

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): February 12, 2024

ImmunoGen, Inc.†
(Exact name of registrant as specified in its charter)

Massachusetts
(State or other jurisdiction
of incorporation)

0-17999
(Commission File Number)

04-2726691
(IRS Employer
Identification No.)

830 Winter Street, Waltham, MA 02451
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (781) 895-0600

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, \$.01 par value	IMGN	Nasdaq Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

† In connection with the completion of the transactions to which this Current Report on Form 8-K relates, the registrant's stock ceased trading on the Nasdaq Global Select Market.

Introductory Note.

As previously disclosed, on November 30, 2023, ImmunoGen, Inc., a Massachusetts corporation (the “Company” or “ImmunoGen”), entered into an Agreement and Plan of Merger (the “Merger Agreement”) with AbbVie Inc., a Delaware corporation (“AbbVie”), Athene Subsidiary LLC, a Delaware limited liability company and wholly owned subsidiary of AbbVie (“Intermediate Sub”), and Athene Merger Sub Inc., a Massachusetts corporation and wholly owned subsidiary of Intermediate Sub (“Purchaser”). On February 12, 2024, Purchaser merged with and into the Company (the “Merger”) on the terms and conditions set forth in the Merger Agreement, with the Company surviving the Merger as a wholly owned subsidiary of Intermediate Sub (the “Surviving Corporation”).

Item 1.02 Termination of a Material Definitive Agreement.

In connection with the consummation of the Merger, on February 12, 2024, ImmunoGen repaid in full the obligations then owed under the Loan Agreement (the “Loan Agreement”), dated as of April 6, 2023, by and among the Company, as the borrower, certain subsidiaries of the Company party thereto from time to time, as guarantors, BPCR Limited Partnership, as a lender, BioPharma Credit Investments V (Master) LP, as a lender, and BioPharma Credit PLC, as collateral agent for the lenders, and upon the receipt of such payment by BPCR Limited Partnership and BioPharma Credit Investment V (Master) LP, as applicable, all obligations under the Loan Agreement and related collateral documents, other than certain continuing indemnity obligations and other obligations which, by the express terms of the Loan Agreement and related ancillary documents, survive the termination of the Loan Agreement, were terminated and all security interests in the collateral securing the loans were released.

Item 2.01 Completion of Acquisition or Disposition of Assets.

Pursuant to the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of common stock, par value \$.01 per share, of the Company (“Company Common Shares”) that was issued and outstanding immediately prior to the Effective Time (other than certain excluded Company Common Shares as set forth in the Merger Agreement (such shares, the “Excluded Shares”)) was converted into the right to receive an amount in cash equal to \$31.26, without interest (the “Merger Consideration”).

Each option to purchase Company Common Shares (a “Company Stock Option”), each restricted stock unit award in respect of Company Common Shares and each deferred stock unit award measured by the value of Company Common Shares (or pursuant to which Company Common Shares may be delivered) (collectively, “Company Equity Awards”), granted prior to the date of the Merger Agreement and that were outstanding and unvested as of immediately prior to the Effective Time, vested in full upon the Effective Time. As of the Effective Time, each Company Stock Option that was outstanding immediately prior to the Effective Time was cancelled and in exchange therefor the holder became entitled to receive an amount in cash, without interest and less applicable tax withholdings, equal to (i) the total number of Company Common Shares subject to such Company Stock Option immediately prior to the Effective Time, multiplied by (ii) the excess, if any, of the Merger Consideration over the applicable exercise price per Company Common Share under such Company Stock Option. As of the Effective Time, each Company Equity Award (other than a Company Stock Option), subject to certain exceptions with respect to restricted stock unit awards granted after the date of the Merger Agreement, that was outstanding immediately prior to the Effective Time was cancelled and in exchange therefor the holder became entitled to receive in cash, without interest and less applicable tax withholdings, an amount equal to the product of (x) the total number of Company Common Shares subject to (or deliverable under) such Company Equity Award immediately prior to the Effective Time multiplied by (y) the Merger Consideration. With respect to restricted stock unit awards in respect of Company Common Shares granted on or after the date of the Merger Agreement, as of the Effective Time, each such award will be exchanged for restricted stock units with respect to shares of AbbVie common stock (adjusted in accordance with the Merger Agreement) and will continue to vest on its original vesting schedule and in accordance with the terms and conditions applicable prior to the Effective Time.

