

**SUPPORTING STATEMENT FOR FINAL RULES  
UNDER THE SECURITIES ACT OF 1933 AND  
THE SECURITIES EXCHANGE ACT OF 1934**

This submission, pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, et seq., consists of this supporting statement and the following attachments:

- A. Statutory Authority
- B. Final Release

**A. JUSTIFICATION**

**1. CIRCUMSTANCES MAKING THE COLLECTION OF INFORMATION NECESSARY**

On March 2, 2020, the Securities and Exchange Commission (the “Commission”) adopted amendments to the financial disclosure requirements for guarantors and issuers of guaranteed securities, and issuers’ affiliates whose securities collateralize the issuers’ securities, contained in Rules 3-10 and 3-16 of Regulation S-X under the Securities Act of 1933 (the “Securities Act”) and the Securities Exchange Act of 1934 (the “Exchange Act”). A copy of Commission Release No. 33-10762 (“Adopting Release”), which contains the final amendments, is attached.

The following collections of information (“affected forms”) will be affected by the final amendments:<sup>1</sup>

- Form S-1 (OMB Control No. 3235-0065);
- Form S-4 (OMB Control No. 3235-0324);
- Form S-3 (OMB Control No. 3235-0073);
- Form S-11 (OBM Control No. 3235-0067);
- Form F-1 (OMB Control No. 3235-0258);
- Form F-3 (OMB Control No. 3235-0256);
- Form F-4 (OMB Control No. 3235-0325);
- Form 20-F (OMB Control No. 3235-0288);
- Form 10-K (OMB Control No. 3235-0063);
- Form 10-Q (OMB Control No. 3235-0070);
- Form 1-A (OMB Control No. 3235-0286);

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<sup>1</sup> The amendments to Form F-4 are not expected to affect the burdens associated with the form.

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

The purpose of the final amendments rules is to modernize and simplify Rules 3-10 and 3-16 of Regulation S-X to better align the requirements of these rules with the needs of investors and reduce disclosure burdens on registrants. The final amendments are intended to provide investors with material information given the specific facts and circumstances, make the disclosures easier to understand, and reduce the costs and compliance burdens to registrants. In addition, by reducing the costs and burdens of compliance, issuers may be encouraged to offer guaranteed or collateralized securities on a registered basis, thereby affording investors protection they may not be provided in offerings conducted on an unregistered basis. The final amendments clarify, consolidate, relocate and eliminate certain elements of these rules.

## **3. CONSIDERATION GIVEN TO INFORMATION TECHNOLOGY**

The collection of information requirements of the final rules are set forth in amended rules and forms. All of the affected forms are filed electronically with the Commission using the Commission's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system.

## **4. DUPLICATION OF INFORMATION**

The final amendments do not duplicate, overlap, or conflict with other federal rules.

## **5. REDUCING THE BURDEN ON SMALL ENTITIES**

The final amendments will affect issuers (including issuers that small entities), and guarantors of guaranteed debt securities, issuers of debt securities collateralized by securities of those issuers' affiliates. The final amendments clarify, consolidate and simplify compliance and reporting requirements for small entities and other registrants. These effects will reduce compliance burdens for all registrants, including small entities. Consequently, the Commission believes that the final amendments would not have a significant impact on small businesses.

## **6. CONSEQUENCES OF NOT CONDUCTING COLLECTION**

The final amendments set forth financial reporting requirements for issuers and guarantors of guaranteed securities, and issuers' affiliates whose securities collateralize the issuers' securities. Less frequent collection would deprive investors of access to material information that is important to their voting and investment decisions.

## **7. SPECIAL CIRCUMSTANCE**

There are no special circumstances in connection with these amendments.

## **8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY**

The Commission issued a proposing release soliciting comment on the new “collection of information” requirements and the associated paperwork burdens.<sup>2</sup> Comments on Commission releases are generally received from registrants, investors, and other market participants. The Commission did not receive any comments that directly addressed the Paperwork Reduction Act (“PRA”) analysis of the proposed amendments. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, roundtables and meetings. All comments received on the proposal are available at <https://www.sec.gov/comments/s7-19-18/s71918.htm>. The Commission considered all comments received prior to publishing the final rules, as required by 5 CFR 1320.11(f).

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

No payment or gift has been provided to any respondents.

## **10. CONFIDENTIALITY**

All documents submitted to the Commission are available to the public.

## **11. SENSITIVE QUESTIONS**

No information of a sensitive nature will be required under the affected forms. These information collections collect basic Personally Identifiable Information (PII) that may include a name and job title. However, the agency has determined that these information collections do not constitute a system of record for purposes of the Privacy Act. Information is not retrieved by a personal identifier. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the EDGAR system, in connection with this collection of information. The EDGAR PIA, published on February 5, 2020, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

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<sup>2</sup> See *Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant’s Securities*, Release No. 33-10526 (July 24, 2018) [83 FR 49630 (Oct. 2, 2018)] (“Proposing Release”).

