

§ 1 BUSINESS & OPERATIONS

(Compensation arrangements are excluded from 1.01 and covered in 5.02)

1.01 Entry into a Material Definitive Agreement*

- Entry into or material amendment of material agreement (not made in the ordinary course of business)
- Amendment may make an agreement material
- Non-binding agreements are excluded

1.02 Termination of a Material Definitive Agreement*

- Excludes termination as a result of expiration of the agreement by its terms or completion of obligations

1.03 Bankruptcy or Receivership

- Includes petitions and orders confirming reorganization, arrangement, or liquidation

1.04 Mine Safety - Reporting of Shutdowns and Patterns of Violations

- Receipt of order or notice of mine safety violation

§ 2 FINANCIAL INFORMATION**2.01 Completion of Acquisition or Disposition of Assets**

- Made by registrant or its majority-owned subsidiaries
- Involves a significant amount of assets otherwise than in the ordinary course of business

2.02 Results of Operations & Financial Condition*[‡]

- Public announcement or release disclosing material non-public information for a completed quarterly or annual fiscal period

2.03 Creation of a Direct Financial Obligation (DFO) or an Obligation under an Off-Balance Sheet Arrangement*

- Must be material
- DFO means long-term debt, capital lease, operating lease, and short-term debt that arises other than in the ordinary course of business
- Applies even if the registrant is not a party to the transaction
- Exemption for securities sold pursuant to an effective registration statement

2.04 Triggering Events that Accelerate or Increase a DFO or Obligation under an Off-Balance Sheet Arrangement*

- Must be material
- Includes conversion from contingent to direct obligation
- DFO includes obligations accrued under ASC 450

2.05 Costs Associated with Exit or Disposal Activities*

- Commitment to an exit or disposal plan, disposal of a long-lived asset or termination of employees under a plan, and
- Material charges to be incurred under GAAP and future aggregate cash charges

2.06 Material Impairments*

- Determination that a material charge for impairment is required under GAAP
- Not required if determination is made during preparation, review or audit of timely filed 10-Q or 10-K disclosing impairment charge

§ 3 SECURITIES & TRADING MARKETS**3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing**

- From the national securities exchange or national securities association that maintains the principal listing for any class of the registrant's common equity
- Includes a public reprimand letter but does not include an early warning notice
- Also includes adoption of board resolution to delist

3.02 Unregistered Sales of Equity Securities

- If the securities sold constitute, in the aggregate since last filing of 8-K or periodic report, at least 1% of the registrant's outstanding securities (5% for small business issuers)

- ★ Late filing under this Item does not affect S-3 eligibility
- ❖ Will be deemed furnished, and not filed
- ◆ Named Executive Officer (CEO + CFO + 3 most highly compensated executive officers at year-end) for whom disclosure was required in most recent compensation disclosure
- ▲ Not required to be reported within 4 business days

3.03 Material Modification to Rights of Security Holders

- Any material changes defining the rights of holders of any class of registered securities
- No exemption for rights modifications proposed in prior proxy statements
- Working capital restrictions and limitations on payment of dividends

§ 4 ACCOUNTANTS & FINANCIAL STATEMENTS**4.01 Changes in Certifying Accountant**

- Must disclose in 8-K even if previously reported (e.g., in a 10-K, 10-Q or definitive proxy statement)

4.02 Non-Reliance on Previously Issued Reports

- Determination that investors should no longer rely upon previously issued financial statements*
- Also triggered if determined by independent auditor
- Must disclose in 8-K even if previously reported (e.g., in a 10-K, 10-Q or definitive proxy statement)

§ 5 CORP. GOVERNANCE & MANAGEMENT**5.01 Changes in Control****5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

- Notice of decision regarding departure of director or NEO, president, chief accounting officer, COO or, person performing similar functions[‡]
- Appointment of any CEO, president, CFO, chief accounting officer, COO or person performing similar functions
- Directors elected other than by shareholder vote
- Entry into or material amendment of a compensatory arrangement with any NEO**
- Excludes wholly-owned subsidiaries of a reporting company

5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

- Amendment to the articles or bylaws if no proposal for amendment was disclosed in previously filed proxy statement
- Change in fiscal year

5.04 Temporary Suspension of Trading Under Registrant's Employee Benefit Plans**5.05 Amendments to the Code of Ethics, or Waiver of a Provision of the Code of Ethics**

