

IMPAC MORTGAGE HOLDINGS INC
Form 10-Q/A
September 17, 2008
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 1

FORM 10-Q/A

x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2008 or

“ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to .

Commission File Number: 1-14100

IMPAC MORTGAGE HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

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Maryland
(State or other jurisdiction of
incorporation or organization)

33-0675505
(I.R.S. Employer
Identification No.)

19500 Jamboree Road, Irvine, California 92612

(Address of principal executive offices)

(949) 475-3600

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2) Yes No

There were 76,096,392 shares of common stock outstanding as of September 12, 2008.

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EXPLANATORY NOTE

Impac Mortgage Holdings, Inc. (the Company) is filing this Amendment No. 1 to its Quarterly Report on Form 10-Q/A for the quarter ended June 30, 2008 filed with the Securities and Exchange Commission on September 15, 2008 solely for the purpose of correcting a typographical error in Exhibit 32.1 Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 regarding the quarter end to which the Certificate applies, which is the quarter ended June 30, 2008.

Except as described above, and except for currently dating the Exhibits attached hereto, this Amendment No. 1 on Form 10-Q/A does not modify or update any information reported in the original Quarterly Report on Form 10-Q for the quarter ended June 30, 2008 and it does not reflect events occurring after the date of the filing of the original Quarterly Report.

IMPAC MORTGAGE HOLDINGS, INC.

FORM 10-Q/A QUARTERLY REPORT

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Table of Contents**PART I. FINANCIAL INFORMATION****ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS****IMPAC MORTGAGE HOLDINGS, INC. AND SUBSIDIARIES****CONSOLIDATED BALANCE SHEETS**

(in thousands, except share data)

	June 30, 2008 (Unaudited)	December 31, 2007
ASSETS		
Cash and cash equivalents	\$ 25,971	\$ 24,387
Trust assets		
Investment securities available-for-sale	8,644	15,248
Securitized mortgage collateral (at fair value at June 30, 2008)	11,055,382	16,532,633
Derivative assets	109	7,497
Real estate owned (REO) at net realizable value	621,433	400,863
Total trust assets	11,685,568	16,956,241
Assets of discontinued operations	203,320	353,250
Other assets	48,684	57,194
Total assets	\$ 11,963,543	\$ 17,391,072
LIABILITIES		
Trust liabilities		
Securitized mortgage borrowings (at fair value at June 30, 2008)	\$ 11,497,132	\$ 17,780,060
Derivative liabilities	136,580	127,757
Total trust liabilities	11,633,712	17,907,817
Trust preferred securities (at fair value at June 30, 2008)	46,266	98,398
Liabilities of discontinued operations	253,334	405,341
Other liabilities	5,723	57,244
Total liabilities	11,939,035	18,468,800
Commitments and contingencies		
STOCKHOLDERS EQUITY		
Series-A junior participating preferred stock, \$0.01 par value; 2,500,000 shares authorized; none issued and outstanding		
Series-B 9.375% cumulative redeemable preferred stock, \$0.01 par value; liquidation value \$50,000; 2,000,000 shares authorized, issued and outstanding	20	20
Series-C 9.125% cumulative redeemable preferred stock, \$0.01 par value; liquidation value \$111,765; 5,500,000 shares authorized; 4,470,600 shares issued and outstanding as of June 30, 2008 and December 31, 2007	45	45

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Common stock, \$0.01 par value; 200,000,000 shares authorized; 76,096,392 shares issued and outstanding as of June 30, 2008 and December 31, 2007	761	761
Additional paid-in capital	1,175,125	1,173,562
Accumulated other comprehensive income		1,028
Net accumulated deficit:		
Cumulative dividends declared	(811,355)	(803,912)
Retained deficit	(340,088)	(1,449,232)
Net accumulated deficit	(1,151,443)	(2,253,144)
Total stockholders' equity (deficit)	24,508	(1,077,728)
Total liabilities and stockholders' equity	\$ 11,963,543	\$ 17,391,072

See accompanying notes to consolidated financial statements.

