

Amendments to Small Entity Definitions



The Securities and Exchange Commission proposed amendments to the rules that define which registered investment companies, investment advisers, and business development companies qualify as small entities for purposes of the Regulatory Flexibility Act (RFA).

The proposal is designed to help the Commission better tailor its analyses of the specific regulatory challenges that small investment companies and advisers face. In turn, this would better inform the Commission of the regulatory impacts that these small entities encounter, so the Commission may consider adapting its rulemaking accordingly.

Background

A purpose of the RFA is to promote the effectiveness and efficiency of regulations, including through consideration of alternative regulatory approaches, with the goal of minimizing the significant economic impact on small entities. For the purposes of the RFA, rule 0-10 under the Investment Company Act of 1940 defines small entities by reference to net assets for investment companies and takes into consideration the aggregated net assets of all investment companies in the same group of related investment companies, and for investment advisers rule 0-7 under the Investment Advisers Act of 1940 defines small entities by reference to assets under management and total assets, with the control relationships among investment advisers and other persons taken into consideration.

Rule 0-10 and rule 0-7 were adopted in 1982 and were last updated in 1998. There has been substantial growth in assets under management and net assets over the decades since these thresholds were last updated, and the proposal is designed to capture the types and numbers of investment advisers and investment companies that the Commission now considers to be “small” in light of this growth.

Highlights of the Proposing Release

The proposal includes the following key elements.

- The proposal would amend rule 0-10 to: (i) increase the net asset threshold for investment companies from \$50 million to \$10 billion; and (ii) refer, for purposes of aggregating the net assets of related funds, to a “family of investment companies” as that term is used in Item B.5 of Form N-CEN rather than to a “group of related investment companies” as used in the current rule.
- The proposal would amend rule 0-7 to increase the assets under management threshold below which an investment adviser is considered to be a “small entity” from \$25 million

to \$1 billion, request comment on whether to amend the total assets threshold, and make related conforming changes to the control relationship thresholds.

- The proposal would provide for inflation adjustments to the asset thresholds by order every 10 years.
- The proposal would amend Form ADV in conformity with the threshold changes to rule 0-7 and make certain clarifying changes.

Interested persons are invited to comment on the general and specific questions asked throughout the release, as well as on any other aspects of the small entity definitions or the discussion in the release.

What's Next?

The proposing release will be published on the SEC's website and in the Federal Register. The comment period will remain open for 60 days.

Additional Information:

Visit sec.gov to find more information about the proposal and the full text of the proposed rules. The comment period will be open for 60 days following publication of the proposing release in the Federal Register.