- Excludes technical, administrative or other non-substantive amendments

5.06 Change in Shell Company Status**5.07 Submission of Matters to a Vote of Security Holders**

- Disclose date of meeting, names of elected directors, brief description of matters voted on (include votes cast for, against, withheld and abstentions and broker non-votes)
- Disclose board's decision as to frequency of shareholder vote on executive compensation (due within 150 days of annual meeting but not later than 60 days prior to the deadline for submission of shareholder proposals for the next annual meeting)

5.08 Shareholder Director Nominations

- Disclose deadline for shareholder notice on Schedule 14N for proxy access, where required under foreign/state law or bylaw mandating shareholder access to company proxy for director nominees and annual meeting date changed by 30 days from prior year or annual meeting was not held in prior year

§ 6 ASSET-BACKED SECURITIES**§§ 7-8 OPTIONAL 8-K FILINGS****7.01 Regulation FD[‡]****8.01 Other Events (deemed important to security holders)▲****§ 9 FINANCIAL STATEMENTS & EXHIBITS**

- Financial statements required by S-X Rule 3-05
- Exhibits required by Item 601 of Regulation S-K
- Material contracts may be filed with the next periodic report covering the period in which the contract was executed or effective▲

Desktop Reference

2014 SEC Filing Dates
When Do Financial Statements Go Stale?

Periodic Report Filing Dates for Filers with Year Ending December 31, 2013

Must be filed with the SEC by 5:30 PM (Eastern) on the following dates in 2014

- March 3** Annual Report on Form 10-K Filing Date for Large Accelerated Filers
- March 17** Annual Report on Form 10-K Filing Date for Accelerated Filers
- March 31** Annual Report on Form 10-K Filing Date for All Other Filers
- May 12** Q1 Quarterly Report on Form 10-Q Filing Date for Large Accelerated and Accelerated Filers
- May 15** Q1 Quarterly Report on Form 10-Q Filing Date for All Other Filers
- August 11** Q2 Quarterly Report on Form 10-Q Filing Date for Large Accelerated and Accelerated Filers
- August 14** Q2 Quarterly Report on Form 10-Q Filing Date for All Other Filers
- November 10** Q3 Quarterly Report on Form 10-Q Filing Date for Large Accelerated and Accelerated Filers
- November 14** Q3 Quarterly Report on Form 10-Q Filing Date for All Other Filers

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■ SEC Filing Due Date □ SEC Closed

When Do Financial Statements Go Stale?

At the close of business on the following dates in 2014 (for issuers with a fiscal year ended December 31, 2013)

- February 14** Q3 Financial Statements for IPOs, Loss Corporations, and Delinquent Filers
- March 3*** Q3 Financial Statements of Large Accelerated Filers
- March 17*** Q3 Financial Statements of Accelerated Filers
- March 31** Q3 Financial Statements of All Other Filers
- May 9** Year-End Financial Statements of Large Accelerated and Accelerated Filers
- May 14** Year-End Financial Statements of All Other Filers
- August 7** Q1 Financial Statements of Large Accelerated and Accelerated Filers
- August 12** Q1 Financial Statements of All Other Filers
- November 6** Q2 Financial Statements of Large Accelerated and Accelerated Filers
- November 12*** Q2 Financial Statements of All Other Filers

*Dates reflect a permitted extension to the next business day where dates would have otherwise occurred on a weekend or federal holiday

A "Loss Corporation" does not expect to report positive income after taxes but before extraordinary items and the cumulative effect of a change in accounting principle for (a) the most recently ended fiscal year and (b) at least one of the two prior fiscal years.

A "Large Accelerated Filer" has an aggregate market value held by non-affiliates of \$700m or more as of the last business day of the most recent Q2. Once you are in, you have to fall below \$500m to get out.

An "Accelerated Filer" has an aggregate market value held by non-affiliates of greater than \$75m but less than \$700m as of the last business day of the most recent Q2 (unless you were previously a Large Accelerated Filer, in which case the range is \$50-500m). Once you are in, you have to fall below \$50m to get out.

Special Accommodation for Timely Filers: Staleness dates do not correspond exactly with the Form 10-Q filing deadlines because the 10-Q deadlines run from the end of the most recently ended quarter, whereas the staleness dates run from the end of the preceding quarter. However, the SEC Staff generally provides an accommodation for repeat issuers that have been timely filers for the past 12 months by allowing such issuers' registration statements to become effective during the gap period between the staleness dates shown above and the nearest 10-Q filing deadline, absent unusual circumstances. As a result, for most repeat issuers, the effective staleness date is the same as the applicable 10-K or 10-Q filing deadline.

The information contained herein shall not be construed as legal advice. Should further analysis or explanation of the subject matter be required, contact the Latham & Watkins attorney whom you normally consult.

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