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated herein by reference. The description of the Merger and the Merger Agreement contained in this Item 2.01 does not purport to be complete and is subject to and qualified in its entirety by reference to the full text of the Merger Agreement, which was included as Exhibit 2.1 to the Current Report on Form 8-K filed with the U.S. Securities and Exchange Commission (the “SEC”) by the Company on November 30, 2023 and is incorporated herein by reference.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

In connection with the consummation of the Merger, the Company notified representatives of the Nasdaq Global Select Market (“Nasdaq”) that the Merger had been completed and requested that Nasdaq delist the Company Common Shares. As a result, shares of Company Common Shares ceased to trade prior to market open on February 12, 2024, and became eligible for delisting from Nasdaq and termination of registration under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company has requested that Nasdaq file with the SEC a Notification of Removal From Listing and Registration on Form 25 to delist the Company Common Shares from Nasdaq under Section 12(b) of the Exchange Act on February 12, 2024. After the Form 25 becomes effective, the Surviving Corporation intends to file a Form 15 with the SEC to terminate the registration of the Company Stock under Section 12(g) of the Exchange Act and suspend its reporting obligations with the SEC under Sections 13 and 15(d) of the Exchange Act.

The disclosure set forth in the Introductory Note of this Current Report on Form 8-K and the disclosure set forth in Item 2.01 of this Current Report on Form 8-K are incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders.

In connection with the consummation of the Merger, at the Effective Time, holders of shares of Company Common Shares (other than Excluded Shares) and Company Equity Awards ceased to have any rights in connection with their holding of such securities (other than their right to receive (a) with respect to Company Common Shares, the Merger Consideration, as described in Item 2.01, and (b) with respect to Company Equity Awards, the consideration described in Item 2.01).

The disclosure set forth in the Introductory Note of this Current Report on Form 8-K and the disclosure set forth in Items 2.01, 3.01 and 5.03 of this Current Report on Form 8-K are incorporated herein by reference.

Item 5.01 Changes in Control of Registrant.

As a result of the consummation of the Merger, a change in control of the Company occurred, and the Company became a wholly owned subsidiary of Intermediate Sub. The total equity value of the transaction was approximately \$10.1 billion. AbbVie funded the Merger with a combination of cash on hand and debt.

The information set forth in the Introductory Note and the information set forth under Items 2.01, 3.03 and 5.02 of this Current Report on Form 8-K is incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

In connection with the Merger, effective as of the Effective Time, Stephen C. McCluski, Stuart A. Arbuckle, Mark J. Enyedy, Mark A. Goldberg, Tracey L. McCain, Dean J. Mitchell, Kristine Peterson, Helen Thackray, and Richard J. Wallace ceased to be members of the Company’s board of directors (the “Board of Directors”) or any committee thereof.

The disclosure set forth in the Introductory Note of this Current Report on Form 8-K and the disclosure set forth in Item 2.01 of this Current Report on Form 8-K are incorporated herein by reference.

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

Pursuant to the Merger Agreement, effective as of the Effective Time, the amended and restated articles of organization of the Company and the amended and restated by-laws of the Company, each as in effect immediately prior to the Effective Time were each amended and restated in their entirety, as set forth in Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K, which are incorporated herein by reference.

The disclosure set forth in the Introductory Note of this Current Report on Form 8-K and the disclosure set forth in Item 2.01 of this Current Report on Form 8-K are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1†	Agreement and Plan of Merger, dated as of November 30, 2023, among ImmunoGen, Inc., AbbVie Inc., Athene Subsidiary LLC, and Athene Merger Sub Inc. (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by ImmunoGen, Inc. with the Securities and Exchange Commission on November 30, 2023).
3.1	Restated Articles of Organization of ImmunoGen, Inc.
3.2	Amended and Restated By-Laws of ImmunoGen, Inc.
104	Cover Page Interactive Data File, formatted in Inline XBRL.

† Certain of the exhibits and schedules to this exhibit have been omitted in accordance with Regulation S-K Item 601(b)(2). The Registrant agrees to furnish supplementally a copy of all omitted exhibits and schedules to the SEC upon its request.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: February 12, 2024

ImmunoGen, Inc.

By: /s/ Daniel S. Char

Name: Daniel S. Char

Title: Senior Vice President, Chief Legal Officer

D
PC

The Commonwealth of Massachusetts

William Francis Galvin

Secretary of the Commonwealth

One Ashburton Place, Boston, Massachusetts 02108-1512

FORM MUST BE TYPED

Restated Articles of Organization
(General Laws Chapter 156D, Section 10.07; 950 CMR 113.35)

FORM MUST BE TYPED

(1) Exact name of corporation: ImmunoGen, Inc.(2) Registered office address: CT Corporation System, 155 Federal Street, Suite 700, Boston, Massachusetts 02110
(number, street, city or town, state, zip code)(3) Date adopted: _____
(month, day, year)

(4) Approved by:

(check appropriate box) the directors without shareholder approval and shareholder approval was not required;

OR

 the board of directors and the shareholders in the manner required by G.L. Chapter 156D and the corporation's articles of organization.

