Plan and to make available to creditors a report on the Plan, as prescribed in section 11(g) of the Act. The application is sometimes referred to below as the ''Plan Application.''

In a companion filing, Enron, on its own behalf and on behalf of its subsidiaries and affiliates (collectively ''Applicants''), listed in Exhibit H of the application in File No. 70–10200 (''Omnibus Application''),[2] seeks authorization to conduct business under the Act in a manner that furthers the Chapter 11 process. Specifically, the Omnibus Application requests authorization for the Enron group companies to reorganize their nonutility businesses, enter into settlements, asset sales and other transactions involving guarantees, indemnifications and the acquisition of securities, pay dividends and redeem securities to transfer value among the group companies in connection with the rationalization of Enron's complex corporate structure, engage in affiliate sales of goods and services and other transactions described below, all through July 31, 2005 (''Authorization Period'').[3]

I. Enron and Its Subsidiaries

From 1985 through mid-2001, Enron grew from a domestic natural gas pipeline company into a large global natural gas and power company. Headquartered in Houston, Texas, Enron and its subsidiaries provided products and services related to natural gas, electricity, and communications to wholesale and retail customers. As of December 2001, the Enron companies employed approximately 32,000 individuals worldwide. The companies were principally engaged in: (i) The marketing of natural gas, electricity and other commodities, and related risk management and financial services worldwide; (ii) the delivery and management of energy commodities and capabilities to end-use retail customers in the industrial and commercial business sectors; (iii) the generation, transmission, and distribution of electricity to markets in the northwestern United States; (iv) the transportation of natural gas through pipelines to markets throughout the United States; and (v) the development, construction, and operation of power plants, pipelines, and other energy-related assets worldwide.

Enron became a public-utility holding company in 1997, when it acquired Portland General. Portland General is engaged in the generation, purchase, transmission, distribution, and retail sale of electricity in Oregon. It also sells wholesale electric energy to utilities, brokers, and power marketers located throughout the western United States.

The Oregon Public Utility Commission (''Oregon Commission'') regulates Portland General with regard to its rates, terms of service, financings, affiliate transactions and other aspects of its business. The Federal Energy Regulatory Commission (''FERC'') regulates the utility with respect to its activities in the interstate wholesale power markets.

[1] The Debtors, other than Enron, are identified in Exhibit H of the application. Portland General is not a Debtor.

[2] Applicants in the Omnibus Application include both Debtor and non-Debtor subsidiaries of Enron.

[3] ''Enron group'' includes all of Enron's subsidiaries, whether or not they are Debtors.

As of and for the nine months ended September 30, 2003, Portland General and its subsidiaries on a consolidated basis had operating revenues of $1,375 million, net income of $30 million, retained earnings of $517 million and assets of $3,185 million.

Portland General is not a Debtor in the Chapter 11 cases. The application states that the utility is extensively insulated from Enron as a result of conditions imposed under Oregon law at the time of the acquisition by Enron in 1997. In addition, in an effort to preserve Portland General's investment grade credit rating, a bankruptcy-remote structure was created. This structure requires the affirmative vote of an independent shareholder, who holds a share of limited voting junior preferred stock of Portland General, before the company can be placed into bankruptcy unilaterally by Enron, except in certain carefully prescribed circumstances in which the reason for the bankruptcy is to implement a transaction pursuant to which all of Portland General's debt will be paid or assumed without impairment.

II. The Bankruptcy Cases

In the last quarter of 2001, the Enron group companies lost access to the capital markets, both debt and equity, and had insufficient liquidity and financial resources to satisfy their current financial obligations. On December 2, 2001, Enron and certain of its subsidiaries each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. As of February 3, 2004, one hundred eighty (180) Enron-related entities have filed voluntary petitions.[4] Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors continue to operate their businesses and manage their properties as debtors in possession.

Portland General has not filed a voluntary petition under the Bankruptcy Code and is not in bankruptcy. Likewise, many other Enron companies have not filed bankruptcy petitions and continue to operate their businesses.

The Debtors have been engaged, since the commencement of the Chapter 11 cases, in the rehabilitation and disposition of their assets to satisfy the claims of creditors. The Debtors have been consolidating, selling businesses and assets, dissolving entities and simplifying their complex corporate structure. They are holding cash from prior sales pending distribution under the Plan and are positioning other assets for sale or other disposition.[5] In this process, hundreds of corporations have or will be liquidated.[6] The Debtors also have been involved in the settlement of numerous contracts related to wholesale and retail trading of various commodities.[7] In some cases, cash resulting from these settlements also is being held pending distribution pursuant to the Plan. Eventually, substantially all of the Debtors, including Enron, will be liquidated.

III. Status of Enron Under the Act

As noted above, Enron became a public-utility holding company when it acquired Portland General in 1997. Enron originally claimed exemption from registration under section 3(a)(1) of the Act by filings pursuant to rule 2. Enron subsequently filed two applications for exemption, one requesting an order under section 3(a)(1) of the Act and the other seeking an exemption by order under section 3(a)(3) or section 3(a)(5) of the Act. By order dated December 29, 2003, the Commission denied the requests for exemption.[8] Enron subsequently filed an application for exemption under section 3(a)(4) of the Act on behalf of itself and two other entities.[9] This application, as it related to Enron but not the other two applicants, was set for hearing by order of the Commission dated January 14, 2004.[10]

Enron and the Commission's Division of Investment Management have held discussions regarding the registration of Enron as a public-utility holding company under section 5 of the Act, the Plan for Enron and the other Debtors, the solicitation of votes accepting or rejecting the Plan, and various transactions in furtherance of the Chapter 11 cases that may require Commission authorization under the Act, if Enron were a registrant under the Act. In addition, Enron has proposed a comprehensive settlement of the exemption application in File No. 70–11373.