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

The final amendments clarify, consolidate, relocate and eliminate certain elements of existing Rules 3-10 and 3-16 of Regulation S-X. The Commission anticipates that the final amendments will make these disclosures easier to understand, and reduce the compliance burdens to issuers.

The tables below show the total annual compliance burden, in hours and in costs, of the collection of information resulting from the final amendments.<sup>3</sup> The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take an issuer to prepare and review the exhibit hyperlinks. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the issuer internally is reflected in hours.

For purposes of the PRA, the burden is allocated between internal burden hours and outside professional costs. The table 1 below sets forth the percentage estimates the Commission typically uses for the burden allocation for each affected form. We also estimate that the average cost of retaining an outside professional is \$400 per hour.<sup>4</sup>

**Table 1: Standard Estimated Burden Allocation for Specified Forms and Schedules.**

| <b>Form / Schedule Type</b>                   | <b>Internal</b> | <b>Outside Professionals</b> |
|---|-----------------|------------------------------|
| Forms S-1, S-3, S-4, S-11, F-1, F-3 and 20-F. | 25%             | 75%                          |
| Forms 10-K, 10-Q, and 1-A                     | 75%             | 25%                          |

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<sup>3</sup> For convenience, the estimated hour and cost burdens in the table have been rounded to the nearest whole number.

<sup>4</sup> We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of \$400 per hour. This estimate is based on consultations with several registrants, law firms, and other entities that regularly assist registrants in preparing and filing documents with the Commission.

Table 2 below illustrates the estimated net incremental change to the total annual compliance burdens for the affected forms, in hours and in costs, as a result of the final amendments.<sup>5</sup>

**Table 2: Calculation of the Net Incremental Change in Burden Estimates of Affected Responses Resulting from the Final Amendments**

| Form  | Estimated Number of Affected Responses (A) | Estimated Change in Burden Hours/Affected Response (B) | Estimated Internal Burden Hours (C) | Outside Professional Hours (D) | Estimated Outside Professional Costs/Affected Response (E) |
|-------|--|--|-------------------------------------|--------------------------------|--|
| 10-K  | 487  | (14,610)   | (10,958)                            | (3,652)                        | (\$1,460,800)  |
| 10-Q  | 1,270                                      | (36,300)   | (27,225)                            | (9,075)                        | (\$3,630,000)  |
| S-1   | 14   | (20)   | (5)                                 | (15)                           | (\$6,000)  |
| 20-F  | 19   | (170)  | (42.5)                              | (127.5)                        | (\$51,000)   |
| S-4   | 137  | (410)  | (102.5)                             | (307.5)                        | (\$123,000)  |
| S-11  | 8  | 60   | 15                                  | 45                             | \$18,000   |
| F-1   | 8  | 60   | 15                                  | 45                             | \$18,000   |
| 1-A   | 1  | 70   | 52.5                                | 17.5                           | \$7,000  |
| Total |  |  | (38,250.5)                          |                                | (\$5,227,800)  |

#### 14. COST TO FEDERAL GOVERNMENT

The annual cost of reviewing and processing disclosure documents, including registration statements, post-effective amendments, proxy statements, annual report and other filings of operating companies amounted to \$103,479,690 in fiscal year 2019, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

#### 15. REASON FOR 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 current burden estimates submitted to OMB.<sup>6</sup> Columns (C) and (D) represent the new burden estimates under the final rules. Columns (E) and (F) represent the program change, which encompasses the change in the burden estimates attributable to the final rules.

<sup>5</sup> The amendments to Forms S-3 and F-3 will not directly affect the burdens associated with these forms, but will result in an increase in the annual number of responses. The change in the collection burdens resulting from the increase in annual responses are reflected in table 3 below.

<sup>6</sup> Figures in Columns A and B are the most recent information collection burdens and reflect any adjustments to the information collections inventory for the affected forms made since the publication of the Adopting Release.

In the Proposing Release, the Commission included PRA estimates for Schedules 14A and 14C, and Form 10. Commission staff modified the estimated number of filings that would be affected by the final amendments and determined that the final amendments would not impose an information collections burden on these forms.