(5) The following information is required to be included in the articles of organization pursuant to G.L. Chapter 156D, Section 2.02 except that the supplemental information provided for in Article VIII is not required:*

ARTICLE I

The exact name of the corporation is:

ImmunoGen, Inc.

ARTICLE II

Unless the articles of organization otherwise provide, all corporations formed pursuant to G.L. Chapter 156D have the purpose of engaging in any lawful business. Please specify if you want a more limited purpose:**

The purpose of the corporation is to engage in any lawful business for which a corporation may be organized under Chapter 156D of the General Laws of Massachusetts.

* Changes to Article VIII must be made by filing a statement of change of supplemental information form.

** Professional corporations governed by G.L. Chapter 156A and must specify the professional activities of the corporation.

ARTICLE III

State the total number of shares and par value, * if any, of each class of stock that the corporation is authorized to issue. All corporations must authorize stock. If only one class or series is authorized, it is not necessary to specify any particular designation.

WITHOUT PAR VALUE		WITH PAR VALUE		
TYPE	NUMBER OF SHARES	TYPE	NUMBER OF SHARES	PAR VALUE
		Common	100	\$0.01

ARTICLE IV

Prior to the issuance of shares of any class or series, the articles of organization must set forth the preferences, limitations and relative rights of that class or series. The articles may also limit the type or specify the minimum amount of consideration for which shares of any class or series may be issued. Please set forth the preferences, limitations and relative rights of each class or series and, if desired, the required type and minimum amount of consideration to be received.

(a) Voting Rights. The holders of shares of common stock shall be entitled to one vote for each share so held with respect to all matters to be voted on by shareholders of the corporation.

(b) Rights Upon Dissolution. Upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the corporation, the net assets of the corporation shall be distributed pro rata to the holders of the common stock.

ARTICLE V

The restrictions, if any, imposed by the articles or organization upon the transfer of shares of any class or series of stock are:

None.

ARTICLE VI

Other lawful provisions, and if there are no such provisions, this article may be left blank.

See Article VI attached hereto and made a part hereof.

Note: The preceding six (6) articles are considered to be permanent and may be changed only by filing appropriate articles of amendment.

**G.L. Chapter 156D eliminates the concept of par value, however a corporation may specify par value in Article III. See G.L. Chapter 156D, Section 6.21, and the comments relative thereto.*

ARTICLE VII

The effective date of organization of the corporation is the date and time the articles were received for filing if the articles are not rejected within the time prescribed by law. If a later effective date is desired, specify such date, which may not be later than the 90th day after the articles are received for filing:

It is hereby certified that these restated articles of organization consolidate all amendments into a single document. If a new amendment authorizes an exchange, or effects a reclassification or cancellation, of issued shares, provisions for implementing that action are set forth in these restated articles unless contained in the text of the amendment.

Specify the number(s) of the article(s) being amended: II, III, IV, V, VI

Signed by: /s/ Emily Weith,
(signature of authorized individual)

- Chairman of the board of directors,
- President,
- Other officer,
- Court-appointed fiduciary,

on this twelfth day of February, 2024.

COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

Restated Articles of Organization
(General Laws Chapter 156D, Section 10.07; 950 CMR 113.35)

I hereby certify that upon examination of these restated articles of organization, duly submitted to me, it appears that the provisions of the General Laws relative to the organization of corporations have been complied with, and I hereby approve said articles; and the filing fee in the amount of \$_____ having been paid, said articles are deemed to have been filed with me this _____ day of _____, 20_____, at _____ a.m./p.m.
time

Effective date: _____
(must be within 90 days of date submitted)

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

Examiner

Name approval

C

M

Filing fee: Minimum filing fee \$200, plus \$100 per article amended, stock increases \$100 per 100,000 shares, plus \$100 for each additional 100,000 shares or any fraction thereof.

TO BE FILLED IN BY CORPORATION
Contact Information:

CT Corporation System _____

155 Federal Street, Suite 700 _____

Boston, Massachusetts 02110 _____

Telephone: (617) 757-6400 _____

Email: [Intentionally omitted] _____

Upon filing, a copy of this filing will be available at www.sec.state.ma.us/cor.
If the document is rejected, a copy of the rejection sheet and rejected document will be available in the rejected queue.