The application in this file and the companion application in File No. 70–10200 result from these discussions. The Omnibus Application supplements the Plan Application. It is intended that the Commission's authorization of both applications would give the Enron group companies sufficient authorization under the Act to solicit creditor votes for the Plan, obtain the confirmation of the Plan before the Bankruptcy Court, implement the Plan, and conduct business within the parameters specified in the Omnibus Application, pending the confirmation and full implementation of the Plan. The Plan Application and the Omnibus Application are predicated on Enron's registration under the Act immediately after the Commission grants the requested authorizations.

If, as proposed under the Plan and discussed further below, Enron sells the common stock of Portland General to an unaffiliated purchaser or distributes the stock to the Debtors' creditors or to a trust, Enron would deregister as a holding company upon the completion of the transaction, Enron will file a separate application with the Commission to seek authorization under section 12(d) of the Act for the sale of Portland General to a third party or the distribution of the common stock of Portland General to creditors or to a trust.[11]

IV. The Plan[12]

A. Introduction

On July 11, 2003, the Debtors filed a joint Chapter 11 plan and a related

[4] On November 29, 2001, and on various subsequent dates, certain foreign affiliates of Enron in England went into administration. Shortly thereafter, various other foreign affiliates also commenced (either voluntarily or involuntarily) insolvency proceedings in Australia, Singapore and Japan. Additional filings have continued worldwide and insolvency proceedings for foreign affiliates are continuing for various companies registered in Argentina, Bahamas, Bermuda, Canada, the Cayman Islands, France, Germany, Hong Kong, India, Italy, Mauritius, the Netherlands, Peru, Spain, Sweden and Switzerland.

[5] The Debtors and other Enron group companies have completed a number of significant asset sales during the pendency of the Chapter 11 cases, resulting in gross consideration to the Debtors' bankruptcy estates, non-Debtor associate companies and certain other related companies that aggregates approximately $3.6 billion. In many instances, proceeds from these sales are segregated, or are in escrow accounts. The distribution of the proceeds will require either the consent of the Creditors' Committee or an order of the Bankruptcy Court.

[6] On the initial petition date, the Enron group totaled approximately 2,400 legal entities. Approximately 600 have been sold, merged or dissolved and approximately 1,800 remain. It is anticipated that, by the end of 2004, the number of legal entities will be reduced to that necessary for Enron's operating businesses and the liquidation of assets.

[7] At the commencement of the Chapter 11 cases, both Debtor and non-Debtor companies had a significant number of non-terminated and terminated positions arising out of physical and financial contracts relating to numerous commodities. The companies have evaluated these contracts and undertaken efforts to perform, sell or settle these positions. The settlement of the contracts is approved under pre-established protocols that the Bankruptcy Court has approved.

[8] Holding Co. Act Release No. 27782.

[9] File No. 70–10190.

[10] Holding Co. Act Release No. 27793.

[11] The requested order in this filing would not authorize those transactions.

[12] Unless defined in the text of the Plan Application, all capitalized terms used hereinafter follow the definitions specified in the Plan. The Plan and Disclosure Statement are attached as Exhibits I–1 and I–2 to the Plan Application. The Plan, Disclosure Statement and other documents

Disclosure Statement, both of which were subsequently amended several times. A hearing to consider the adequacy of the information in the Disclosure Statement was held commencing on January 6, 2004. On January 9, 2004, the Bankruptcy Court issued two orders approving the Disclosure Statement, establishing voting procedures, and ordering the solicitation of votes approving or rejecting the Plan.[13] The Bankruptcy Court established April 20, 2004 as the date for commencement of the Confirmation Hearing and March 24, 2004 as the last date for filing objections to confirmation of the Plan. To confirm the Plan, the Bankruptcy Court must find that (i) the Plan is feasible, (ii) it is proposed in good faith, and (iii) the Plan and the proponent of the Plan are in compliance with the Bankruptcy Code.

In accordance with the Disclosure Statement Orders, the Debtors have placed solicitation materials online at www.enron.com, prepared documents and diskettes for distribution and begun distribution of the materials to creditors and equity interest holders. The Debtors note that the order and report of the Commission requested in the Plan Application could be included in the Plan Supplement that is scheduled to be filed with the Bankruptcy Court and placed online at www.enron.com no later than March 9, 2004 or such date as the Bankruptcy Court may authorize. Creditors would then have the opportunity to consider the order and report prior to the expiration of the period to vote on the Plan.

B. Proposed Global Resolution of Chapter 11 Cases

The Debtors state that the Plan represents a compromise and settlement of significant issues. They state that they have worked with the Official Committee of Unsecured Creditors appointed in the Debtors' Chapter 11 cases (''Creditors' Committee''), the Bankruptcy Court-appointed examiner to review transactions related to Enron North America Corp. (''ENA'') and to represent the creditors of ENA (''ENA Examiner''),[14] and individual creditor groups to formulate a Chapter 11 plan.

The Debtors explain that, because of the diverse creditor body and the myriad of complex issues posed, the Debtors, the ENA Examiner and the Creditors' Committee spent more than one year engaged in analysis and negotiations concerning the terms of what eventually became the Plan and related matters. These discussions focused on a variety of issues, including: (i) Maximizing value to creditors, (ii) resolving issues regarding substantive consolidation and other inter-estate and inter-creditor disputes, and (iii) facilitating an orderly and efficient distribution of value to creditors. The Debtors state that the Plan represents the culmination of these efforts and reflects agreements and compromises reached among the Debtors, the ENA Examiner and the Creditors' Committee concerning these issues. The Debtors note that the Creditors' Committee and the ENA Examiner fully support the Plan. The members of the Creditors' Committee have unanimously recommended that creditors vote to accept it, and the ENA Examiner has included a letter in the solicitation materials endorsing the Plan and urging parties to support confirmation.

The Plan incorporates various inter-Debtor, Debtor-Creditor and inter-Creditor settlements and compromises designed to achieve a global resolution of the Chapter 11 cases. Thus, the Plan is premised upon a settlement, rather than litigation, of these disputes.[15] The settlements and compromises embodied in the Plan represent, in effect, a linked series of concessions by Creditors of every individual Debtor in favor of each other. The agreements are interdependent.