Table of Contents**IMPAC MORTGAGE HOLDINGS, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF OPERATIONS****AND COMPREHENSIVE EARNINGS (LOSS)****(in thousands, except per share data)****(Unaudited)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2008	2007	2008	2007
INTEREST INCOME:				
Total interest income	\$ 407,855	\$ 316,443	\$ 679,811	\$ 621,191
INTEREST EXPENSE:				
Total interest expense	403,599	308,569	668,206	605,374
Net interest income	4,256	7,874	11,605	15,817
Provision for loan losses		161,163		190,295
Net interest income (expense) after provision for loan losses	4,256	(153,289)	11,605	(174,478)
NON-INTEREST INCOME:				
Change in fair value of derivative instruments		91,670		73,672
Change in fair value of net trust assets, excluding REO	(11,161)		(7,633)	
Change in fair value of trust preferred securities	(997)		(5,020)	
Losses from real estate owned	(4,830)	(19,328)	(9,086)	(29,220)
Real estate advisory fees	4,696		8,540	
Other	1,544	(1,538)	3,442	3,749
Total non-interest (expense) income	(10,748)	70,804	(9,757)	48,201
NON-INTEREST EXPENSE:				
General and administrative	4,925	4,451	8,912	9,960
Personnel expense	2,820	1,620	5,150	2,464
Total non-interest expense	7,745	6,071	14,062	12,424
Net loss from continuing operations	(14,237)	(88,556)	(12,214)	(138,701)
Income tax expense from continuing operations	2,202	4,969	8,728	8,956
Net loss from continuing operations	(16,439)	(93,525)	(20,942)	(147,657)
Net loss from discontinued operations, net of tax	(11,048)	(59,022)	(10,360)	(126,558)
Net loss	(27,487)	(152,547)	(31,302)	(274,215)
Cash dividends on cumulative redeemable preferred stock	(3,722)	(3,722)	(7,443)	(7,443)
Net loss available to common stockholders	\$ (31,209)	\$ (156,269)	\$ (38,745)	\$ (281,658)

See accompanying notes to consolidated financial statements.

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**For the Three Months
Ended June 30,
2008**

Net loss \$
Net unrealized
losses on
securities:
Unrealized
holding losses
arising during
year
Reclassification
of losses
included in net
earnings
Net unrealized
losses
Comprehensive
loss \$

Net loss per
common share
- Basic:
Loss from
continuing
operations \$
Loss from
discontinued
operations
Net loss per
share \$

Net loss per
common share
- Diluted:
Loss from
continuing
operations \$
Loss from
discontinued
operations
Net loss per
share \$

No more than 600,000 shares of Common Stock (subject to adjustment for certain changes in our capital (described in Item 19) subject to options granted under the 2000 Plan to a single recipient during a 12-month period.

Participation. The Compensation Committee may grant options under the 2000 Plan to our officers, employees and consultants, as well as those of our affiliates. Our affiliates, for purposes of the 2000 Plan, are generally entities in which we own a greater than 50 percent ownership interest, or which have a more than 50 percent direct or indirect ownership interest in a material equity interest that the Compensation Committee designates as an affiliate for purposes of the 2000 Plan. Our subsidiaries (as defined in the 2000 Plan) are eligible to receive "incentive stock options" under the 2000 Plan, but they are not eligible to receive "non-qualified stock options" under the 2000 Plan.

All of our employees (currently approximately 621 in number), including all of our executive officers (5 in number), are eligible to receive options under the 2000 Plan. The individuals to whom additional options will be granted under the 2000 Plan have not been determined, but it is anticipated that, among others, all of our present executive officers, including our Chairman, will receive options under the 2000 Plan.

Table, will receive such additional options under the 2000 Plan. Options are granted on a discretionary basis as a

Terms of Options.

Types of Options. Additional options to be granted under the 2000 Plan will be either "incentive stock options" for tax treatment under the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), or options otherwise known as "non-qualified options", as determined by the Compensation Committee and stated in the applicable option agreement.

Option Price. The Compensation Committee determines the option exercise price of each option granted under the 2000 Plan. The per-share exercise price of an "incentive stock option" granted under the 2000 Plan must be at least equal to the fair market value of the Common Stock (as defined in the 2000 Plan) on the date such incentive stock option is granted. On January 20, 2004, the fair market value of the Common Stock was \$7.60.