ARTICLE VI

(a) The board of directors may make, amend or repeal the bylaws in whole or in part, except with respect to any provision thereof which by law or the bylaws requires action by the shareholders.

(b) Notwithstanding anything in these articles of organization or the corporation's bylaws to the contrary, (i) shareholders may act without a meeting by unanimous written consent, and (ii) where written consents are solicited by or at the direction of the board of directors, shareholders may act without a meeting if the action is taken by shareholders having not less than the minimum number of votes necessary to take that action at a meeting at which all shareholders entitled to vote on the action are present and voting. Any action by written consent must be a proper subject for shareholder action by written consent.

(c) The board of directors may consist of one or more individuals, notwithstanding the number of shareholders.

(d) To the maximum extent permitted by Chapter 156D of the Massachusetts General Laws, as the same exists or may hereafter be amended, no director of the corporation shall be personally liable to the corporation for monetary damages for breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability. No amendment to or repeal of the provisions of this paragraph shall apply to or have any effect on the liability or alleged liability of any director of the corporation for or with respect to any act or failure to act of such director occurring prior to such amendment or repeal.

**IMMUNOGEN, INC.
AMENDED AND RESTATED BYLAWS**

**AMENDED AND RESTATED BYLAWS
FOR THE REGULATION OF
IMMUNOGEN, INC.**

A MASSACHUSETTS CORPORATION

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AMENDED AND RESTATED BYLAWS

ARTICLE I NAME, OFFICES AND SEAL

Section 1.1. Name. The name of the corporation shall be ImmunoGen, Inc. (the “Corporation”).

Section 1.2. Registered Office. The Corporation shall have a Registered Office in the Commonwealth of Massachusetts. The Directors may at any time and from time to time change the location of the Registered Office of the Corporation in the Commonwealth.

Section 1.3. Other Offices. The Corporation may also have a Principal Office and any other office or offices at such other location or locations, within or without the Commonwealth of Massachusetts, as the Directors may from time to time designate.

Section 1.4. Seal. If the Board of Directors elects to have an official seal of the Corporation, then such seal shall bear the Corporation’s name, the year of its incorporation, and the word “Massachusetts,” and shall otherwise be in such form as the Directors may from time to time determine.

ARTICLE II SHAREHOLDERS

Section 2.1. Place of a Meeting. All meetings of shareholders shall be held at a place specified in the notice of the meeting or solely by means of remote communication in accordance with Section 2.9.

Section 2.2. Annual Meetings. The annual meeting of the shareholders of the Corporation for the election of Directors and for the transaction of such other business as properly may come before such meeting shall be held at such place, either within or without the Commonwealth of Massachusetts, or, within the sole discretion of the Board of Directors, by remote communication, on such date and hour as may be fixed from time to time by resolution of the Board of Directors and set forth in the notice or waiver of notice of the meeting. If no annual meeting is held, then a special meeting in lieu of an annual meeting may be held on a date determined by the Board of Directors and any action taken at such meeting shall have the same effect as though it were taken at an annual meeting.

Section 2.3. Special Meetings. Special meetings of the shareholders may be called at any time by the President (or, in the event of his or her absence or disability, by any Vice President), or by the Board of Directors. A special meeting shall be called by the President (or, in the event of his or her absence or disability, by any Vice President), or by the Secretary, immediately upon receipt of a written request therefor by shareholders holding in the aggregate not less than ten percent of the outstanding shares of the Corporation at the time entitled to vote at any meeting of the shareholders. Special meetings of the shareholders shall be held at such places, within or without the Commonwealth of Massachusetts, or, within the sole discretion of the Board of Directors, by remote communication, as shall be specified in the respective notices or waivers of notice thereof.

Section 2.4. Notice of Meetings. Except as otherwise permitted by law, written notice of the date, time and place of all meetings of shareholders stating the purposes of the meeting shall be given by the Secretary or an Assistant Secretary (if any) or other authorized person to each shareholder entitled to vote thereat. Notice may be electronic to the extent permitted by law, or may be given in person, by telephone, by voicemail or by messenger, or by posting it, postage prepaid addressed to him or her at his or her address as it appears in the records of the Corporation, or by any other means permitted by law, and in any case at least seven (7), but not more than sixty (60) days before the meeting.