Several components of the global compromise include: (i) Settlement of the issue of substantive consolidation of the Debtors' estates, (ii) the use of a common currency (referred to as Plan Currency) to make distributions under the Plan, (iii) the treatment of Intercompany Claims and resolution of other inter-estate issues, (iv) the resolution of certain asset ownership disputes between Enron and ENA, (v) the resolution of interstate issues regarding rights to certain claims and causes of action, (vi) the treatment of Allowed Guaranty Claims, and (vii) a reduction in the administrative costs post-confirmation. Each of these components is discussed in detail in the Plan and Disclosure Statement.

C. Property To Be Distributed

The Plan is premised upon the distribution of all of the value of the Debtors' assets in accordance with the priority scheme contained in the Bankruptcy Code. Distribution would involve Creditor Cash, Plan Securities and, to the extent that such trusts are created, interests in the Remaining Asset Trusts, Operating Trusts, Litigation Trust and the Special Litigation Trust. It is anticipated that Creditor Cash will constitute approximately two-thirds of the Plan Currency. In the event that the Portland General sale transaction is consummated, the percentage would increase. Excluding the potential value of interests in the Litigation Trust and Special Litigation Trust, the Debtors estimate that the value of total recoveries will be approximately $12 billion.

The Debtors state that, since the Initial Petition Date, they have conducted sales efforts for substantially all of the Enron companies' core domestic and international assets. In those instances where an immediate sale maximized the value of the interest, the assets either were sold or are the subject of pending sales. Following consultation with the Creditors' Committee, in those instances where the long-term prospects were anticipated ultimately to produce greater value, assets were retained. These retained assets will either (i) be located in one of the Operating Entities, *i.e.*, Portland General, Prisma Energy International Inc. (''Prisma'') and CrossCountry Energy Corp. (''CrossCountry''), as discussed further below, with the stock or other equity of the Operating Entities to be distributed to Creditors pursuant to the Plan, or (ii) be sold at a later date.

As discussed in greater detail in the Plan Application and the Plan, when and to the extent that an interest in any

related to the Chapter 11 cases are also available at *http://www.enron.com*.

[13] Order on motion of Enron Corp. approving the Disclosure Statement, setting record date for voting purposes, approving solicitation packages and distribution procedures, approving forms of ballots and vote tabulation procedures, and scheduling a hearing and establishing notice and objection procedures in respect of confirmation of the plan, Docket No. 15303, *In re Enron Corp., et al.*, Chapter 11 Case No. 01–16034 (AJG), Jan. 9, 2004 (U.S. Bankruptcy Court, S.D.N.Y.). Order, pursuant to sections 105(a), 502, 1125 and 1126 of the Bankruptcy Code and rules 3003, 3017 and 3018 of the Federal Rules of Bankruptcy Procedure establishing voting procedures in connection with the plan process and temporary allowance of claims procedures related thereto, Docket No. 15296, *In re Enron Corp., et al.*, Chapter 11 Case No. 01–16034 (AJG), Jan. 9, 2004 (U.S. Bankruptcy Court, S.D.N.Y.) (collectively, the ''Disclosure Statement Orders''). Representatives of the Commission were present at the hearing to consider approval of the Disclosure Statement. The orders are attached to the Plan Application as Exhibits J–1 and J–2.

[14] The Debtors state that ENA is the single largest creditor of Enron and its intercompany claim against Enron is its single largest asset. The ENA Examiner was appointed, among other things, to serve as a plan facilitator for ENA and its subsidiaries. The ENA Examiner has performed this function by engaging in dialogue with the Debtors, representatives of the Creditors' Committee, and certain parties in interest that assert claims against ENA and its subsidiaries, and by filing reports concerning various issues related to the Plan.

[15] The Plan does provide, however, for a litigation trust or similar vehicle to pursue avoidance and other types of claims against numerous financial institutions and other entities that are creditors of the estates.

of these businesses or related businesses is sold, the resulting net sale proceeds held by a Debtor will be distributed to Creditors in the form of Creditor Cash. To the extent that Portland General, Prisma and CrossCountry have not been sold as of the Initial Distribution Date, then the value in these Operating Entities will be distributed to Creditors in the form of Plan Securities free and clear of all liens, claims, interests and encumbrances.

The Plan does not provide for Enron to survive in the long term as an ongoing entity with any material operating businesses. Enron's role as a Reorganized Debtor will be to hold and sell assets and to manage the litigation of the estates pending the final conclusion of the Chapter 11 cases. Although it is expected that several years may be required to conclude the extensive litigation in which the Debtors' estates are involved, the Operating Entities, including Portland General, are expected to be divested relatively soon after confirmation of the Plan.

D. Key Elements of the Plan

1. Sale or Distribution of Portland General

Enron recently announced an agreement to sell the common stock of Portland General to Oregon Electric Utility Company, LLC (''Oregon Electric''), a newly formed entity financially backed by investment funds managed by the Texas Pacific Group, a private equity investment firm.[16] The transaction is valued at approximately $2.35 billion, including the assumption of debt. The sale is subject to the receipt of Bankruptcy Court, Commission and Oregon Commission and certain other regulatory authorizations. Closing is currently anticipated to occur in the second half of 2004. The transaction is described in detail in Exhibits B–1 and B–2 of the Plan Application.

On December 5, 2003, the Bankruptcy Court issued a bidding procedures order specifying January 28, 2004 as the last date on which competing prospective buyers could submit bids to acquire Portland General.[17] Under the Purchase and Sale Agreement, Enron is permitted to accept a bid that represents a ''higher or better'' offer for Portland General. No qualifying bid was received prior to the January 28, 2004 deadline.

