

§ 230.412 Modified or superseded documents.

(a) Any statement contained in a document incorporated or deemed to be incorporated by reference or deemed to be part of a registration statement or the prospectus shall be deemed to be modified or superseded for purposes of the registration statement or the prospectus to the extent that a statement contained in the prospectus or in any other subsequently filed document which also is or is deemed to be incorporated by reference or deemed to be part of the registration statement or prospectus modifies or replaces such statement. Any statement contained in a document that is deemed to be incorporated by reference or deemed to be part of a registration statement or the prospectus after the most recent effective date or after the date of the most recent prospectus may modify or replace existing statements contained in the registration statement or the prospectus.

* * * * *

(d) Notwithstanding paragraph (a) of this section, any statement contained in a document that is deemed to be incorporated by reference or deemed to be part of, or any statement contained in a registration statement or the prospectus after the most recent effective date of the registration statement for liability purposes deemed to have occurred pursuant to Rule 430B (§ 230.430B), will not modify or supersede any statement contained in the registration statement or the prospectus or contained in a document that is incorporated or deemed to be incorporated by reference or deemed to be part of a registration statement or the prospectus immediately before the most recent deemed effective date pursuant to Rule 430B (§ 230.430B).

430B(c)(4)

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§ 230.430B Prospectus in a registration statement after effective date.

(c)

(a) A form of prospectus filed as part of a registration statement for offerings pursuant to Rule 415(a)(1) (viii) or (x) (§ 230.415(a)(1) (viii) or (x)) may omit information that is unknown or not reasonably available to the issuer pursuant to Rule 409 (§ 230.409). A form of prospectus filed as part of an automatic shelf registration statement for offerings pursuant to Rule 415(a)(1) (§ 230.415(a)(1)), other than Rule 415(a)(1)(vii) (§ 230.415(a)(1)(vii)), may also omit information as to whether the offering is a primary offering or an offering on behalf of persons other than the issuer, the plan of distribution for the securities, and the identification of other issuers unless known. Each such form of prospectus shall be deemed to have been filed as part of the registration statement for the purpose of section 7 of the Act.

(a)

(b) A form of prospectus filed as part of a registration statement, for offerings pursuant to Rule 415(a)(1)(i) (§ 230.415(a)(1)(i)) by an issuer eligible to use Form S-3 or Form F-3 (§ 239.13 or § 239.33 of this chapter) for primary offerings pursuant to General Instruction I.B.1 of such forms, may omit, in addition to the information omitted pursuant to paragraph (a) of this section, the identities of selling security holders and amounts of securities to be registered on their behalf if:

(b)

(1) The registration statement is an automatic shelf registration statement as defined in Rule 405 (§ 230.405); or

(2) All of the following conditions are satisfied:

(i) The offering in which the selling security holders acquired the securities being registered on their behalf was completed;

(ii) The securities were issued and outstanding prior to the original date of filing the registration statement covering the resale of the securities; and

(iii) The registration statement refers to any unnamed selling security holders in a generic manner by identifying the transaction in which the securities were acquired.

(c)

(c) A form of prospectus that is part of a registration statement that omits information in reliance upon paragraph (a) or (b) of this section meets the requirements of section 10 of the Act for the purpose of section 5(b)(1) thereof. This provision shall not limit the information required to be contained in a form of prospectus in order to meet the requirements of section 10(a) of the Act for the purposes of section 5(b)(2) thereof or exception (a) of section 2(a)(10) thereof.

(c)

(d)

(d) Information omitted from a form of prospectus that is part of an effective registration statement in reliance on

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paragraph (a) or (b) of this section may be included in the prospectus by a post-effective amendment to the registration statement, a prospectus filed pursuant to Rule 424 (§ 230.424), or, if the applicable form permits, by including the information in the issuer's periodic or current reports filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) that are incorporated or deemed incorporated by reference into the prospectus in accordance with applicable requirements.

(e)

(e) Information omitted from a form of prospectus that is part of an effective registration statement in reliance on paragraph (a) or (b) of this section, that is contained in a form of prospectus filed with the Commission pursuant to Rule 424(b)(3) (§ 230.424(b)(3)), shall be deemed part of and included in the registration statement as of the date it is first used after effectiveness.

(f)

(f) Information omitted from a form of prospectus that is part of an effective registration statement in reliance on paragraph (a) or (b) of this section, that is contained in a form of prospectus filed with the Commission pursuant to Rule 424(b)(2), (b)(5), (b)(7) or (b)(8) (§ 230.424(b)(2), (b)(5), (b)(7) or (b)(8)), shall be deemed to be part of and included in the registration statement on the earlier of the date such form of prospectus is first used or the date and time of the first contract of sale of securities to which such subsequent form of prospectus relates. Such date shall be deemed, for liability purposes only, to be a new effective date of the registration statement relating to the securities to which such subsequent form of prospectus relates and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however,* that, except for any prospectus filed for purposes of including information required by section 10(a)(3) of the Act, the provisions of Rule 401 (§ 230.401) do not apply when prospectuses are deemed part of or included in registration statements.

(h)

(g) Notwithstanding paragraph (e) or (f) of this section, no statement in a document incorporated or deemed incorporated by reference or a prospectus deemed part of and included in a registration statement or the prospectus will supersede or modify any statement that was in a document incorporated or deemed incorporated by reference or a prospectus deemed part of and included in a registration statement or the prospectus as to any purchaser who had a date and time of contract of sale prior to the effective date occurring based on the filed prospectus.

(j)

(h) Issuers relying on this section shall furnish the undertakings required by Item 512(a) of Regulation S-K (§ 229.512(a) of this chapter).

32. Add § 230.430C to read as follows:

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§ 230.430C Prospectus in a registration statement pertaining to an offering pursuant to Rule 415(a)(1)(i) or (ix) after effective date.

(g)

(a) In offerings pursuant to Rule 415(a)(1)(i) or (ix) (§ 230.415(a)(1)(i) or (ix)) by issuers not subject to the reporting requirements of section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) or not eligible to register a primary offering of its securities on Form S-3 (§ 239.13 of this chapter) pursuant to General Instructions I.B.1, I.B.2, I.C. or I.D. or Form F-3 (§ 239.33 of this chapter) pursuant to General Instructions I.A.5, I.B.1, I.B.2 or I.C., information contained in a form of prospectus filed with the Commission pursuant to (i) Rule 424(b)(3) (§ 230.424(b)(3)) for the purpose of providing the information required by section 10(a) of the Act, other than section 10(a)(3) of the Act, or for the purpose of providing information relating to the issuer or identified selling security holders that constitutes a substantive change from or addition to the information in the last form of prospectus filed; or (ii) Rule 497(c) or (e) (§ 230.497(c) or (e)), shall be deemed to be part of and included in the registration statement on the date it is first used after effectiveness.

(h)

(b) Notwithstanding paragraph (a) of this section, no statement in a prospectus deemed part of and included in a registration statement or the prospectus will supersede or modify any statement that was in a prospectus deemed part of and included in a registration statement or the prospectus as to any purchaser who had a date and time of contract of sale prior to the date the filed prospectus was deemed part of the registration statement.

(i)

(c) Nothing in this section shall affect the information required to be included in an issuer's registration statement and prospectus.

(j)

(d) In offerings subject to paragraph (a) of this section, the issuer shall furnish the undertakings required by Item 512(a) of Regulation S-K (§ 229.512(a) of this chapter), Item 512(a) and/or (g) of Regulation S-B (§ 229.512(a) and (g) of this chapter), or Item 34.4 of Form N-2 (§§ 239.14 and 274.11a-1 of this chapter), as applicable.