No notice of any meeting or of the purposes thereof need be given to a shareholder if a written waiver of notice, executed before or after the meeting by such shareholder or his or her attorney, is filed with records of the meeting.

Section 2.5. Quorum. At a meeting of the shareholders, a majority of votes entitled to be cast on a matter shall constitute a quorum, except when a larger quorum is required by law, by the Articles of Organization or by these Bylaws. If there is less than a quorum at a meeting, a majority of the shares represented may vote to adjourn indefinitely, or may vote to adjourn from time to time and without giving further notice of the adjournment other than the announcement at the meeting at which the vote for adjournment is taken; provided, however, that if a new record date is set for the adjourned meeting, notice shall be given to anyone holding shares as of the new record date to the extent required by law. Any business may be transacted at such adjourned meeting that might have been transacted at the meeting originally called.

Section 2.6. Voting. Unless the Articles of Organization provide otherwise, each shareholder is entitled to one vote for each share held by such shareholder, regardless of class, on each matter voted on at a shareholders' meeting. A shareholder may vote his or her shares in person or may appoint a proxy to vote or otherwise act for him or her by signing an appointment form, either personally or by his or her attorney-in-fact. An appointment of a proxy is effective when received by the Secretary or other officer or agent authorized to tabulate votes. Unless otherwise provided in the appointment form, an appointment is valid for a period of 11 months from the date the shareholder signed the form or, if it is undated, from the date of its receipt by the officer or agent. An appointment of a proxy is revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest, as defined in the Massachusetts Business Corporation Act (the "Act"). Subject to the provisions of Section 7.24 of the Act and to any express limitation on the proxy's authority appearing on the face of the appointment form, the Corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Section 2.7. Actions without a Meeting.

(a) Action to be taken at an annual or special shareholders' meeting may be taken without a meeting if the action is taken either: (1) by all shareholders entitled to vote on the action; or (2) to the extent permitted by the Articles of Organization, by shareholders having not less than the minimum number of votes necessary to take the action at a meeting at which all shareholders entitled to vote on the action are present and voting. The action shall be evidenced by one or more written consents that describe the action taken, are signed by shareholders having the requisite votes, bear the date of the signatures of such shareholders, and are delivered to the Corporation for inclusion with the records of meetings within 60 days of the earliest dated consent delivered to the Corporation as required by this Section 2.7. A consent signed under this Section has the effect of a vote at a meeting.

(b) If action is to be taken pursuant to the consent of voting shareholders without a meeting, the Corporation, at least seven days before the action authorized by such consent is taken, shall give notice, which complies in form with the requirements of Section 2.4, of the action (1) to nonvoting shareholders in any case where such notice would be required by law if the action were taken at a meeting, and (2) if the action is to be taken pursuant to the consent of less than all the shareholders entitled to vote on the matter, to all shareholders entitled to vote who did not consent to the action. The notice shall contain, or be accompanied by, the same material that would have been required by law to be sent to shareholders in or with the notice of a meeting at which the action would have been submitted to the shareholders for approval.

Section 2.8. Record Date. The Directors may fix the record date in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If a record date for a specific action is not fixed by the Board of Directors, and is not supplied by law, the record date shall be the close of business either on the day before the first notice is sent to shareholders, or, if no notice is sent, on the day before the meeting or, in the case of action without a meeting by written consent, the date the first shareholder signs the consent. A record date fixed under this Section may not be more than 70 days before the meeting or action requiring a determination of shareholders. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the Board of Directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

Section 2.9. Meetings by Remote Communication. Unless otherwise provided in the Articles of Organization, if authorized by the Directors: any annual or special meeting of shareholders need not be held at any place but may instead be held solely by means of remote communication. Subject to such guidelines and procedures as the Board of Directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communications: (a) participate in a meeting of shareholders; and (b) be deemed present in person and vote at a meeting of shareholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that: (i) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder; (ii) the Corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and (iii) if any shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

Section 2.10. Permissible Forms of Shareholder Action.

(a) Any vote, consent, waiver, proxy appointment or other action by a shareholder or by the proxy or other agent of any shareholder shall be considered given in writing, dated and signed, if, in lieu of any other means permitted by law, it consists of an electronic transmission that sets forth or is delivered with information from which the Corporation can determine (i) that the electronic transmission was transmitted by the shareholder, proxy or agent or by a person authorized to act for the shareholder, proxy or agent; and (ii) the date on which such shareholder, proxy, agent or authorized person transmitted the electronic transmission. The date on which the electronic transmission is transmitted shall be considered to be the date on which it was signed. The electronic transmission shall be considered received by the Corporation if it has been sent to any address specified by the Corporation for the purpose or, if no address has been specified, to the principal office of the Corporation, addressed to the Secretary or other officer or agent having custody of the records of proceedings of shareholders.