If Portland General has not been sold, is no longer the subject of the Purchase and Sale Agreement described above and is not the subject of another purchase agreement, then, Enron will cause Portland General to distribute its shares to creditors and equity holders pursuant to the Plan. In preparation for the distribution of Portland General under the Plan, Enron may transfer its ownership interest in Portland General, upon receipt of all appropriate regulatory approvals, including that of the Commission, to PGE Trust, a to-be-formed entity. If formed, PGE Trust would hold Enron's interest in Portland General as a liquidating vehicle, for the purpose of distributing, directly or indirectly, the shares of Portland General (or the proceeds of a sale of Portland General) to the Debtor's creditors and equity holders as required by the Plan.[18] It is possible that PGE Trust also would hold Enron's interest in Portland General for the purposes of consummating the sale of the utility to Oregon Electric.[19]

Specifically, the Plan provides that the Debtors and the Creditors' Committee would jointly determine whether the Portland General common stock should be distributed to creditors directly by Enron or through an Entity[20] (the PGE Trust)[21] to be created on or subsequent to the Confirmation Date to hold the common stock.[22] If formed, the PGE Trust, will be managed under an agreement, the PGE Trust Agreement, which must be satisfactory to the Creditors' Committee in form and substance.

The PGE Trust Agreement will provide for the management of the PGE Trust by the PGE Trustee, who will manage, administer, operate and liquidate the assets in the PGE Trust and distribute the proceeds or the Portland General common stock.[23] As currently contemplated, the PGE Trustee would be Stephen Forbes Cooper, LLC (an entity headed by Stephen Forbes Cooper and more fully described below), or such other Entity appointed by the PGE Trust Board and approved by the Bankruptcy Court to administer the PGE Trust in accordance with the provisions of the PGE Trust Agreement and Article XXIV of the Plan.[24] The PGE Trust Board would be selected by the Debtors, after consultation with the Creditors' Committee, and appointed by the Bankruptcy Court, or any replacements thereafter selected in accordance with the PGE Trust Agreement. If the PGE Trust is not formed, SFC, as Administrator, would oversee the management, administration and operation of Portland General (and the Debtors' other assets) until it is sold or its common stock is distributed to creditors under the Plan.

The Plan describes the purpose of the PGE Trust and the trusts that may be established in connection with the distribution of Prisma and CrossCountry (collectively, the ''Operating Trusts'') and the proposed management of the trusts.[25] For all federal income tax purposes, all parties (including the Debtors, the Operating Trustee and the beneficiaries of the Operating Trusts) must treat the transfer of assets to the respective Operating Trusts as a transfer to the holders of certain allowed claims, followed by a transfer by these holders to the respective Operating Trusts. The beneficiaries of the Operating Trusts are treated as the grantors of the trusts.[26]

The rights of the Operating Trustees to invest assets transferred to the Operating Trusts, the proceeds of the

[16] Enron Corp. Press Release dated November 18, 2003. The Purchase and Sale Agreement is attached to the Plan Application as Exhibit B–2.

[17] Docket No. 14665, *In re Enron Corp., et al.*, Chapter 11 Case No. 01–16034 (AJG), Dec. 5, 2003 (U.S. Bankruptcy Court, S.D.N.Y.).

[18] PGE Trust is an applicant in File No. 70–11373 for an exemption from registration under section 3(a)(4) of the Act.

[19] *See* Article XXIV of the Plan.

[20] Section 1.130 of the Plan provides that an ''Entity'' refers to a person, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, governmental unit, or any subdivision thereof, including, without limitation, the Office of the United States Trustee or any other entity.

[21] Plan Section 1.187.

[22] Enron expects that the PGE Trust would be formed if, upon the Effective Date, sufficient General Unsecured Claims have not been allowed such that at least 30% of the Portland General common stock may be distributed.

[23] Portland General currently has 42,758,877 shares of common stock, par value of $3.75 per share, all of which are held by Enron. Upon satisfaction of the conditions for the distribution of Portland General to the creditors under the Plan, the existing Portland General common stock held by Enron will be cancelled and new Portland General common stock will be issued. The shares of Portland General to be issued under the Plan will have no par value, of which 80,000,000 shares shall be authorized and of which 62,500,000 shares shall be issued under the Plan. The preferred stock of Portland General will remain outstanding.

[24] Article XXIV of the Plan describes the establishment, purpose and operating parameters of the Operating Trusts, which include the PGE Trust, the Prisma Trust and the CrossCountry Trust.

[25] The Operating Trusts would be established on behalf of the Debtors and the holders of allowed claims in certain specified classes. The Operating Trusts would be formed by the execution of the respective Operating Trust Agreements as soon as is practical after the receipt of all appropriate or required governmental, agency or other consents authorizing the transfer of the respective assets to the Operating Trusts. *See* Plan Section 24.1. With respect to the PGE Trust, the authorization of the Oregon Commission and the FERC may be required prior to the contribution of the common stock of Portland General into the PGE Trust and the distribution of the stock to the creditors.

[26] Consistent with this view, under the Operating Trust Agreements, the Debtors on the Effective Date will have no obligation to provide any funding with respect to any of the Operating Trusts.

investments, or any income earned by the respective Operating Trusts, will be limited to the right and power to invest the assets (pending periodic distributions) in cash equivalents. The Operating Trustees must distribute at least annually to the holders of the respective Operating Trust Interests all net cash income plus all net cash proceeds from the liquidation of assets, but the Operating Trustees may retain amounts necessary to satisfy liabilities and to maintain the value of the assets of the Operating Trusts during liquidation and to pay reasonable administrative expenses. The Operating Trusts must terminate no later than the third anniversary of the Confirmation Date, provided, however, that the Bankruptcy Court may extend the term of the Operating Trusts for additional periods not to exceed three years in the aggregate if it is necessary to liquidate the assets of the Operating Trusts.[27]

2. Formation of Prisma and CrossCountry and Disposition of Debtors' Other Assets, Generally

In addition to the divestiture of Portland General, other key aspects of the Plan include the formation of two nonutility holding companies, Prisma and CrossCountry.[28] Prisma is a Cayman Islands entity formed initially as a holding company pending the transfer of certain international energy infrastructure businesses that are indirectly owned by Enron and certain of its affiliates. CrossCountry is a Delaware corporation that would hold Enron's pipeline businesses, which provide natural gas transportation services through an extensive North American pipeline infrastructure.

