

## **SUPPORTING STATEMENT FOR PROPOSED RULES UNDER THE SECURITIES ACT OF 1933**

This submission, pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, et seq., consists of this supporting statement and Release No. 33-8812 (June 20, 2007).

### **A. JUSTIFICATION**

#### **1. NECESSITY FOR THE INFORMATION COLLECTION**

In Release No. 33-8812, the Securities and Exchange Commission proposed rules and amendments that contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995. The titles for the collections of information are:

- (1) “Form S-3” (OMB Control No. 3235-0073);
- (2) “Form S-1”<sup>1</sup> (OMB Control No. 3235-0065);
- (3) “Form SB-2” (OMB Control No. 3235-0418);
- (4) “Form F-3” (OMB Control No. 3235-0256); and
- (5) “Form F-1” (OMB Control No. 3235-0258)

These collections of information are necessary for the Commission to carry out the provisions of the Securities Act of 1933. They govern the information required to be included in registration statements on Forms S-3, S-1, SB-2, F-3 and F-1. These forms set forth the disclosure requirements for registration statements that are prepared by eligible issuers to provide investors with the information they need to make informed investment decisions in registered offerings.

#### **2. PURPOSE OF THE INFORMATION COLLECTION**

In Release No. 33-8812, the Commission proposed amendments to Forms S-3 and F-3. These amendments are intended to give domestic and foreign private issuers the ability to conduct primary securities offerings on Forms S-3 and F-3 without regard to the size of the issuers’ public float or the rating of debt they are offering, so long as they satisfy the other eligibility conditions of the respective form and do not sell more than the equivalent of 20% of their public float in primary offerings pursuant to the new instructions on these forms over any period of 12 calendar months. The amendments are designed to allow more companies to benefit from the greater flexibility and efficiency in accessing the public securities markets afforded by Form S-3 and Form F-3 without compromising investor protection. The proposed amendments do not extend to shell companies,<sup>2</sup> however, which would be prohibited from using Form S-3 and Form F-3 for primary offerings until 12 calendar months after they cease being shell companies.

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<sup>1</sup> Because our proposed amendments to Form S-3 and Form F-3 are anticipated to affect the annual number of Forms S-1, Forms SB-2 and Forms F-1 filed, we are required to include them in the titles of information collections even though we are not proposing to amend them in this release.

<sup>2</sup> The term “shell company” is defined in Rule 405 of the Securities Act [17 CFR 230.405]. See also Use of Form S-8, Form 8-K, and Form 20-F by Shell Companies, Release No. 33-8587 (July 15, 2005) [70 FR 42233] (adopting definition of shell company).

### **3. USE OF ELECTRONIC MEDIA**

Registration statements on Forms S-3, S-1, SB-2, F-3 and F-1 are filed electronically with the Commission using the Commission's Electronic Data Gathering and Retrieval (EDGAR) system.

### **4. DUPLICATION**

The Commission believes that there are no rules that conflict with or completely duplicate the proposed rules.

### **5. METHODS USED TO MINIMIZE BURDEN ON SMALL BUSINESSES**

The proposed amendments to the transaction eligibility requirements of Forms S-3 and F-3 would affect small businesses and other small entities that meet the registrant eligibility requirements of Form S-3 or Form F-3, as applicable, are not shell companies and choose voluntarily to register one or more primary securities offerings on Form S-3 or Form F-3. Because Forms S-3 and F-3 are abbreviated registration forms that can be updated automatically through incorporation by reference of a registrant's Exchange Act filings, the Commission believes use of the forms by eligible small businesses and other small entities would decrease their existing compliance burden.

### **6. DESCRIPTION OF CONSEQUENCES OF LESS FREQUENT COLLECTION**

Less frequent collection would mean that current information may not be available to investors and may potentially decrease investor confidence in the full and fair disclosure system that is the hallmark of the U.S. capital markets.

### **7. EXPLANATION OF SPECIAL CIRCUMSTANCES**

Not applicable.

### **8. CONSULTATION OUTSIDE THE AGENCY**

The Commission has issued a release soliciting comment on the new "collection of information" requirements and the associated paperwork burdens. A copy of this release is attached. Comments on Commission releases are generally received from registrants, investors and other market participants. In addition, the Commission and staff of the Division of Corporation Finance participate in an ongoing dialogue with representatives of various market participants through public conferences, meetings, and informal exchanges. The Commission will consider all comments received.

### **9. PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

## 10. ASSURANCE OF CONFIDENTIALITY

Not applicable.

## 11. SENSITIVE QUESTIONS

Not applicable.

## 12. and 13. ESTIMATES OF HOUR AND COST BURDENS

The paperwork burden estimates associated with the proposal includes the time and the cost of preparing and reviewing disclosure, filing documents or otherwise publicizing information, and retaining records.

These estimates represent the average burden for all companies, both large and small. We expect that the burdens and costs could be greater for larger companies and lower for smaller companies. For Securities Act registration statements on Forms S-3, S-1, SB-2, F-3 and F-1, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden is carried by outside professionals retained by the company at an average cost of \$400 per hour. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours.