Payment. The option exercise price of any options granted under the 2000 Plan may be paid in any legal manner. The method of payment includes a "cashless exercise" program if the Compensation Committee elects to establish one. Payment may be made in Common Stock already owned for at least six months by the person exercising an option, subject in any case to whatever restrictions the Compensation Committee may prescribe. Any cash proceeds that we receive upon the exercise of options granted under the 2000 Plan will be used to purchase Common Stock.

Exercise of Options. The Compensation Committee determines, as set forth in the applicable option agreement, the terms and conditions under which options granted under the 2000 Plan may be exercised, and any events that will cause such options to terminate. Each option shall terminate on or before ten years following the date such option was granted. In general, options

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granted under the 2000 Plan also terminate when the recipient's service as a director, employee or consultant of EMCORE terminates. The Compensation Committee may permit an option that has not otherwise expired to be exercised after such a termination for a period of up to 90 days after the termination of service. A recipient may elect to defer until a later date delivery of shares otherwise deliverable upon exercise of such option, if permitted by the Compensation Committee.

Transferability of Options. Options granted under the 2000 Plan are, in general, only exercisable during the lifetime of the recipient. The recipient's options are, however, transferable by will or the laws of descent and distribution or to a designated beneficiary. The Compensation Committee may permit the recipient of a non-qualified option under the 2000 Plan to transfer such option during his or her lifetime, subject to the conditions as the Compensation Committee may prescribe.

Changes in Capital. In order to preserve the benefits or potential benefits intended to be made available under the 2000 Plan, otherwise necessary, the Compensation Committee may, in its discretion, make appropriate adjustments in (a) the number of shares of Common Stock under the 2000 Plan, (b) the limit on the number of shares of Common Stock that can be subject to options granted under the 2000 Plan, and (c) the number, class, kind and price of shares under each outstanding option, in the event of changes in our capital structure from certain changes in our corporate structure or capitalization, such as the payment of a stock dividend, a stock split, a merger or consolidation (whether or not EMCORE is the surviving corporation), a spin-off, liquidation or other substantial change in our capital structure, or the issuance of new shares of Common Stock for less than full consideration, or rights or convertible securities with respect to our stock.

In the event of a "change in control" of EMCORE (as defined in the 2000 Plan), all options then outstanding under the 2000 Plan shall become immediately exercisable in full. The 2000 Plan gives the Compensation Committee discretion, in the event of a change in control, to substitute for shares of Common Stock subject to options outstanding under the 2000 Plan shares or other securities of EMCORE or another corporate party to the transaction, with approximately the same value, or to cash out outstanding options by paying the cash consideration received for Common Stock in such transaction, or, if higher, the highest fair market value of Common Stock at the time of the change in control.

immediately prior to the closing or expiration date of such transaction, reduced by the option exercise price of the option. The Compensation Committee may also provide that any options subject to any such acceleration, adjustment or conversion cannot be exercised until the date of such transaction. If such a change in control transaction disqualifies an employee's incentive stock options from favorability under the Internal Revenue Code or results in the imposition of certain additional taxes on such an employee, we may, in our discretion, make a cash payment that would leave such an employee in the same after-tax position that he or she would have been in had such transaction not occurred, or to otherwise equalize such employee for such taxes.

Tax Withholding Obligations. Recipients who exercise their options under the 2000 Plan are required to pay, or cause to be paid, the tax withholding obligations arising under applicable law with respect to such options. Such taxes must be paid in full. If the Compensation Committee permits, a recipient may elect to satisfy all or a part of such tax obligations by requesting that we withhold taxes on the exercise of his or her option and/or by tendering shares of Common Stock already owned by such recipient for sale to us in satisfaction of such tax obligations, with applicable law, deduct any such taxes from amounts that are otherwise due to such a recipient.

