

statement is filed no later than 10 calendar days after the date that the registrant files its definitive proxy statement.

(3) *Content of the soliciting person's Notice of Internet Availability of Proxy Materials.* (i) If, at the time a soliciting person other than the registrant sends its Notice of Internet Availability of Proxy Materials, the soliciting person is not aware of all matters on the registrant's agenda for the meeting of security holders, the soliciting person's Notice on Internet Availability of Proxy Materials must provide a clear and impartial identification of each separate matter on the agenda to the extent known by the soliciting person at that time. The soliciting person's notice also must include a clear statement indicating that there may be additional agenda items of which the soliciting person is not aware and that the security holder cannot direct a vote for those items on the soliciting person's proxy card provided at that time.

(ii) If a soliciting person other than the registrant sends a form of proxy not containing all matters intended to be acted upon, the Notice of Internet Availability of Proxy Materials must clearly state whether execution of the form of proxy will invalidate a security holder's prior vote on matters not presented on the form of proxy.

(m) This section shall not apply to a proxy solicitation in connection with a business combination transaction, as defined in §230.165 of this chapter, as well as transactions for cash consideration requiring disclosure under Item 14 of §240.14a-101.

(n) *Full Set Delivery Option.* (1) For purposes of this paragraph (n), the term full set of proxy materials shall include all of the following documents:

- (i) A copy of the proxy statement;
- (ii) A copy of the annual report to security holders if required by §240.14a-3(b); and
- (iii) A form of proxy.

(2) Notwithstanding paragraphs (e) and (f)(2) of this section, a registrant or other soliciting person may:

- (i) Accompany the Notice of Internet Availability of Proxy Materials with a full set of proxy materials; or

- (ii) Send a full set of proxy materials without a Notice of Internet Availability of Proxy Materials if all of the information required in a Notice of Internet Availability of Proxy Materials pursuant to paragraphs (d) and (n)(4) of this section is incorporated in the proxy statement and the form of proxy.

(3) A registrant or other soliciting person that sends a full set of proxy materials to a security holder pursuant to this paragraph (n) need not comply with

- (i) The timing provisions of paragraphs (a) and (1)(2) of this section; and
- (ii) The obligation to provide copies pursuant to paragraph (j) of this section.

(4) A registrant or other soliciting person that sends a full set of proxy materials to a security holder pursuant to this paragraph (n) need not include in its Notice of Internet Availability of Proxy Materials, proxy statement, or form of proxy the following disclosures:

- (i) Instructions regarding the nature of the communication pursuant to paragraph (d)(2) of this section;
- (ii) Instructions on how to request a copy of the proxy materials; and
- (iii) Instructions on how to access the form of proxy pursuant to paragraph (d)(10) of this section.

[72 FR 4168, Jan. 29, 2007, as amended at 72 FR 42238, Aug. 1, 2007; 72 FR 42238, Aug. 1, 2007; 73 FR 17814, Apr. 1, 2008; 75 FR 9081, Feb. 26, 2010; 83 FR 29204, June 22, 2018; 85 FR 26101, May 1, 2020]

§ 240.14a-17 Electronic shareholder forums.

(a) A shareholder, registrant, or third party acting on behalf of a shareholder or registrant may establish, maintain, or operate an electronic shareholder forum to facilitate interaction among the registrant's shareholders and between the registrant and its shareholders as the shareholder or registrant deems appropriate. Subject to paragraphs (b) and (c) of this section, the forum must comply with the federal securities laws, including Section 14(a) of the Act and its associated regulations, other applicable federal laws, applicable state laws, and the registrant's governing documents.

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(b) No shareholder, registrant, or third party acting on behalf of a shareholder or registrant, by reason of establishing, maintaining, or operating an electronic shareholder forum, will be liable under the federal securities laws for any statement or information provided by another person to the electronic shareholder forum. Nothing in this section prevents or alters the application of the federal securities laws, including the provisions for liability for fraud, deception, or manipulation, or other applicable federal and state laws to the person or persons that provide a statement or information to an electronic shareholder forum.

(c) Reliance on the exemption in § 240.14a-2(b)(6) to participate in an electronic shareholder forum does not eliminate a person's eligibility to solicit proxies after the date that the exemption in § 240.14a-2(b)(6) is no longer available, or is no longer being relied upon, provided that any such solicitation is conducted in accordance with this regulation.

[73 FR 4458, Jan. 25, 2008]

§ 240.14a-18 Disclosure regarding nominating shareholders and nominees submitted for inclusion in a registrant's proxy materials pursuant to applicable state or foreign law, or a registrant's governing documents.

To have a nominee included in a registrant's proxy materials pursuant to a procedure set forth under applicable state or foreign law, or the registrant's governing documents addressing the inclusion of shareholder director nominees in the registrant's proxy materials, the nominating shareholder or nominating shareholder group must provide notice to the registrant of its intent to do so on a Schedule 14N (§ 240.14n-101) and file that notice, including the required disclosure, with the Commission on the date first transmitted to the registrant. This notice shall be postmarked or transmitted electronically to the registrant by the date specified by the registrant's advance notice provision or, where no such provision is in place, no later than 120 calendar days before the anniversary of the date that the registrant mailed its proxy materials for the prior

year's annual meeting, except that, if the registrant did not hold an annual meeting during the prior year, or if the date of the meeting has changed by more than 30 calendar days from the prior year, then the nominating shareholder or nominating shareholder group must provide notice a reasonable time before the registrant mails its proxy materials, as specified by the registrant in a Form 8-K (§ 249.308 of this chapter) filed pursuant to Item 5.08 of Form 8-K.

INSTRUCTION TO § 240.14a-18. The registrant is not responsible for any information provided in the Schedule 14N (§ 240.14n-101) by the nominating shareholder or nominating shareholder group, which is submitted as required by this section or otherwise provided by the nominating shareholder or nominating shareholder group that is included in the registrant's proxy materials.

[75 FR 56787, Sept. 16, 2010]

§ 240.14a-19 Solicitation of proxies in support of director nominees other than the registrant's nominees.

(a) No person may solicit proxies in support of director nominees other than the registrant's nominees unless such person:

(1) Provides notice to the registrant in accordance with paragraph (b) of this section unless the information required by paragraph (b) of this section has been provided in a preliminary or definitive proxy statement previously filed by such person;

(2) Files a definitive proxy statement with the Commission in accordance with § 240.14a-6(b) by the later of:

(i) 25 calendar days prior to the security holder meeting date; or

(ii) Five (5) calendar days after the date that the registrant files its definitive proxy statement; and

(3) Solicits the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors and includes a statement to that effect in the proxy statement or form of proxy.

(b) The notice shall:

(1) Be postmarked or transmitted electronically to the registrant at its principal executive office no later than 60 calendar days prior to the anniversary of the previous year's annual