As part of the Plan, creditors would receive shares of Prisma and CrossCountry, interests in a trust or other entity formed to distribute these assets, or cash proceeds of the sale of Prisma or CrossCountry. The Plan also makes provision for the distribution of other assets of the Debtors' estate, including in excess of $6 billion in cash, the proceeds of the liquidation or divestiture of businesses that do not fit into Prisma and CrossCountry, and the value of certain claims that Enron is pursuing against various professional service firms and financial institutions, such as commercial and investment banks. Additional detail with respect to Prisma and CrossCountry is provided below.

a. Prisma

Prisma was organized on June 24, 2003 for the purpose of acquiring the Prisma Assets, which include equity interests in the identified businesses, intercompany loans to the businesses held by affiliates of Enron, and contractual rights held by affiliates of Enron. Enron and its affiliates will contribute the Prisma Assets to Prisma in exchange for shares of Prisma Common Stock commensurate with the value of the Prisma Assets contributed.

It is expected that the contribution of the Prisma Assets will be effected pursuant to the Prisma Contribution and Separation Agreement to be entered into among Prisma and Enron and several of its affiliates. The Debtors anticipate that the Prisma Contribution and Separation Agreement, which is currently being negotiated, will be submitted for Bankruptcy Court approval either as part of the Plan Supplement or by a separate motion.

Prisma and Enron and its affiliates also expect to enter into certain ancillary agreements, which may include a new Transition Services Agreement, a tax allocation agreement (''Prisma Tax Allocation Agreement'') and a Cross License Agreement. The employees of Enron and its affiliates who have been supervising and managing the Prisma Assets since December 2001 became employees of a subsidiary of Prisma effective on or about July 31, 2003. In connection with the transfer of employees, as approved by the Bankruptcy Court, Enron and its affiliates entered into four separate Transition Services Agreements, pursuant to which these employees will continue to supervise and manage the Prisma Assets and other international assets and interests owned or operated by Enron and its affiliates. The ancillary agreements, together with the Prisma Contribution and Separation Agreement, will govern the relationship between Prisma and Enron and its affiliates after the contribution of the Prisma Assets; provide for the performance of certain interim services; and define other rights and obligations until the distribution of shares of capital stock of Prisma pursuant to the Plan or the sale of the stock to a third party. In addition, the Prisma Contribution and Separation Agreement or the ancillary agreements are expected to set forth certain shareholder protection provisions with respect to Prisma and may contain indemnification obligations of the Prisma Enron Parties.

To date, no operating businesses or assets have been transferred to Prisma. Subject to obtaining requisite consents, however, the Debtors intend to transfer the businesses described above, either in connection with the Plan or at such earlier date as may be determined by Enron and approved by the Bankruptcy Court.[29] Prisma will be engaged in the generation and distribution of electricity, the transportation and distribution of natural gas and liquefied petroleum gas, and the processing of natural gas liquids.[30] Applicants intend that Prisma will be a foreign utility company (''FUCO'') under section 33 under the Act prior to the transfer of the businesses described above to Prisma. The transfer of such businesses to Prisma in exchange for interests in Prisma would generally be exempt under section 33(c)(1) of the Act.

b. CrossCountry

CrossCountry was incorporated in Delaware on May 22, 2003. On June 24, 2003, CrossCountry and the CrossCountry Enron Parties entered into the original CrossCountry Contribution and Separation Agreement providing for the contribution of Enron's direct and indirect interests in its interstate pipelines and other related assets to CrossCountry. On September 25, 2003, the Bankruptcy Court issued an order approving the transfer of the pipeline interests and the related assets from the CrossCountry Enron Parties to CrossCountry and other related transactions, pursuant to the original CrossCountry Contribution and Separation Agreement. That order contemplates that the parties may make certain modifications to the original

[27] The United States Internal Revenue Service has stated that an organization created under Chapter 11 of the Bankruptcy Code to be a liquidating trust will be characterized as such if it meets certain requirements. In particular, the IRS requires the trustee of a liquidating trust to commit to make continuing efforts to dispose of the trust assets, make timely distributions, and not unduly prolong the duration of the trust. The Debtors state that these requirements are all incorporated into the Plan. *See generally,* Plan Article XXIV. *See also,* Rev. Proc. 94–45, 1994–2 CB 684, *amplifying and modifying* Rev. Proc. 82–58, 1982–2 CB 847, and Rev. Proc. 91–15, 1991–1 CB 484.

[28] Of the approximately 1,800 entities in the Enron group currently, approximately 82 entities would become part of Prisma and 15 would be contributed to CrossCountry. The remaining entities would be sold or liquidated in accordance with the Plan.

[29] In addition to Bankruptcy Court approval, the transfer of the businesses will require the consent of other parties, including, but not limited to, governmental authorities in various jurisdictions. If any of these consents are not obtained, then at the discretion of Enron, with the consent of the Creditors' Committee, as contemplated in the Plan, one or more of these businesses may not be transferred to Prisma, but remain instead, directly or indirectly, with Enron.

[30] If all businesses are transferred to Prisma as contemplated, the company will own interests in businesses with assets that include over 9,600 miles of natural gas transmission and distribution pipelines, over 56,000 miles of electric transmission and distribution lines and over 2,100 megawatts of electric generating capacity. The businesses will serve 6.5 million liquefied petroleum gas, gas and electricity customers in 14 countries.