Amendment and Termination of the 2000 Plan. Our Board of Directors may amend, alter, suspend or terminate the 2000 Plan. Our Board of Directors will be required to obtain approval of the shareholders, if such approval is required by any applicable law, regulation or rule (including stock options) or rule, of any amendment of the 2000 Plan that would:

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- except in the event of certain changes in our capital (as described above under "Changes in Capital"), increase the number of shares of Common Stock that may be delivered under the 2000 Plan, or that may be subject to options granted to a single recipient in a 12-month period;
 - decrease the minimum option exercise price required by the 2000 Plan;
 - change the class of persons eligible to receive options under the 2000 Plan; or
 - extend the duration of the 2000 Plan or the exercise period of any options granted under the 2000 Plan.

Accordingly, a vote of the shareholders is required for the amendment to the 2000 Plan contemplated by this proposal.

The Compensation Committee may amend outstanding options. However, no such amendment or termination of the 2000 Plan or of any options may materially impair the previously accrued rights of any recipient of an option under the 2000 Plan who has exercised such option.

The 2000 Plan will terminate on February 16, 2010, unless the 2000 Plan is terminated earlier by our Board of Directors. The number of shares of Common Stock available under the 2000 Plan; however, any options outstanding when the 2000 Plan terminates will remain outstanding until they terminate or expire.

Certain Federal Income Tax Consequences. The following is a brief summary of certain significant United States Federal income tax consequences under the Internal Revenue Code, as in effect on the date of this summary, applicable to EMCORE and recipients of options under the 2000 Plan (referred to in this summary as "optionees") in connection with the grant and exercise of options under the 2000 Plan. This summary is not intended to be, and does not constitute, a tax opinion. This summary, among other things, does not describe state, local or foreign tax consequences, or the effect of gift, estate or inheritance tax consequences. The terms "we," "us" and "our" in this summary of tax consequences mean EMCORE Corporation or any affiliate of EMCORE Corporation.

The grant of stock options under the 2000 Plan will not result in taxable income to optionees or an income tax deduction to EMCORE. The receipt of shares of Common Stock to optionees upon exercise of their options may or may not give rise to taxable income to the optionees, depending upon whether the options are "incentive stock options" or non-qualified options.

The exercise of a non-qualified option generally results in immediate recognition of ordinary income by the optionee equal to the amount by which the fair market value of the shares of Common Stock purchased, on the date of such exercise, exceeds the exercise price of the option.

appreciation or depreciation in the fair market value of such shares after the date of such exercise will generally be the time he or she disposes of such shares.

In general, the exercise of an incentive stock option is exempt from income tax (although not from the alternative minimum tax deduction for us at any time unless the optionee disposes of the common stock purchased thereby within two years after the date of grant or one year of the date of such exercise (known as a "disqualifying disposition"). If these holding periods are satisfied, and if the optionee has been an employee of us at all times from the date of grant of the incentive stock option to the date of exercise (or twelve months in the case of termination of employment due to disability), then such optionee will recognize the value of such shares as capital gain or loss. However, if the optionee makes a disqualifying disposition of any such shares, the value of such shares as ordinary income for the year in which such disposition occurs the excess, with certain adjustments, of the fair market value of the shares at the date the incentive stock option was exercised, over the option price paid for such shares. We would be entitled to a tax credit for the tax paid by such optionee. Any additional gain realized by such optionee on such a disqualifying disposition of such shares in excess of the gain realized in a disqualifying disposition is less than the exercise price of the incentive stock option, the difference

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Under Section 162(m) of the Internal Revenue Code, we may be limited as to Federal income tax deductions to the extent that an excess of \$1 million is paid to our Chief Executive Officer or any one of our other four highest paid executive officers in any one of our taxable years. However, certain "performance-based compensation" the material terms of which are disclosed in our proxy statement is not subject to this deduction limitation. We have structured the 2000 Plan with the intention that compensation resulting therefrom will be qualified performance-based compensation and, assuming shareholder approval of the 2000 Plan, deductable for purposes of the deduction imposed by Section 162(m) of the Internal Revenue Code.

Under certain circumstances, accelerated vesting or exercise of options under the 2000 Plan in connection with a termination of employment may be deemed an "excess parachute payment" for purposes of the golden parachute payment provisions of Section 280E. If such payment is so considered, the optionee would be subject to an excise tax equal to 20 percent of the amount of the excess payment. The tax deduction for the excess parachute payment.