Table 3:<sup>7</sup>

| Form | Current Burden           |                          |                         | Program Change               |  |   | Requested Change in Burden |                  |                 |
|------|--------------------------|--------------------------|-------------------------|------------------------------|--|---|----------------------------|------------------|-----------------|
|      | Current Annual Responses | Current Burden Hours (A) | Current Cost Burden (B) | Number of Affected Responses | Increase or Reduction in Company Hours (C) | Increase or Reduction in Professional Costs (D) | Annual Responses           | Burden Hours (E) | Cost Burden (F) |
| S-1  | 894                      | 146,067                  | \$178,922,043           | 14                           | (5)  | (\$6,000)                                       | 898                        | 146,062          | \$178,916,043   |
| S-3  | 1,647                    | 192,460                  | \$234,775,580           | 4                            | 70   | \$84,000  | 1,651                      | 192,530          | \$234,859,580   |
| S-4  | 551                      | 562,465                  | \$677,378,579           | 137                          | (103)                                      | (\$123,000)                                     | 588                        | 562,362          | \$677,255,579   |
| S-11 | 64                       | 12,214                   | \$14,925,768            | 8                            | 15   | \$18,000  | 67                         | 12,229           | \$14,943,768    |
| F-1  | 63                       | 26,692                   | \$32,275,375            | 8                            | 15   | \$18,000  | 66                         | 26,707           | \$32,293,375    |
| F-3  | 112                      | 4,441                    | \$5,703,600             | 1                            | 18   | \$21,000  | 113                        | 4,459            | \$5,724,600     |
| 10-K | 8,286                    | 14,198,998               | \$1,895,253,919         | 487                          | (10,958)                                   | (\$1,460,800)                                   | 8,292                      | 14,188,040       | \$1,893,793,119 |
| 10-Q | 22,907                   | 3,209,558                | \$425,120,754           | 1,270                        | (27,225)                                   | (\$3,630,000)                                   | 22,925                     | 3,182,333        | \$421,490,754   |
| 1-A  | 204                      | 111,832                  | \$15,003,502            | 1                            | 53   | \$7,000   | 205                        | 111,885          | \$15,010,502    |
| 20-F | 725                      | 479,304                  | \$576,875,025           | 19                           | (43)                                       | (\$51,000)                                      | 729                        | 479,261          | \$576,824,025   |

**16. INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES**

The information collections do not employ statistical methods.

**17. APPROVAL TO OMIT OMB EXPIRATION DATE**

We request authorization to omit the expiration date on the electronic version of the form. Including the expiration date on the electronic version of the form will result in increased costs, because the need to make changes to the form may not follow the application's scheduled version release dates. The OMB control number will be displayed.

**18. EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

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<sup>7</sup> Figures in Table 3 have been rounded to the nearest whole number.

There are no exceptions to certification for Paperwork Reduction Act submissions.

**B. STATISTICAL METHODS**

The information collections do not employ statistical methods.

## **Short Statements Rel. No. 33-10762**

### **Form S-1**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in four additional filings of Form S-1, as well as a net decrease of five burden hours and a net decrease of \$6,000 in the cost burden of the form.

### **Form S-3**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in four additional filings of Form S-3, as well as a net increase of 70 burden hours and a net increase of \$84,000 in the cost burden of the form.



## **Form S-4**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in 37 additional filings of Form S-4, as well as a net decrease of 103 burden hours and a net decrease of \$123,000 in the cost burden of the form.

## **Form S-11**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in three additional filings of Form S-11, as well as a net increase of 15 burden hours and a net increase of \$18,000 in the cost burden of the form.

### **Form F-1**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in three additional filings of Form F-1, as well as a net increase of 15 burden hours and a net increase of \$18,000 in the cost burden of the form.

### **Form F-3**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in one additional filing of Form F-3, as well as a net increase of 18 burden hours and a net increase of \$21,000 in the cost burden of the form.

## **Form 10-K**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in six additional filings of Form 10-K, as well as a net decrease of 10,958 burden hours and a net decrease of \$1,460,800 in the cost burden of the form.

## **Form 10-Q**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in 18 additional filings of Form 10-Q, as well as a net decrease of 27,225 burden hours and a net decrease of \$3,630,000 in the cost burden of the form.

## **Form 1-A**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in one additional filing of Form 1-A, as well as a net increase of 53 burden hours and a net increase of \$7,000 in the cost burden of the form.

## **Form 20-F**

The amendments to the Regulation S-X financial disclosure requirements are applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. The amendments are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct credit enhanced debt offerings on a registered basis. The amendments clarify, consolidate, relocate and eliminate some disclosures of the credit enhancement requirements. The amendments focus on material information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities in unregistered offerings. All together, the Commission believes these effects will facilitate more registered offerings of guaranteed and collateralized debt securities, thereby affording investors protection they may not otherwise have had in debt offerings conducted in the private markets. For purposes of the Paperwork Reduction Act, the Commission estimates that the final amendments will result in four additional filings of Form 20-F, as well as a net decrease of 43 burden hours and a net decrease of \$51,000 in the cost burden of the form.