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SEC Proposes Amendments to the Definition of Smaller Reporting Company

The SEC has proposed to amend the definition of a "smaller reporting company" to expand the number of companies that qualify for this classification and are therefore able to take advantage of the scaled disclosures in Regulation S-X and Regulation S-K that apply to such companies. As noted by SEC Chair Mary Jo White in the SEC's press release on the proposal, the amendments are intended to "promote capital formation and reduce compliance costs for smaller companies while maintaining important investor protections."

The proposal would increase the public float threshold from the current $75 million to less than $250 million. If a company does not have a public float, it would qualify as a smaller reporting company if its annual revenues were less than $100 million, an increase from the current threshold of less than $50 million. Further, once a company exceeds the applicable public float or revenue threshold, it will not qualify as a smaller reporting company until its public float is less than $200 million or, for a company without a public float, until its annual revenues are less than $80 million.

The proposal does not change the $75 million public float threshold in the SEC's definition of "accelerated filer." Therefore, a company could qualify as a smaller reporting company and be eligible for the scaled disclosures but may also be an accelerated filer and subject to those requirements, including the shorter deadlines for periodic filings and the requirement to include an auditor's attestation report on internal control over financial reporting.

The proposal requests feedback on a number of items, including, but not limited to, whether:

- Thresholds for smaller reporting company status should be raised or, if the thresholds remain the same, whether they should be adjusted for inflation.
- Raising the thresholds would promote capital formation or liquidity or, alternatively, whether it would result in a loss of material information about registrants.
- The threshold should be based on both public float and revenue and, if so, what the threshold amounts should be.
- Criteria other than public float or, in the absence of public float, revenue should be considered in the definition of a smaller reporting company and, if so, what criteria.
- The SEC should consider allowing a revenue-only test for a company to qualify as a smaller reporting company.
- The SEC should periodically revisit the qualifying thresholds for smaller reporting company status.

Comments on the proposed rule are due 60 days after the date of its publication in the *Federal Register*. For more information, see the press release and proposed rule on the SEC's Web site.