THE BOARD OF DIRECTORS RECOMMENDS THAT THE SHAREHOLDERS VOTE "FOR" THE PROPOSAL. IF A SHAREHOLDER GIVES INSTRUCTIONS ON THE PROXY CARD TO THE CONTRARY, THE BOARD WILL VOTE AS SO TO VOTE.

GENERAL

ANNUAL REPORT ON FORM 10-K AND FINANCIAL STATEMENTS

The Company's 2003 Annual Report on Form 10-K is being mailed to the Company's shareholders together with this proxy statement. If a Form 10-K not included in this mailing will be furnished upon written request directed to the Company at 145 B Street, Suite 200, San Francisco, CA 94102, Attention: Investor Relations. The Company's 2003 Annual Report on Form 10-K (including exhibits thereto) are available on the Company's website (www.emcore.com).

OTHER MATTERS

The Board of Directors knows of no other business which will be presented at the meeting. If, however, other matters come before the meeting, the shareholders in the enclosed proxy will vote the shares represented thereby in accordance with their judgment on such matters.

SHAREHOLDER PROPOSALS

Shareholder proposals intended to be presented at the 2005 Annual Meeting of Shareholders, including nominations, must be received by the Company no later than September 29, 2004. Proposals may be mailed to the Company, to the Belmont Drive, Somerset, New Jersey 08873. Proposals must comply with all applicable SEC rules.

SHAREHOLDER COMMUNICATIONS

Historically, the Company has not adopted a formal process for shareholder communications with the Board of Directors. We have made to ensure that the views of shareholders are heard by the Board or individual directors, as applicable, and to communicate with shareholders in a timely manner. We believe our responsiveness to shareholder communications to the Board during the upcoming year the Board will give full consideration to the adoption of a formal process for shareholder communications. We will publish it promptly and post it to the Company's website.

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BOARD ATTENDANCE AT ANNUAL MEETING

Although the Company does not have a formal policy regarding attendance by members of the Board of Directors, our Stockholders, it encourages directors to attend and historically a majority have done so. For example, five of our directors attended the 2002 Annual Meeting, and four of seven attended the 2003 Annual Meeting. The Board will give consideration during the upcoming year to record into a formal policy, so as to maximize attendance by directors, taking into account the directors' schedules and applicable law.

By Order of the Board of Directors
/s/ Howard W. Brodie

Howard W. Brodie
Secretary

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APPENDIX 1

EMCORE CORPORATION AUDIT COMMITTEE CHARTER

The audit committee of the board of directors of EMCORE Corporation (the "Company") will have the oversight responsibilities described below.

The primary function of the audit committee is to assist the board of directors in fulfilling its oversight responsibilities that will be provided to the shareholders and others, (ii) the systems of internal controls management and the board's audit processes.

COMPOSITION

The audit committee will consist of not less than three (3) directors, as determined by the board of directors. The independence and experience requirements of the Nasdaq Stock Market ("Nasdaq"). One of the members shall be a member of the board of directors.

GENERAL REPOSNSIBILITIES

1. The audit committee provides open avenues of communication among the internal auditors, the independent accountant and the board of directors.
2. The audit committee must report committee actions to the full board of directors and may make appropriate recommendations.
3. The audit committee has the power to conduct or authorize investigations into matters within the audit committee's scope of responsibilities. The audit committee is authorized to retain independent counsel, accountants or others it needs to assist in an investigation.
4. The committee will meet at least four times each year, more frequently if circumstances make that preferable. The audit committee chairperson has the power to call a committee meeting whenever he or she thinks there is a need. An audit committee member should not vote on any matter in which he or she is not independent. The committee may ask members of management or others to attend the meeting and is authorized to receive all pertinent information from management.
5. The committee will do whatever else the law, the Company's charter or bylaws or the board of directors require.

