**8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 270, 275, and 279**

**[Release Nos. IA-7035; IC-36380; File No. S7-2026-01]**

**RIN 3235-AN39**

# Amendments to the "Small Business" and "Small Organization" Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the "Commission" or the "SEC") is amending the definitions of "small business" and "small organization" (collectively, "small entities") that are used in connection with Commission rulemaking under the Investment Company Act of 1940 (the "Investment Company Act") and the Investment Advisers Act of 1940 (the "Advisers Act"). These definitions concern regulatory requirements applicable to registered investment companies and business development companies (collectively, "funds") as well as investment advisers. The definitions are used specifically for purposes of the Regulatory Flexibility Act (the "RFA"), which requires the Commission to consider the impact of its regulations on small entities. The amendments are designed to modernize the definitions, by increasing certain asset-based thresholds, including a mechanism for periodic future inflation adjustments, and eliminating the threshold based on total assets for advisers. In connection with these amendments, the Commission is making conforming amendments to Form ADV as well as the rule that allows certain small SEC-registered advisers to apply for a continuing hardship exemption from making Advisers Act filings electronically.

**DATES:** This final rule was published in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

- Final amendments to 17 CFR 270.0-10 ("rule 0-10") and 17 CFR 275.0-7 ("rule 0-7") are effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].
- Final amendments to 17 CFR 275.203-3 ("rule 203-3") and 17 CFR 279.1 ("Form ADV") are effective, and have a compliance date of, [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Alexis Palascak, Senior Counsel, Sirimal R. Mukerjee, Senior Special Counsel, or Robert Holowka, Assistant Director, Investment Adviser Regulation Office, at (202) 551-6787, or Andrew Deglin, Senior Counsel, or Brian McLaughlin Johnson, Assistant Director, Investment Company Regulation Office, at (202) 551-6792, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-8549.

**SUPPLEMENTARY INFORMATION:** The Commission is adopting amendments to the following rules and form:

| CFR Citation (17 CFR) | Commission Reference | |
|---|---|---|
| 17 CFR 270.0-10 | Rule 0-10 | Investment Company Act[1] |
| 17 CFR 275.0-7 | Rule 0-7 | Advisers Act[2] |
| 17 CFR 275.203-3(b) | Rule 203-3(b) | |
| 17 CFR 279.1 | Form ADV | |

[1] 15 U.S.C. 80a-1 *et seq.*

[2] 15 U.S.C. 80b-1 *et seq.*

## TABLE OF CONTENTS


I. Introduction ..... 4

A. Background ..... 5

B. Overview of the Final Amendments ..... 10

II. Discussion ..... 15

A. Amendments to Rule 0-10 under the Investment Company Act ..... 15

1. Raising the Net Asset Threshold ..... 15

2. Group Definition Amendments ..... 22

B. Amendments to Rule 0-7 under the Advisers Act ..... 26

1. The RAUM Threshold ..... 26

a. Consideration of Alternative Non-RAUM Thresholds ..... 27

b. The $1 Billion RAUM Threshold ..... 31

2. The Total Assets Threshold ..... 40

3. The Control Relationship Threshold ..... 45

4. Conforming Amendments to Form ADV and the Adviser Hardship Exemption Rule ..... 49

C. Periodic Future Adjustments ..... 52

D. Effective Date and Compliance Date ..... 56

III. Economic Analysis ..... 58

IV. Paperwork Reduction Act ..... 67

A. Introduction ..... 67

B. Final Amendments ..... 67

C. Estimated Burdens ..... 68

V. Regulatory Flexibility Act Certification ..... 70

VI. Congressional Review Act ..... 72

VII. Other Matters ..... 72

Statutory Authority ..... 72

## I. INTRODUCTION

We are adopting amendments to Commission rules that define a "small entity" under the RFA for funds and investment advisers by raising the asset thresholds contained in both definitions.[3] Specifically, the amendments to the Investment Company Act rule (rule 0-10) will increase the net asset threshold for funds to be considered "small" from $50 million to $10 billion and replace the "group of related investment companies" definition in the rule with "family of investment companies," as that term is currently used in Form N-CEN. We are also adopting amendments to the Advisers Act rule (rule 0-7) that will increase the amount of regulatory assets under management ("RAUM") below which an adviser is considered small from $25 million to $1 billion, eliminate the $5 million total assets threshold provision from the definition, and make conforming amendments to the adviser control relationship threshold to reflect the increased adviser RAUM threshold in the definition. Additionally, the amendments to Investment Company Act rule 0-10 and Advisers Act rule 0-7 will provide a mechanism for future inflation adjustments to the thresholds. Finally, the Commission is making conforming amendments to Form ADV and Advisers Act rule 203-3(b) for hardship exemptions to implement the amended adviser RAUM threshold. The final rules reflect comments the Commission received on amendments it proposed in January 2026 and will help the Commission