Contribution and Separation Agreement. The parties are negotiating an Amended and Restated Contribution and Separation Agreement that incorporates certain changes to the original Contribution and Separation Agreement.[31] Pursuant to the Amended and Restated Contribution and Separation Agreement, Enron and certain of its affiliates would contribute their ownership interests in certain gas transmission pipeline businesses and certain nonutility service companies to CrossCountry LLC in exchange for equity interests in CrossCountry LLC. The closing of the transactions contemplated by the Amended and Restated Contribution and Separation Agreement is expected to occur as soon as possible. It is anticipated that, following confirmation of the Plan and prior to the CrossCountry Distribution Date, the equity interests in CrossCountry LLC will be exchanged for equity interests in CrossCountry Distributing Company in the CrossCountry Transaction. As a result of the CrossCountry Transaction, CrossCountry Distributing Company will obtain direct or indirect ownership in the Pipeline Businesses and certain services companies described below. CrossCountry LLC's principal assets will, upon closing of the formation transactions, consist of the following:

- A 100% indirect ownership interest in Transwestern Holdings Company, Inc. (''Transwestern''), which, through its subsidiary Transwestern Pipeline Company, owns an approximately 2,600-mile interstate natural gas pipeline system that transports natural gas from western Texas, Oklahoma, eastern New Mexico, the San Juan basin in northwestern New Mexico and southern Colorado to California, Arizona, and Texas markets. Transwestern's net income for the year ended December 31, 2002 was $20.7 million.
- A 50% ownership interest in Citrus Corp. (''Citrus''), a holding company that owns, among other businesses, Florida Gas Transmission Company (''FGT''), a company with an approximately 5,000-mile natural gas pipeline system that extends from South Texas to South Florida. An affiliate of CrossCountry operates Citrus and certain of its subsidiaries. Citrus's net income for the year ended December 31, 2002 was $96.6 million, 50% of which, or $48.3 million, comprised Enron's equity earnings. CrossCountry LLC is expected to hold its interest in Citrus through its wholly owned subsidiary, CrossCountry Citrus Corp.
- A 100% interest in Northern Plains Natural Gas Company (''Northern Plains''), which directly or through its subsidiaries holds 1.65% out of an aggregate 2% general partner interest and a 1.06% limited partner interest in Northern Border Partners, L.P. (''Northern Border'') a publicly traded limited partnership that is a leading transporter of natural gas imported from Canada to the Midwestern United States. Pursuant to operating agreements, Northern Plains operates Northern Border's interstate pipeline systems, including Northern Border Pipeline, Midwestern, and Viking. Northern Border also has (i) extensive gas gathering operations in the Powder River Basin in Wyoming, (ii) natural gas gathering, processing and fractionation operations in the Williston Basin in Montana and North Dakota, and the western Canadian sedimentary basin in Alberta, Canada, and (iii) ownership of the only coal slurry pipeline in operation in the United States. Northern Border's net income for the year ended December 31, 2002 was $113.7 million, of which $9.1 million comprised Enron's equity earnings.

The Debtors state that these companies have a history of expanding their pipeline systems to meet growth in market demand and to increase customers' access to additional natural gas supplies. These expansions not only provide the individual interstate pipeline businesses with additional net income and cash flow, but also are important factors in maintaining and enhancing their market positions. Historically, the interstate pipeline businesses have undertaken expansions when they are backed by long-term firm contract commitments. In addition, the pipelines have historically made acquisitions to meet market growth and gain access to gas supplies.

The Debtors expect that the contribution of the interests in the gas pipeline businesses to CrossCountry LLC under the Contribution and Separation Agreement, in exchange for equity interests in CrossCountry LLC, would be exempt capital contributions under rule 45(b)(4) under the Act.

3. Other Assets and Claims

Pursuant to the Plan, any Remaining Assets not converted to Cash as of the Effective Date will continue to be liquidated for distribution to holders of Allowed Claims in the form of Creditor Cash. In the event that the Debtors and the Creditors' Committee jointly determine to create the Remaining Asset Trusts on or prior to the date on which the Litigation Trust is created, interests in the Remaining Asset Trusts will be deemed to be allocated to holders of Allowed Claims at the then estimated value of Remaining Assets. The allocation of Remaining Asset Trust Interests will form part of the Plan Currency in lieu of Creditor Cash, and Creditors holding Allowed Claims will receive distributions on account of such interests in Cash, as and when Remaining Assets are realized upon.

The Plan provides for holders of Allowed Unsecured Claims against Enron (which includes Allowed Guaranty Claims and Allowed Intercompany Claims) to share the proceeds, if any, from numerous potential causes of action. To the extent that the Litigation Trust and Special Litigation Trust are implemented, these causes of action shall be deemed transferred to Creditors, on account of their Allowed Claims, and then be deemed to have contributed such causes of actions to either the Litigation Trust or the Special Litigation Trust, in exchange for beneficial interests in such trusts. The Debtors shall include, in the Plan Supplement, a listing of the claims and causes of action, comprising Litigation Trust Claims and Special Litigation Trust Claims, and which may be transferred to and prosecuted by the Litigation Trust and the Special Litigation Trust.

Upon the Effective Date, holders of Allowed Enron Preferred Equity Interests and Allowed Enron Common Equity Interests will receive, in exchange for such interests, Preferred Equity Trust Interests and Common Equity Trust Interests, respectively. The Preferred Equity Trust and Common Equity Trust will hold the Exchanged Enron Preferred Stock and Exchanged Enron Common Stock, respectively. Holders of the Preferred Equity Trust Interests and Common Equity Trust Interests will have the contingent right to receive cash distributions in the very unlikely event that the value of the Debtors' assets exceeds the Allowed Claims, but in no event will the Exchanged Enron Preferred Stock and Exchanged Enron Common Stock be distributed to those holders. The Preferred Equity Trust Interests and Common Equity Trust Interests will be uncertificated and non-transferable, except through the laws of descent or distribution.