SPECIFIC DUTIES

In carrying out its oversight responsibilities, the audit committee will:

1. Review and reassess the adequacy of this charter annually and recommend any proposed changes to the board of directors for approval. This should be done in compliance with applicable Nasdaq audit committee requirements.
2. Review with the Company's management, internal audit personnel and independent accountants Company's accounting and financial reporting controls. Obtain annually in writing from the independent accountants their letter as to the adequacy of such controls.
3. Review with the Company's management, internal audit personnel and independent accountants significant accounting and reporting principles, practices and procedures applied by the Company in preparing its financial statements. Discuss with the independent accountants their judgments about the quality, not just the acceptability, of the Company's accounting principles used in financial reporting.
4. Review the scope of internal audit's work plan for the year and receive a summary report of major findings by internal auditors and how management is addressing the conditions reported.

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5. Review the scope and general extent of the independent accountants' annual audit. The audit committee's review should include an explanation from the independent accountants of the factors considered by the accountants in determining the audit scope, including the major risk factors. The independent accountants should confirm to the audit committee that no limitations have been placed on the scope or nature of their audit procedures. The audit committee will review annually with management the fee arrangement with the independent accountants.
 6. Inquire as to the independence of the independent accountants and obtain from the independent accountants, at least annually, a formal written statement delineating all relationships between the

independent accountants and the Company as contemplated by Independence Standards Board Standard No. 1, Independence Discussions with Audit Committees.

7. Have a predetermined arrangement with the independent accountants that they will advise the audit committee through its chairperson and management of the Company of any matters identified through procedures followed for interim quarterly financial statements, and that such notification is to be made prior to the related press release or, if not practicable, prior to filing the applicable Form 10-Q. Also receive a written confirmation provided by the independent accountants at the end of each of the first three quarters of the year that they have nothing to report to the audit committee, if that is the case, or the written enumeration of required reporting issues.
8. At the completion of the annual audit, review with management, internal audit and the independent accountants the following:
 - The annual financial statements and related footnotes and financial information to be included in the Company's annual report to shareholders and on Form 10-K.
 - Results of the audit of the financial statements and the related report thereon and, if applicable, a report on changes during the year in accounting principles and their application.
 - Significant changes to the audit plan, if any, and any serious disputes or difficulties with management encountered during the audit. Inquire about the cooperation received by the independent accountants during their audit, including access to all requested records, data and information. Inquire of the independent accountants whether there have been any disagreements with management which, if not satisfactorily resolved, would have caused them to issue a nonstandard report on the Company's financial statements.
 - Other communications as required to be communicated by the independent accountants by Statement of Auditing Standards (SAS) 61 as amended, modified or supplemented, relating to the conduct of the audit. Further, receive a written communication provided by the independent accountants concerning their judgment about the quality of the Company's accounting principles, as outlined in SAS 61 as amended, modified or supplemented, and that they concur with management's representation concerning audit adjustments.

If deemed appropriate after such review and discussion, recommend to the Board that the financial statements be included in the Company's annual report to shareholders and on Form 10-K.

9. After preparation by management and review by internal audit personnel and independent accountants, approve the report required under SEC rules to be included in the Company's annual proxy statement. The audit committee charter is to be published as an appendix to the proxy statement every three years.
10. Discuss with the independent accountants the quality of the Company's financial and accounting personnel. Also, elicit the comments of management regarding the responsiveness of the independent accountants to the Company's needs.
11. Meet with management, internal audit personnel and the independent accountants to discuss any relevant significant recommendations that the independent accountants may have, particularly those characterized as 'material' or 'serious'. Typically, such recommendations will be presented by the independent accountants in the form of a Letter of Comments and Recommendations to the audit committee. The audit committee should review responses of management to the Letter of Comments

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and Recommendations from the independent accountants and receive follow-up reports on action taken concerning the aforementioned recommendations.

12. Recommend to the board of directors the selection, retention or termination of the Company's independent accountants.
13. Review the appointment and replacement of the senior internal audit executive.
14. Review with management, internal audit personnel and the independent accountants the methods used to establish and monitor the Company's policies with respect to unethical or illegal activities by Company employees that may have a material impact on the financial statements.
15. Generally as part of the review of the annual financial statements, receive an oral report(s), at least annually, from the Company's general counsel concerning legal and regulatory matters that may have a material impact on the financial statements.
16. As the Committee may deem appropriate, obtain, weigh and consider expert advice as to Audit Committee related rules of the Nasdaq, Statements on Auditing Standards and other accounting, legal and regulatory provisions.

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