(b) Any copy, facsimile or other reliable reproduction of a vote, consent, waiver, proxy appointment or other action by a shareholder or by the proxy or other agent of any shareholder may be substituted or used in lieu of the original writing for any purpose for which the original writing could be used, but the copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

ARTICLE III DIRECTORS

Section 3.1. Powers of Directors. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, which shall exercise all powers that may be exercised or performed by the Corporation subject to any limitations set forth by statute, the Articles of Organization or these Bylaws.

Section 3.2. Number, Election and Term of Directors. The authorized number of Directors of the Corporation shall be two; provided, however, that the Board of Directors shall have the authority to increase or decrease the number of the Directors of the Corporation (but not to fewer than the number of Directors then in office); provided, further, that the number of Directors shall be fixed at not less than two whenever the Corporation shall have only two shareholders and not less than one whenever the Corporation shall have only one shareholder. Director(s) need not be shareholders unless so required by the Articles of Organization. The Director(s) shall be elected by the shareholders at the annual meeting or any special meeting called for such purpose. If for any cause, the Director(s) shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient. Each Director shall hold office until his or her successor shall be duly elected and qualified or until his or her earlier resignation or removal. A Director may resign at any time upon written notice to the Board of Directors, its chairperson or the Corporation.

Section 3.3. Vacancies. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors: (a) the shareholders may fill the vacancy; (b) the Board of Directors may fill the vacancy; or (c) if the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all the Directors remaining in office. A vacancy that will occur at a specific later date may be filled before the vacancy occurs, but the new Director may not take office until the vacancy occurs.

Section 3.4. Removals. A Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (a) with or without cause by the vote of the holders of a majority of the shares issued and outstanding and entitled to vote in the election of such Director or (b) with cause by the vote of a majority of the Directors then in office.

Section 3.5. Meetings. Meetings of the Board of Directors shall be held at such place within or outside the Commonwealth of Massachusetts as may from time to time be fixed by vote of the Board of Directors, or as may be specified in the notice of the meeting. A regular meeting of the Board of Directors shall be held immediately following the annual meeting of the shareholders, and other regular meetings shall be held at such times and places as may from time to time be fixed by vote of the Board of Directors. Special meetings of the Board of Directors may be held at any time upon the call of the President by any form of notice permitted by the Act duly served on or sent or mailed to each Director not less than two days before such meeting. No notice of any regular meeting of the Board of Directors shall be required. Notice of a special meeting need not be given to any Director if a written waiver of notice, executed by him or her before or after the meeting, is filed with the records of the meeting, or to any Director who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

Section 3.6. Quorum; Voting. Except as otherwise provided by law, the Articles of Organization or these Bylaws, a majority of the total number of Directors shall constitute a quorum for the transaction of business, and the vote of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. A Director may be removed for cause only after reasonable notice and opportunity to be heard before the body proposing removal.

Section 3.7. Informal Action. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 3.8. Committees. The Board of Directors may create one or more committees and appoint members of the Board of Directors to serve on them. Each committee may have one or more members, who serve at the pleasure of the Board of Directors. The creation of a committee and appointment of members to it must be approved by a majority of all the Directors in office when the action is taken. Section 3.5 through Section 3.7 shall apply to committees and their members. To the extent specified by the Board of Directors, each committee may exercise the authority of the Board of Directors. A committee may not, however: (a) authorize distributions; (b) approve or propose to shareholders actions that the Act requires be approved by shareholders; (c) change the number of the Board of Directors, remove Directors from office or fill vacancies on the Board of Directors; (d) amend the Articles of Organization; (e) adopt, amend or repeal Bylaws; or (f) authorize or approve reacquisition of shares, except according to a formula or method prescribed by the Board of Directors. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a Director with the applicable standards of conduct prescribed by the Articles of Organization, these Bylaws, or otherwise by law.

Section 3.9. Fees and Compensation. Directors and members of committees may receive compensation for their services and reimbursements for expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 3.10. Loans to Directors. The Corporation may not lend money to, or guarantee the obligation of a Director of, the Corporation unless: (a) the specific loan or guarantee is approved by a majority of the votes represented by the outstanding voting shares of all classes, voting as a single voting group, except the votes of shares owned by or voted under the control of the benefited Director; or (b) the Corporation's Board of Directors determines that the loan or guarantee benefits the Corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees. The fact that a loan or guarantee is made in violation of this Section shall not affect the borrower's liability on the loan.

