

amendments renumber Item 3 as Items 3A and 3B. Proposed Item 3A adds limited liability companies as a choice of legal form of organization the applicant may select. The proposed changes move successor identification and effective date of succession information currently in Item 5 to Schedule D. Finally, the amendments propose clarifying changes to Item 6B, which requests disclosures of control persons of the applicant.²⁷

V. Request for Comment

The Commission is soliciting comment on whether the changes to Form BD described above will provide more meaningful information to the Commission and other securities regulators without increasing the regulatory burden on broker-dealers. The Commission further requests comment on each of the changes to the Form. In particular, the Commission request comment on whether the disclosure of bankruptcy proceedings should be limited to ten years or some other period of time, and whether proposed Item 10B (relating to bank affiliations) covers the universe of bank-affiliated broker-dealers. The Commission also requests comment on the definition of franchise office in Schedule E. Electronic filing of Form U-4 currently is in the planning stages and the Commission expects that, upon completion of the redesign, the CRD system also will have the capability of accepting electronic filing of Form BD. Thus, the system, when implemented, contemplates full electronic filing of Form U-4 and Form BD. As noted above, the NASD will ensure that all broker-dealers will have full access to electronic filing facilities.²⁸ The Commission therefore requests comment on the feasibility of electronic filing of Form BD, and in particular, whether electronic filing should be mandatory.

VI. Effective Date

The Commission anticipates that the proposed amendments to Form BD will not become effective until the redesigned CRD system is fully operational. The NASD, which will convert existing information to a new format conforming to the redesigned CRD system, currently anticipates that the initial phase of the redesigned CRD system will become operational in early

1996. Details on how to file revised Form BD, if adopted, will be determined when the CRD redesign is closer to completion.

VII. Effects on Competition and Regulatory Flexibility Act Considerations

Sections 23(a)(2) of the Exchange Act²⁹ requires the Commission, in adopting rules under the Exchange Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purpose of the Exchange Act. The Commission is preliminarily of the view that the proposed amendments to Form BD would not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission requests comment, however, on any competitive burdens that might result from adoption of the form revisions described in this release.

In addition, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA"), pursuant to the requirements of the Regulatory Flexibility Act,³⁰ regarding the proposed revisions to Form BD. The IRFA indicates that the proposed revisions are intended to respond to design updates to the CRD system by expanding it to serve as an information resource allowing securities regulators to run reports and retrieve information through searches by subject category, and by enabling registrants to file Form BD electronically with the CRD system. Thus, adoption of the proposed revisions to Form BD not only will provide benefits to securities regulators in the retrieval of information, but also will ease the burden of registration by future registrants. The IRFA also indicates that the proposed revisions to Form BD will decrease the cost and lessen the time required to register for small broker-dealers that do not have an extensive disciplinary history.

In addition, the IRFA indicates the proposed revisions ultimately could impose an additional one-time reporting requirement on broker-dealers. The burden of this one-time reporting requirement, however, will fall only on those broker-dealers that have an extensive disciplinary history. Finally, because the proposed amendments generally are intended to lessen the

burden of registration, the IRFA further indicates that small broker-dealers will be affected in the same manner as other registrants. Thus, exempting small broker-dealers from Form BD disclosures will be unwarranted.

A copy of the IRFA may be obtained from Terry R. Young, Attorney, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 7-10, Washington, D.C. 20549, (202) 942-0073.

VIII. Statutory Basis

15 U.S.C. §§ 78o, 78q, 78w.

List of Subjects in 17 CFR Part 249

Reporting and recordkeeping requirements, Securities, Broker-Dealers.

For the reasons set out in the preamble, the commission is proposing to amend Title 17, Chapter II, Part 249 of the Code of Federal Regulations as follows:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

2. By revising Form BD (referenced in § 249.501) to read as set forth below:

Note: Form BD does not and the revision will not appear in the Code of Federal Regulations. The proposed revised Form BD is attached as Appendix I to this document.

3. By amending Schedule I to Form X-17A-5 (referenced in § 249.617) by removing Specific Instructions 19a, b & c and Question 19, redesignating Questions 20 through 24 as Questions 19 through 23, and revising newly designated Question 19 to read as follows:

Form X-17A-5
* * * * *

Schedule I
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19. Respondent is an affiliate or subsidiary of a foreign broker-dealer.

By the Commission.

Dated: January 12, 1995.

Margaret H. McFarland,
Deputy Secretary.

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²⁷ The amendments propose to renumber current Item 6B as Item 9B and make explicit that disclosure of financing through public offerings, credit obtained in the ordinary course of business, or a satisfactory subordination agreement, as

defined under Rule 15c3-1 of the Exchange Act [17 CFR 240.15c3-1], is unnecessary.

²⁸ The NASD will provide access to electronic filing through terminals and other means. See *supra* note 4 and accompanying text.

²⁹ 15 U.S.C. § 78w(a)(2).

³⁰ 5 U.S.C. § 603 (1990).