

companies would become eligible to terminate registration and reporting if the proposals are adopted, if they chose to do so, assuming the number of shareholders does not exceed the applicable limits for termination.²² Of course, many of these companies may continue to report by choice in order to retain their ability to trade on an exchange or NASDAQ or as a result of additional registered public offerings, so the Commission cannot predict with any certainty the number of issuers whose Exchange Act registration and reporting requirements that may terminate as a result of the increase in the total assets criterion from \$5 million to \$10 million.

Comment is requested on whether the proposed increase in the Section 12(g) asset threshold is appropriate and useful for small businesses. Is \$10 million in assets the appropriate level for subjecting companies that have not otherwise voluntarily entered the reporting system to this system? Should the increase be smaller than that proposed, e.g., \$7.5 million, or greater, e.g., \$15 million. Commenters are asked to specifically discuss their reasons for any suggested amount.

II. Proposed Revisions to Regulatory Flexibility Act Definitions

The Commission is simultaneously proposing technical conforming amendments to the definition of a small entity for purposes of the Regulatory Flexibility Act. A small entity is currently defined as an issuer whose total assets on the last day of its most recent fiscal year were \$5 million or less, where the entity is not an investment company. Under the proposals the total assets criterion would be increased to \$10 million to conform with the total asset criterion proposal for purposes of entering into or exiting from Exchange Act registration and reporting requirements.²³

than \$10 million in assets have securities that are traded either on an exchange or NASDAQ.

²² Companies that take steps to reduce the number of shareholders in order to deregister, or otherwise engage in a Rule 13e-3 transaction [17 CFR 240.13e-3] with a view to deregistration, are reminded of the need to comply with the "going private" regulations.

²³ Release Nos. 33-6380, 34-18452, 35-22371, 39-639, 1C-12194 and 1A-791, (January 28, 1982) [47 FR 5215]. The proposals would thus continue the parity that exists between the definition of a small entity for purposes of the Regulatory Flexibility Act and the concept of a small issuer for purposes of Exchange Act reporting and registration requirements. Rule 157(a) under the Securities Act, Rule 0-10(a) under the Exchange Act and Rule 0-7 under the Trust Indenture Act of 1939 would be affected by the proposed conforming modifications to the definition of a small entity for purposes of the Regulatory Flexibility Act. The proposed modifications would not affect the definition of a

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed increase in the reporting threshold as explained in this release are invited to do so by submitting them in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment is requested from the point of view of the public interest and the issuers that would be affected; comments should address any possible effects on investor protection resulting from the proposed increase in the threshold. The Commission further requests comments on any competitive burdens that might result from the adoption of the proposals. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 19(a) of the Securities Act and Section 23 of the Exchange Act. Comment letters should refer to File Number S7-16-95. All comments received will be available for public inspection and copying in the Commission's public reference room, 450 Fifth Street NW., Washington, DC 20549.

IV. Cost-Benefit Analysis

To assist the Commission in its evaluation of the costs and benefits that may result from the proposed increase in the threshold discussed in this release, commenters are requested to provide views and data relating to any costs and benefits associated with these proposals. It is expected that compliance burdens will decrease with respect to issuers who qualify for the proposed higher threshold, inasmuch as issuers below the threshold will not have to register and report pursuant to the requirements of the Exchange Act and issuers that are currently reporting but who would otherwise now be below the threshold may choose to opt out of their reporting requirements.

V. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an initial regulatory flexibility analysis in accordance with 5 U.S.C. 603 regarding the changes to Exchange Act Rules 12g-1, 12g-4, and 12h-3 and the description of Form 15, as well as to Regulatory Flexibility Act definitions of "small

small entity for purposes of the Regulatory Flexibility Act found in Rule 0-10 under the Investment Company Act of 1940, Rule 0-7 under the Investment Advisers Act of 1940, or Rule 110 under the Public Utility Holding Company Act of 1935, as such Acts contain definitions of a small entity for purposes of the Regulatory Flexibility Act that do not relate to a total asset criterion.

entity." Among other things, the analysis notes that these proposals are intended to reduce the cost of compliance with the Exchange Act reporting requirements, which is relatively greater for small companies than for larger issuers.

The proposals would not increase the Exchange Act reporting burden for any issuer and no additional recordkeeping or reporting will be required except a certification/notification to the Commission of the termination of any issuer's reporting duties under cover of Form 15. Such a filing may require the skills of a professional familiar with the securities laws, and some services by management, but does not require any recordkeeping or reporting beyond that already required by the Exchange Act.

The analysis indicates that a number of alternatives were considered in crafting the proposals, including the establishment of differing compliance or reporting requirements for small businesses, the clarification, consolidation or simplification of rules for small entities, the use of performance rather than design standards, and exemption from coverage of Commission rules for small entities. As more fully explained in the analysis, there is no better alternative to simplify, consolidate or better accommodate small business entities than the chosen approach, which is specifically designed to reduce regulatory burdens on small issuers.

A copy of the initial regulatory flexibility analysis may be obtained by contacting Twanna M. Young, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 at (202) 942-2950.

VI. Statutory Basis

The amendments to the Commission's rules and form are being proposed by the Commission pursuant to Section 19 of the Securities Act; Sections 12, 13, 15 and 23(a) of the Securities Exchange Act; and Section 319 of the Trust Indenture Act of 1939.

Section 12(h) of the Exchange Act authorizes the Commission to exempt any issuer, or class of issuers, from Section 12(g) upon a finding that, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors. The proposal today recognizes that the relatively higher cost of reporting for small issuers must be weighed against the need for reporting.