ARTICLE IV OFFICERS

Section 4.1. Enumeration. The officers of the Corporation shall be elected by the Board of Directors and shall consist of a President, a Treasurer, a Secretary, and such other officers (if any), including Vice-Presidents and Assistant Treasurers and Assistant Secretaries, as the Board of Directors shall from time to time elect. The Board of Directors may at any time elect one of its members as Chairman of the Board of the Corporation, who shall preside at meetings of the Board of Directors and shall have such powers and perform such duties as shall from time to time be prescribed by the Board of Directors. Any two or more offices may be held by the same person.

Section 4.2. Term and Compensation. Officers shall be elected by the Board of Directors from time to time, to serve at the pleasure of the Board. Each officer shall hold office until his or her successor is elected and qualified, or until his or her earlier resignation or removal. An officer may resign at any time by delivering notice to the Corporation. The compensation of all officers shall be fixed by, or pursuant to authority delegated by, the Board of Directors from time to time.

Section 4.3. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointment to that office.

Section 4.4. Removals. The Directors may remove any officer elected by them with or without cause by the vote of a majority of the Directors then in office. An officer may be removed for cause only after reasonable notice and opportunity to be heard before the body proposing removal.

Section 4.5. President. The President when present shall preside at all meetings of the shareholders and, if there is no Chairman of the Board of Directors, of the Directors. He or she shall be the chief executive officer of the Corporation except as the Board of Directors may otherwise provide. The President shall perform such duties and have such powers additional to the foregoing as the Directors shall designate.

Section 4.6. Treasurer. The Treasurer shall, subject to the direction of the Directors, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of accounts. He or she shall have custody of all funds, securities, and valuable documents of the Corporation, except as the Directors may otherwise provide. The Treasurer shall perform such duties and have such powers additional to the foregoing as the Directors may designate.

Section 4.7. Secretary. The Secretary shall have responsibility for preparing minutes of the Directors' and shareholders' meetings and for authenticating records of the Corporation. The Secretary shall perform such duties and have such powers additional to the foregoing as the Directors shall designate.

ARTICLE V INDEMNIFICATION

Section 5.1. Indemnification. The Corporation shall indemnify and hold harmless each person, now or hereafter an executive officer (within the meaning of the Securities Exchange Act of 1934, as amended) or Director of the Corporation, from and against any and all claims and liabilities to which he or she may be or become subject by reason of his or her being or having been an executive officer or Director of the Corporation or by reason of his or her alleged acts or omissions as an executive officer or Director of the Corporation, and shall indemnify and reimburse each such executive officer and Director against and for any and all legal and other expenses reasonably incurred by him or her in connection with any such claim and liabilities, actual or threatened, whenever arising, including, without limitation, after he or she has ceased to be an executive officer or Director of the Corporation, except with respect to any matter as to which such executive officer or Director of the Corporation shall have not acted in good faith and in the reasonable belief that his or her action was in the best interest of the Corporation; provided, however, that prior to such determination, the Corporation may compromise and settle any such claims and liabilities and pay such expenses. Such indemnification shall include payment by the Corporation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if he or she shall be adjudicated not to be entitled to indemnification under this section. The Corporation shall similarly indemnify and hold harmless persons who serve at its express written request as directors or executive officers of another organization in which the Corporation owns shares or of which it is a creditor, if such entity fails, pursuant to an indemnity or advancement obligation or insurance, to cover such costs and expenses; notwithstanding the foregoing, if such person may be entitled to be indemnified by such other organization or is insured by an insurer providing insurance coverage under an insurance policy issued to such other organization for any liabilities, expenses or other losses as to which such person also would be entitled to be indemnified by the Corporation pursuant to the foregoing provisions of this Article V then it is intended, as between the Corporation and such other organization and/or its insurer, that such other organization and its insurer will be the full indemnitor or insurer of first resort for any such liabilities, expenses or other losses, and that only thereafter may the Corporation be required to pay indemnification or advancement of any such liabilities, expenses, or other losses. The right of indemnification herein provided shall be in addition to and not exclusive of any other rights to which any executive officer or Director of the Corporation, or any such persons who serve at its request as aforesaid, may otherwise be lawfully entitled. As used in this Article V, the terms "executive officer" and "Director" include their respective heirs, executors and administrators.

