

SUPPORTING STATEMENT FOR SECURITIES ACT RULE 433

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

The Commission adopted Rule 433 on July 19, 2005, in Release 33-8591 (“Securities Offering Reform”). The rule was designed to reduce current restrictions on communications that issuers can make to investors during a registered offering of securities. Specifically, it governs the use and filing of a free writing prospectus. Rule 433 applies to any free writing prospectus with respect to the securities of an issuer (except as set forth in Rule 164), that are the subject of a registration statement that has been filed under the Securities Act of 1933. The free writing prospectus can include information that is not included in the registration statement. A free writing prospectus that satisfies the conditions of Rule 433 will be a prospectus under Section 10(b) of the Securities Act and will, for purposes of considering it a prospectus, be deemed to be public, without regard to its method of use or distribution, because it is related to the public offering of securities that are the subject of a filed registration statement. Rule 433 sets forth conditions that issuers must meet to use a free-writing prospectus.

2. Purpose and Use of the Information Collection

The primary purpose of the rule is to relax restrictions on communications that issuers can make to investors during a registered offering of securities.

3. Consideration Given to Information Technology

Rule 433 communications are filed electronically on EDGAR, except under limited conditions set forth in Rule 433(d).

4. Duplication of Information

There are no other filing requirements that duplicate this information.

5. Reducing the Burden on Small Entities

All issuers, including small business issuers, have discretion as to whether or not they want to disseminate written communications in the form of a free-writing prospectus. Furthermore, Rule 433 was adopted in connection with other revisions, all of which were intended to decrease costs and burdens for all issuers, including small business issuers, and enhance communications between issuers and investors.

6. Consequences of Not Conducting Collection

Rule 433 requires filing of written communications only when issuers choose to disseminate them in a free-writing prospectus. Less frequent collection could compromise investor protection.

7. Special Circumstances

Not applicable.

8. Consultations with Persons Outside the Agency

Rule 433 was proposed for public comment. No comments were received on this request during the 60-day comment period prior to OMB's review of this submission.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality

Not applicable.

11. Sensitive Questions

This collection does not contain any personal identifiable Information (PII). The Privacy Impact Assessment (PIA) is provided as a supplemental document.

12. Estimate of Respondent Reporting Burden

We estimate that that the information is filed by 2,906 companies approximately 3.43 times a year for a total of approximately 9,968 responses. We estimate that it takes approximately 1.28 burden hours per response and that 25% of the 1.28 burden hours per response (0.32 hours) is prepared by the company for a total annual reporting burden of approximately 3,190 hours (0.32 x 9,968 responses).

13. Estimate of Total Annualized Cost Burden

We estimated that 75% of the 1.28 hours per response (0.96 hours) is prepared by the issuer's outside counsel. We estimate that Rule 433 compliance will cost \$400 per hour (\$400 x 0.96 hours per response x 9,968 responses) for a total cost of \$3,827,712. The estimated cost is made solely for the purpose of the Paperwork Reduction Act. The cost is not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

14. Costs to Federal Government

The estimated cost to the federal government is \$125,000.

15. Reason for Change in Burden

The increase of 2,027 burden hours and the increase of \$2,403,576 in cost burden is due to an adjustment. The change in burden hours and cost burden is due to an increase in the number of Rule 433 free writing prospectuses filed with the Commission.

16. Information Collection Planned for Statistical Purposes

Not applicable.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

Not applicable.

B. STATISTICAL METHODS

Not applicable.