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[3] Unless otherwise specified, the term "investment companies" or "funds" in this release refers collectively to registered investment companies and business development companies but not entities excluded from the definition of investment company under the Investment Company Act such as private funds.

more appropriately promote the effectiveness and efficiency of its regulations, with the goal of minimizing significant economic impact on small entities, consistent with the RFA.[4]

### A. Background

The Commission has a longstanding commitment to understanding and addressing the concerns of small entities and has established the Office of Small Business Policy in the Division of Corporation Finance, the Office of the Advocate for Small Business Capital Formation, and the Small Business Capital Formation Advisory Committee to be responsive to such concerns.[5] In the context of rulemaking, the Commission tailors its regulations to the relevant characteristics of regulated entities and weighs the impact of its rules on small entities, including through performing analyses under the RFA.[6] 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 consistent with the stated objectives of applicable statutes.[7] The Commission is required to determine if a rulemaking is likely to have a "significant economic impact on a substantial number of small

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4 *See* Amendments to the "Small Business" and "Small Organization" Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act, Investment Company Act Release No. 35864 (Jan. 7, 2026) [91 FR 1107 (Jan. 12, 2026)] (the "Proposing Release"). The comment letters on the Proposing Release (File No. S7-2026-01) are available at https://www.sec.gov/rules-regulations/public-comments/s7-2026-01. *See also* Enhancement of Emerging Growth Company Accommodations and Simplification of Filer Status for Reporting Companies, Release No. 33-11419 (May 19, 2026) [91 FR 30086 (May 21, 2026)] ("2026 Filer Status Release") (among other things, proposing amendments to the "small entity" definitions for purposes of the Securities Act of 1933 and the Securities Exchange Act of 1934 (the "Exchange Act")).

5 *See* Proposing Release, at n.1 (discussing the history of these Commission offices and the committee).

6 *See* Proposing Release, at section I.A.1.

7 Pub. L. 96–354, §2, Sept. 19, 1980, 94 Stat. 1164; 5 U.S.C. 601–612.

entities" under the RFA.[8] Unless the Commission certifies that the rulemaking will not have such an impact, the Commission is required to conduct a regulatory flexibility analysis both during the proposal and final stages of adopting a rule.[9]

The Small Business Act gives the Administrator of the U.S. Small Business Administration (the "SBA") authority to establish small business size standards for all Federal agencies, in the absence of other specific statutory authority.[10] An agency may nevertheless prescribe its own small business size standard pursuant to section 601(3) of the RFA if, as described in 13 CFR 121.903(c), the agency consults with the SBA Office of Advocacy and the size standard will be used for the sole purpose of performing an RFA analysis.[11] Allowing agencies to establish their own definitions for the terms "small business," "small organization," and "small governmental jurisdiction" for purposes of the RFA analyses gives agencies flexibility in applying the provisions of the RFA.[12]

In 1982, the Commission adopted rule 0-10 for investment companies and rule 0-7 for investment advisers to define "small business" and "small organization" for purposes of

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8 *See* 5 U.S.C. 605(b). The RFA does not define "significant economic impact" or "substantial number of small entities."

9 *See* 5 U.S.C. 603–604; *see also* 5 U.S.C. 605(b).

10 15 U.S.C. 632(a)(2). 15 U.S.C. 632(a)(1) sets forth the default standard for a "small business concern" as "one which is independently owned and operated and which is not dominant in its field of operation."

11 13 CFR 121.903(c); *see also* Small Business Size Regulations; Size Standards for Programs of Other Agencies, 67 FR 13714 (Mar. 26, 2002).

12 5 U.S.C. 601. Under the RFA, the term "small entity" has the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" as defined under the RFA, unless the agency has established a definition of such term. In the latter case, the definition of the term is instead what was established by the agency.