Table 1 below illustrates the incremental annual compliance burdens of the collection of information in hours and in cost for our proposal. The burden was calculated by multiplying the estimated number of additional annual responses we believe will be generated by the estimated average number of hours each entity will spend completing the form or complying with the requirements of the rules.

**Table 1: Calculation of Incremental PRA Burden Estimates**

Form	Estimated Change in Annual Responses	Hours/Form	Incremental Burden	Company Hours <sup>3</sup>	Professional Hours <sup>4</sup>	Professional Cost (1,000s)
	(A)	(B)	(C)=(A) X (B)	(D)	(E)	(F)=(E) X \$400
S-3	761	459	349,299	87,324.75	261,974.25	\$104,789
S-1	(118)	1,176	(138,768)	(34,692)	(104,076)	(\$41,630)
SB-2	(573)	638	(365,574)	(91,393.5)	(274,180.5)	(\$109,672)
F-3	4	166	664	166	498	\$199
F-1	(3)	1,809	(5,427)	(1,356.75)	(4,070.25)	(\$1,628)
Total			(159,806)	(39,951.5)	(119,854.5)	(\$47,942)

<sup>3</sup> This column is calculated by multiplying column (C) by 25%, based on our determination (discussed in text above) of the proportion of the burden that is borne in-house by company personnel.

<sup>4</sup> This column is calculated by multiplying column (C) by 75%, based on our determination (discussed in text above) of the proportion of the burden that is borne as the cost of outside professionals.

Table 2 below illustrates the total annual compliance burden of the proposed collection of information in hours and in cost. The burden was calculated by adding the incremental burdens to the existing burdens.

**Table 2: Estimates of Hour and Cost Burdens**

	Current Annual Responses	Incremental Annual Responses	Total Annual Responses	Current Hours/Form	Total Burden Hours	Company <sup>5</sup>	Professional <sup>6</sup>	Professional Cost (1,000s)
	(A)	(B)	(C)=(A)+(B)	(D)	(E)=(C)*(D)	(F)	(G)	(H)=(G)*\$400
S-3	1,999	761	2,760	459	1,266,840	316,710	950,130	\$380,052
S-1	528	(118)	410	1,176	482,160	120,540	361,620	\$144,648
SB-2	885	(573)	312	638	199,056	49,764	149,292	\$59,717
F-3	102	4	106	166	17,596	4,399	13,197	\$5,279
F-1	42	(3)	39	1,809	70,551	17,637.75	52,913.25	\$21,165

#### 14. ESTIMATE OF COST TO FEDERAL GOVERNMENT

The estimated cost of preparing the proposed amendments is approximately \$50,000.

#### 15. EXPLANATION OF CHANGES IN BURDEN

Table 3 below illustrates the changes in cost and hour burdens from the burden estimates currently approved by OMB. Columns (A) and (B) represent the total hour and cost burden estimates for the respective forms under the proposed rules. Columns (C) and (D) represent the previous burden estimates most recently submitted to OMB. Columns (E) and (F) represent the change in burden from the previous estimates. Columns (G) and (H) represent the incremental hour and cost burden under the proposed rules. Columns (I) and (J) represent the adjustment, which encompasses any change in burden that is not attributable to the proposed rules.

	Requested Burdens		Current Burden		Change in Burden		Program Change		Adjustment	
	Burden Hours	Cost (1,000s)	Burden Hours	Cost (1,000s)	Burden Hours	Cost (1,000s)	Burden Hours	Cost (1,000s)	Burden Hours	Cost (1,000s)
	(A)	(B)	(C)	(D)	(E)=(A)-(C)	(F)=(B)-(D)	(G)	(H)	(I)=(A)-(C)-(G)	(J)=(B)-(D)-(H)
S-3	316,710	\$380,052	229,569	\$206,612	87,141	\$173,440	87,141	\$78,427	0	0
S-1	120,540	\$144,648	155,232	\$186,278	(34,692)	(\$41,630)	(34,692)	(\$41,630)	0	0
SB-2	49,764	\$59,717	141,158	\$169,389	(91,394)	(109,672)	(91,394)	(109,672)	0	0
F-3	4,399	\$5,279	4,240	\$3,816	159	\$1,463	159	\$143	0	0
F-1	17,637.75	\$21,165	18,999	\$17,100	(1,361.25)	\$4,065	(1,361.25)	(\$1,226)	0	0

**Table 3: Explanation of Changes in Burden**

#### 16. INFORMATION COLLECTIONS PLANNED FOR STATISTICAL PURPOSES

<sup>5</sup> This column is calculated by multiplying column (C) by 25%, based on our determination (discussed in text above) of the proportion of the burden that is borne in-house by company personnel.

<sup>6</sup> This column is calculated by multiplying column (C) by 75%, based on our determination (discussed in text above) of the proportion of the burden that is borne as the cost of outside professionals.

Not applicable.

**17. EXPLANATION AS TO WHY EXPIRATION DATE WILL NOT BE DISPLAYED**

Not applicable.

**18. EXCEPTIONS TO CERTIFICATION**

Not applicable.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.