ARTICLE VI STOCK

Section 6.1. Issuance of Stock. Shares of capital stock of any class now or hereafter authorized, securities convertible into or exchangeable for such stock, or options or other rights to purchase such stock or securities may be issued or granted in accordance with authority granted by resolution of the Board of Directors.

Section 6.2. Stock Certificates. Shares of the capital stock of the Corporation need not be represented by certificates but may be recorded in book entry form. If certificates for shares of capital stock of the Corporation are issued, such certificates shall be in the form adopted by the Board of Directors, shall be signed, either manually or by facsimile, by the President or a Vice President (if any) and by the Secretary or Treasurer, or by any two officers designated by the Board of Directors, and shall bear the Corporation's seal (if there is one) or its facsimile. All such certificates shall be numbered consecutively, and the name of the person owning the shares represented thereby, with the number of such shares and the date of issue, shall be entered on the books of the Corporation.

Section 6.3. Transfer of Stock. Shares of capital stock of the Corporation shall be transferred only on the books of the Corporation, by the holder of record in person or by the holder's duly authorized representative, upon surrender to the Corporation of the certificate for such shares duly endorsed for transfer, together with such other documents (if any) as may be required to effect such transfer.

Section 6.4. Lost, Stolen, Destroyed, or Mutilated Certificates. New stock certificates may be issued to replace certificates alleged to have been lost, stolen, destroyed, or mutilated, upon such terms and conditions, including proof of loss or destruction, and the giving of a satisfactory bond of indemnity, as the Board of Directors from time to time may determine pursuant to Massachusetts law.

Section 6.5. Regulations. The Board of Directors shall have power and authority to make all such rules and regulations not inconsistent with these Bylaws, the Articles of Organization or Massachusetts' law as it may deem expedient concerning the issue, transfer, and registration of shares of capital stock of the Corporation.

Section 6.6. Holder of Record. The Corporation shall be entitled to treat as the shareholder the person in whose name shares are registered in the records of the Corporation or, if the Board of Directors has established a procedure by which the beneficial owner of shares that are registered in the name of a nominee will be recognized by the Corporation as a shareholder, the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the Corporation.

Section 6.7. Restriction on Transfer. A restriction on the hypothecation, transfer or registration of transfer of shares of the Corporation may be imposed by the Articles of Organization, these Bylaws or by an agreement among any number of shareholders or such holders and the Corporation. No restriction so imposed shall be binding with respect to those securities issued prior to the adoption of the restriction unless the holders of such securities are parties to an agreement or voted in favor of the restriction. Restrictions shall be noted on the front or back of share certificates.

**ARTICLE VII
CORPORATE RECORDS**

Section 7.1. Records To Be Kept. The Corporation shall keep as permanent records minutes of all meetings of its shareholders and Board of Directors, a record of all actions taken by the shareholders or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Corporation. The Corporation shall maintain appropriate accounting records. The Corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each. The Corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

Section 7.2. Records in the Commonwealth. The Corporation shall keep within The Commonwealth of Massachusetts a copy of the following records at its principal office or an office of its transfer agent or of its Secretary or Assistant Secretary (if any) or of its registered agent:

- (a) its Articles or Restated Articles of Organization and all amendments to them currently in effect;
- (b) its Bylaws or restated Bylaws and all amendments to them currently in effect;
- (c) resolutions adopted by its Board of Directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;
- (d) the minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;
- (e) all written communications to shareholders generally within the past three years, including the financial statements furnished under Section 16.20 of the Act for the past three years;
- (f) a list of the names and business addresses of its current Directors and officers; and
- (g) its most recent annual report delivered to the Massachusetts Secretary of State.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1. Amendments.

(a) The power to make, amend or repeal these Bylaws shall be in the shareholders. If authorized by the Articles of Organization, the Board of Directors may also make, amend or repeal these Bylaws in whole or in part, except with respect to any provision thereof which by virtue of an express provision in the Act, the Articles of Organization, or these Bylaws, requires action by the shareholders.

(b) Not later than the time of giving notice of the meeting of shareholders next following the making, amending or repealing by the Board of Directors of any By-Law, notice stating the substance of the action taken by the Board of Directors shall be given to all shareholders entitled to vote on amending the Bylaws. Any action taken by the Board of Directors with respect to the Bylaws may be amended or repealed by the shareholders.

Section 8.2. Emergency Bylaws. The Board of Directors may adopt emergency bylaws, as permitted by the Act.

Section 8.3. Fiscal Year. The fiscal year end of the Corporation shall be December 31st of each year.