Commission rulemakings under the Investment Company Act and Advisers Act, respectively.[13] These definitions were last amended in 1998[14] and, in connection with outreach to small entities, the Commission has subsequently received requests to update the definitions.[15]

Under rule 0-10, an investment company is deemed a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[16] A group of related investment companies is defined, with respect to management companies, as two or more management companies (including series thereof) that (i) hold themselves out to investors as related companies for purposes of investment and investor services; and (ii) either (1) have a common investment adviser or have investment advisers that are affiliated persons of each other; or (2) have a common administrator.[17] Under rule 0-7, an investment adviser is deemed a small entity if

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13 *See* Final Definitions of "Small Business" and "Small Organization" for Purposes of the Regulatory Flexibility Act, Investment Company Act Release No. 12194 (Jan. 28, 1982) [47 FR 5215 (Feb. 4, 1982)] ("1982 Adopting Release"); *see also* Proposing Release, at section I.A.2 and I.A.3 (explaining the history of the Commission's investment company and investment adviser size standards).

14 *See* Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Investment Company Act Release No. 23272 (June 24, 1998) [63 FR 35508 (June 30, 1998)] ("1998 Adopting Release").

15 *See* Proposing Release, at n.10.

16 *See* 17 CFR 210.6-04 (Regulation S-X section generally applicable to balance sheets filed by registered investment companies and business development companies, including requirements for disclosure of net assets).

17 17 CFR 270.0-10(a). In the case of unit investment trusts ("UITs"), a group of related investment companies is defined as two or more UITs (including series thereof) that have a common sponsor.

it: (i) has RAUM[18] of less than $25 million (the "RAUM Threshold");[19] (ii) did not have total assets[20] of $5 million or more on the last day of the most recent fiscal year (the "Total Assets Threshold"); and (iii) does not control, is not controlled by, and is not under common control with (a "control relationship") another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of the most recent fiscal year (the "Control Relationship Threshold").

In January 2026, the Commission proposed amendments to the investment company and investment adviser "small entity" definitions. Specifically, the Commission proposed to:

- Amend rule 0-10 for funds to: (i) increase the net asset threshold for funds 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;
- Amend rule 0-7 for investment advisers to increase the RAUM Threshold below which an investment adviser is considered to be a "small entity" from $25 million to $1 billion and to conform the assets under management threshold in the Control Relationship Threshold with the revisions made to the RAUM Threshold;

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18 RAUM are securities portfolios for which the adviser provides continuous and regular supervisory or management services. *See* Form ADV, Instructions for Part 1A, Instruction 5(b).

19 *See* Proposing Release, at n.11 (discussing the basis for the use of the term "regulatory assets under management").

20 *See* 17 CFR 275.0-7(b)(2); 1998 Adopting Release at n.42 (describing "total assets").

- Amend Form ADV to revise the instructions and Item 12 of Part 1A of Form ADV, including through making conforming changes to Form ADV, and amend rule 203-3 providing a continuing hardship exemption from electronic filing requirements; and
- Amend rule 0-10 and rule 0-7 to allow the Commission to make subsequent inflation adjustments to the asset thresholds in these rules by order every 10 years in accordance with an inflation adjustment mechanism.

The Commission also requested comment on whether to amend the Total Assets Threshold, as well as the total assets threshold contained in the Control Relationship Threshold, in rule 0-7.

The Commission received approximately 20 comments on the proposed amendments. Commenters generally supported the proposal's goal to modernize the "small entity" definitions.[21] These commenters noted that the current rules are out of date and stated that the proposed amendments would help calibrate the Commission's analysis of the regulatory and compliance costs for small entities under the RFA.[22] Some commenters suggested modifications to the proposal, such as a higher fund net asset threshold, alternative non-RAUM Thresholds, different mechanisms for future threshold adjustments, elimination of the adviser Total Assets

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21 *See, e.g.*, Comment Letter of the Investment Company Institute (Mar. 13, 2026) ("ICI Comment Letter"); Comment Letter of MFA (Mar. 13, 2026) ("MFA Comment Letter"); Comment Letter of the Independent Directors Council (Mar. 13, 2026) ("IDC Comment Letter").

22 *See, e.g.*, Comment Letter of the National Venture Capital Association (Mar. 11, 2026) ("NVCA Comment Letter"); Comment Letter of the Small Business Investor Alliance (Mar. 16, 2026) ("SBIA Comment Letter").

Threshold, or different treatment of certain entities.[23] Some commenters expressed concern that the proposal would diminish investor protections and suggested lower asset thresholds.[24] After consideration of the comments received, and as discussed in more detail below, the Commission is adopting the amendments largely as proposed but with some modifications in response to comments.

