

Appendix IV-1

Rule 460. Distribution of Preliminary Prospectuses and Requests for Acceleration of Effective Date^{1/}

(a) Pursuant to the requirement in section 8(a) of the Act that the Commission in ruling upon requests for acceleration of the effective date of a registration statement shall have due regard to the adequacy of the information respecting the issuer theretofore available to the public, the Commission will consider whether the persons making the offering have taken reasonable steps (i) to comply with Rule 15c2-8^{2/} under the Securities Exchange Act of 1934, as amended (hereinafter the “Exchange Act”) and (ii) where a registration statement is not effective as to a class of securities of the issuer in accordance with the provisions of section 12 of the Exchange Act and the Rules and Regulations thereunder, or the issuer is not subject to the requirements of Section 15(d) of the Exchange Act, to furnish preliminary prospectuses to those persons who may reasonably be expected to be purchasers of the securities.

(b) Acceleration shall be granted only upon submission of a written statement of the managing underwriter indicating that it has been advised by all underwriters and dealers expected to participate in the offering that they have taken all steps necessary to comply with Rule 15c2-8 of the Exchange Act.

(c) In offerings referred to in clause (ii) of paragraph (a), acceleration shall be granted only upon submission of a written statement of the managing underwriter satisfactory to the Commission which indicates the procedure followed or to be followed by underwriters and dealers expected to participate in the offering to furnish preliminary prospectuses to those persons whom they reasonably expect to be purchasers of the securities.

Ordinarily, the Commission will be satisfied by a written statement of the managing underwriter to the effect that sufficient copies of a preliminary prospectus complying with Rule 433(a) have been or are being distributed to all underwriters and dealers expected to participate in the offering so as to enable each such underwriter or dealer to mail copies thereof, a reasonable time prior to the desired effective date specified in the request

^{1/} The revised Rule 460 would supersede present Rules 460 and 461.

^{2/} See Appendix IV-2.

for acceleration, to all persons to whom it then expects to mail confirmations of sale. For this purpose, a reasonable time shall ordinarily be at least 48 hours and mailing shall be by air mail if it is intended that confirmations will be sent by air mail. Such statement by the managing underwriter shall state that the managing underwriter has been advised by each such underwriter and dealer that such distribution has been made, or will be made as soon as practicable after such copies are received, and that each such underwriter and dealer has indicated the number of copies required for such distribution.

(d) Notwithstanding the provisions of paragraph (a) in the event that the form of preliminary prospectus, which has been distributed by the issuer or underwriter, is found to be inaccurate or inadequate in material respects, acceleration of the effective date of a registration statement will not be granted until the Commission has received satisfactory assurance that appropriate correcting material, including a memorandum of changes, has been sent to all underwriters and dealers who received such preliminary prospectus or prospectuses in quantity sufficient for their information and the information of others to whom the inaccurate or inadequate material was sent.

(e) Request for acceleration of the effective date of a registration statement shall be made in writing by the registrant, the managing underwriters of the proposed issue, and the selling security holders, if any, and shall state the date upon which it is desired that the registration statement shall become effective. If by reason of the expected arrangements in connection with the offering it is to be requested that the registration statement become effective at a particular hour of the day, the Commission must be advised to that effect not later than the second business day before the day on which it is desired that the statement shall become effective.

In addition to the statements required by paragraphs (b) and (c), the following information with respect to the extent of the distribution of the preliminary prospectus must be included in the request for acceleration:

(1) The dates of distribution;

(2) The number of underwriters and dealers expected to participate in the offering to whom they were furnished;

(3) The number of prospectuses so distributed;

(4) The number of prospectuses distributed to others, including persons reasonably expected to be purchasers of the securities from the managing underwriters, identifying them in general terms.

(f) Notwithstanding the provisions of the preceding paragraphs of this Rule 460, the granting of acceleration will not be conditioned upon the distribution of a preliminary prospectus in any state where such distribution would be unlawful under the laws of such state.

(g) Same as present paragraph (e) of Rule 460.

(h) Same as present paragraph (f) of Rule 460

Note to Rule 460 -- unchanged.