[31] Among other things, CrossCountry Energy LLC (''CrossCountry LLC'') replaces CrossCountry as the holding company that owns the pipeline interests. Docket No. 13381, *In re Enron Corp., et al.*, Chapter 11 Case No. 01–16034 (AJG), Oct. 8, 2003 (U.S. Bankruptcy Court, S.D.N.Y.); Docket No. 14560, *In re Enron Corp., et al.*, Chapter 11 Case No. 01–16034 (AJG), Dec. 1, 2003 (U.S. Bankruptcy Court, S.D.N.Y.).

4. Treatment of Claims

The Plan generally classifies the creditors of, and other investors in, the Debtors into several classes. The treatment of each class of creditors is described in detail in the Plan and in the Disclosure Statement. The list below illustrates the descending order of priority of the distributions to be made under the Plan. In accordance with the Bankruptcy Code, distributions are made based on this order of priority such that, absent consent, holders of Allowed Claims or Equity Interests in a given Class must be paid in full before a distribution is made to a more junior Class. Notably, the Debtors continue to believe that existing Enron common stock and preferred stock has no value. However, the Plan provides Enron stockholders with a contingent right to receive a recovery in the event that the total amount of Enron's assets, including recoveries in association with litigation and the subordination, waiver or disallowance of Claims in connection with the litigation, exceeds the total amount of Allowed Claims against Enron. No distributions will be made to holders of equity interests, unless and until all unsecured claims are fully satisfied.

- Secured Claims
- Priority Claims
- Unsecured and Convenience Claims
- Section 510 Senior Note Claims and Enron Subordinated Debenture Claims
- Penalty Claims and other Subordinated Claims
- Section 510 Enron Preferred Equity Interest Claims
  - Enron Preferred Equity Interests
  - Section 510 Enron Common Equity Interests and Enron Common Equity Interests

In addition to the distributions on pre-petition Claims described above, the Plan provides for payment of Allowed Administrative Expense Claims in full. The Plan further provides that Administrative Expense Claims may be fixed either before or after the Effective Date.

5. Effectiveness of the Plan

Following confirmation of the Plan by the Bankruptcy Court, the Plan will become effective upon the satisfaction of certain conditions. Section 1.94 of the Plan specifies that the Effective Date will occur on the first business day after the Plan is confirmed after which the conditions to the effectiveness of the Plan have been satisfied or waived, but in no event earlier than December 31, 2004.[32] The conditions to the effectiveness of the Plan, set forth in Section 37.1, are: (i) Entry of the Bankruptcy Court confirmation order; (ii) the execution of documents and other actions necessary to implement the Plan; (iii) the receipt of consents necessary to transfer assets to and establish Prisma and CrossCountry, and (iv) the receipt of consents necessary to issue the Portland General common stock under the Plan.[33]

Implementing the Plan will involve the distributions to creditors by the Debtors required by the Plan, reporting on the status of Plan consummation, and applying for a final decree that closes the cases after they have been fully administered, including, without limitation, reconciliation of claims. As such, administration of the estates in conjunction with the Bankruptcy Court will continue post confirmation, in the manner described above, including the resolution of over five hundred adversary proceedings.

6. Administration of the Estates

a. Post-Confirmation Administration

As part of the global compromise under the Plan, the governance and oversight of the Chapter 11 cases will be streamlined. On the Effective Date, a five-member board of directors of Reorganized Enron will be appointed, with four of the directors to be designated by the Debtors after consultation with the Creditors' Committee and one of the directors to be designated by the Debtors after consultation with the ENA Examiner. Section 1129(a)(5) of the Bankruptcy Code requires that, to confirm a Chapter 11 plan, the plan proponent disclose the identity and affiliations of the proposed officers and directors of the reorganized debtors; that the appointment or continuance of such officers and directors be consistent with the interests of creditors and equity security holders and with public policy; and that there be disclosure of the identity and compensation of any insiders to be retained or employed by the reorganized debtors. The Debtors intend to file such information in the Plan Supplement no later than fifteen (15) days prior to the Ballot Date. The terms and manner of selection of the directors of each of the other Reorganized Debtors will be as provided in the Reorganized Debtors Certificate of Incorporation and the Reorganized Debtors By-laws, as the same may be amended.

The ENA Examiner will (i) cease his routine reporting duties, unless otherwise directed by the Bankruptcy Court, and (ii) retain his status (other than his limited investigatory role) pursuant to orders of the Bankruptcy Court entered as of the date of the Disclosure Statement order. Pending the Effective Date of the Plan, the ENA Examiner will continue his current oversight and advisory roles as set forth in prior orders of the Bankruptcy Court, subject to the right of the Debtors, in their sole discretion, to streamline existing internal processes, including cash management and other transaction review committees.

Although the Debtors may streamline their internal processes, the information typically provided to the ENA Examiner will continue to be provided to ensure that the ENA Examiner can fulfill his oversight functions. The Creditors' Committee will be dissolved on the Effective Date, except as provided below.

b. Post-Effective Date Administration

Upon appointment of the new board of Reorganized Enron, from and after the Effective Date, the Creditors' Committee will continue to exist only for limited purposes relating to the ongoing prosecution of estate litigation. Specifically, the Creditors' Committee will continue to exist only (i) to continue prosecuting claims or causes of action previously commenced by it on behalf of the Debtors' estates, (ii) to complete other litigation, if any, to which the Creditors' Committee is a party as of the Effective Date (unless, in the case of (i) or (ii), the Creditors' Committee's role in such litigation is assigned to another representative of the Debtors' estates, including the Reorganized Debtors, the Litigation Trust or the Special Litigation Trust) and (iii) to participate, with the Creditors' Committee's professionals and the Reorganized Debtors and their professionals, on the joint task force created with respect to the prosecution of the Litigation Trust Claims pursuant to the terms and conditions and to the full extent agreed between the Creditors'

[32] Under Section 1.94, the Debtors and the Creditors' Committee, in their discretion, could designate another Effective Date that falls after the Confirmation Date.

[33] As noted previously, in preparation for the distribution of Portland General under the Plan, upon receipt of all appropriate regulatory approvals, Enron may transfer its ownership interest in Portland General to PGE Trust, a to-be-formed entity. There may be an adjustment in the number of Portland common shares prior to contribution to the PGE Trust and in all events prior to distribution to creditors. If the Portland General common stock is distributed to creditors rather than sold, it is intended that the current Portland General shares of common stock will be canceled and 80 million shares of new Portland General common stock will be authorized and approximately 62.5 million shares issued pursuant to the Plan.

Committee and the Debtors as of the date of the Disclosure Statement Order. Thus, virtually all of the decisions that will need to be made with respect to, among other things, (i) the disposition of the Debtors' Remaining Assets, (ii) the reconciliation of Claims and (iii) the prosecution or settlement of numerous claims and causes of action (other than specific litigation involving the Creditors' Committee, as set forth above), will be made by Reorganized Enron through its agents, and the board of Reorganized Enron appointed after consultation with the Creditors' Committee and the ENA Examiner will oversee such administration. The Debtors believe that the foregoing post-Effective Date administration is consistent with the goals of reducing the expenses in the Chapter 11 cases and will thereby maximize recoveries to creditors entitled to distributions under the Plan.

The Plan does provide, however, that the ENA Examiner may have a continuing role during the post-Effective Date period. Within 20 days after the Confirmation Date, the ENA Examiner or any creditor of ENA or its subsidiaries will be entitled to file a motion requesting that the Bankruptcy Court define the duties of the ENA Examiner for the period following the Effective Date. If no such pleading is timely filed, the ENA Examiner's role will conclude on the Effective Date. The Plan's flexibility in this regard is not intended nor will it be deemed to create a presumption that the role or duties of the ENA Examiner should or should not be continued after the Effective Date; provided, however, that in no event will the ENA Examiner's scope be expanded beyond the scope approved by orders entered as of the date of the Disclosure Statement Order. In the event that the Bankruptcy Court enters an order defining the post-Effective Date duties of the ENA Examiner, notwithstanding the narrower scope of the Creditors' Committee envisioned by the Plan, the Creditors' Committee will continue to exist following the Effective Date to exercise all of its statutory rights, powers and authority until the date the ENA Examiner's rights, powers and duties are fully terminated pursuant to a Final Order. The Debtors and the Creditors' Committee intend to object to the continuation of the ENA Examiner during the post-Effective Date period.

The Plan also provides for the appointment of a Reorganized Debtor Plan Administrator (''Administrator'') on the Effective Date for the purpose of carrying out the provisions of the Plan. Pursuant to Section 1.226 of the Plan, the Administrator would be Stephen Forbes Cooper, LLC, an entity headed by Stephen Forbes Cooper, Enron's Acting President, Acting Chief Executive Officer and Chief Restructuring Officer.[34] In accordance with Section 36.2 of the Plan, the Administrator shall be responsible for implementing the distribution of the assets in the Debtors' estates to the Debtors' creditors, including, without limitation, the divestiture of Portland General common stock or the sale of that stock followed by the distribution of the proceeds to the Debtors' creditors. In addition, pursuant to the Plan, as of the Effective Date, the Reorganized Debtors will assist the Administrator in performing the following activities: (i) Holding the Operating Entities, including Portland General, for the benefit of Creditors and providing certain transition services to such entities, (ii) liquidating the Remaining Assets, (iii) making distributions to Creditors pursuant to the terms of the Plan, (iv) prosecuting Claim objections and litigation, (v) winding up the Debtors' business affairs, and (vi) otherwise implementing and effectuating the terms and provisions of the Plan.

Finally, in connection with the prosecution of litigation claims against financial institutions, law firms, accounting firms and similar defendants, a joint task force comprised of the Debtors, Creditors' Committee representatives and certain of their professionals was formed in order to maximize coordination and cooperation between the Debtors and the Creditors' Committee. Each member of the joint task force is entitled to, among other things, notice of, and participation in, meetings, negotiations, mediations, or other dispute resolution activities with regard to such litigation. Following the Effective Date, the Creditors' Committee representatives, together with the Creditors' Committee's professionals, may continue to participate in the joint task force.

[34] Mr. Cooper assumed this role at Enron on January 29, 2002, after Enron filed for bankruptcy under Chapter 11. Mr. Cooper is also the chairman of Kroll Zolfo Cooper, LLC (''Kroll''), and Kroll's Corporate Advisory and Restructuring Group. Kroll is a consulting company that provides services in corporate recovery and crisis management, forensic accounting, technology, intelligence, investigations and background screening. The Debtors state that Mr. Cooper, in his capacity as Enron's CEO, has worked with the Enron board, the Creditors' Committee, and other stakeholders in the bankruptcy process to sell non-core businesses, rehabilitate assets, prosecute the Debtors' claims against banks and professional advisors, and to assist employees. Mr. Cooper works under the supervision of Enron's board of directors, which is comprised of four individuals with extensive business and energy industry experience. The Enron board is wholly independent and each has the support of the Creditors' Committee.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3112 Filed 2–11–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49197; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Granting Approval of Amendment to the Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

February 5, 2004.

Notice is hereby given that the Securities and Exchange Commission (''SEC'' or ''Commission'') has issued an Order, pursuant to sections 17(d)[1] and 11A(a)(3)(B)[2] of the Securities Exchange Act of 1934 (''Act''), granting approval of an amendment to the plan for allocating regulatory responsibility filed pursuant to Rule 17d–2 of the Act,[3] by the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange, Inc. (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively the ''SRO participants'').

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant

[1] 15 U.S.C. 78q(d).

[2] 15 U.S.C. 78k–1(a)(3)(B).

[3] 17 CFR 240.17d–2.

[4] 15 U.S.C. 78s(g)(1).