### B. Overview of the Final Amendments

We are amending the definitions of "small business" and "small organization" under the Investment Company Act and the Advisers Act for purposes of the RFA, largely as proposed, but with modifications:

- **Raising the Fund Net Asset Threshold.** As proposed, the Commission is raising the net asset threshold for funds from $50 million to $10 billion.[25]
- **Amending the Fund Group Definition.** As proposed, the Commission is, for purposes of aggregating the net assets of related funds, replacing the term "group of related investment companies" with "family of investment companies" as that term is used in Item B.5 of Form N-CEN.

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23 *See, e.g.,* ICI Comment Letter; Comment Letter of Proskauer Rose LLP (Mar. 13, 2026) ("Proskauer Comment Letter"); Comment Letter of the Committee of Annuity Insurers (Mar. 10, 2026) ("CAI Comment Letter").

24 *See, e.g.*, Comment Letter of the Public Investors Advocate Bar Association (Mar. 16, 2026) ("PIABA Comment Letter"); Comment Letter of Better Markets (Mar. 13, 2026) ("Better Markets Comment Letter").

25 Final 17 CFR 270.0-10.

- **Raising the Adviser RAUM Threshold.** As proposed, the Commission is raising the RAUM Threshold from $25 million to $1 billion, and making conforming amendments to the Control Relationship Threshold to reflect the increased RAUM Threshold.[26] In a change from the proposal, the Commission is amending the Control Relationship Threshold to help advisers understand how to calculate the threshold.
- **Eliminating the Adviser Total Assets Threshold.** In a change from the proposal, the Commission is eliminating the $5 million Total Assets Threshold, and making conforming amendments to the Control Relationship Threshold to reflect that the Commission is eliminating the Total Assets Threshold.
- **Periodic Inflation Adjustments.** As proposed, the Commission is amending rule 0-10 and rule 0-7 to allow the Commission to make subsequent inflation adjustments to the asset thresholds by order every 10 years in accordance with the inflation adjustment mechanism set forth in section II.C below (the "Inflation Adjustment Mechanism").
- **Conforming Amendments to Form ADV and the Hardship Exemption Rule.** As proposed, the Commission is making conforming amendments to Form ADV, the uniform application for investment adviser registration and report form by exempt reporting advisers, and rule 203-3(b), which sets forth conditions for certain small SEC-registered advisers to apply for a continuing hardship exemption from the requirement to make Advisers Act filings electronically with the Investment Adviser Registration Depository (the "IARD").[27] The amendments are designed to reflect the

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[26] Final 17 CFR 275.0-7.

[27] *See infra* footnote 127, and accompanying text (defining "exempt reporting advisers").

Commission's amendments to the RAUM Threshold, the Control Relationship Threshold, and their corresponding periodic Inflation Adjustment Mechanism. In a change from the proposal, the Commission is also making additional conforming amendments to Form ADV and rule 203-3(b) to reflect the determination at adoption to eliminate the Total Assets Threshold.

Smaller firms play an important role in the asset management industry.[28] We are mindful that smaller firms may face disproportionate compliance burdens compared to larger firms.[29] For example, compliance costs—such as staff time, recordkeeping, cybersecurity costs, and reliance on outside expertise or market data—often do not scale with firm size,[30] and have increased, while client fees have decreased.[31] We also are mindful that failure to consider the impact of regulations on small entities could risk reducing innovation, competitiveness, and new market participants.[32] The Commission tailors its regulations to the relevant characteristics of regulated entities and weighs the impact of its rules on small entities, including through performing regulatory flexibility analysis under the RFA.

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28 Commenters agreed and stated, for example, that smaller funds offer innovation, and smaller advisers employ diverse investment philosophies and portfolio construction approaches, which broadens investor choice. *See, e.g.*, ICI Comment Letter.

29 *See, e.g.*, Comment Letter of the Investment Adviser Association (Mar. 13, 2026) ("IAA Comment Letter").

30 *See, e.g.*, MFA Comment Letter.

31 *See, e.g.*, Comment Letter of Garcia Hamilton & Associates, L.P. (Mar. 12, 2026) ("Garcia Hamilton Comment Letter").

32 *See, e.g.*, Comment Letter of the CFP Board, Financial Planning Association, *et al*. (Mar. 13, 2026) ("CFP Board Comment Letter").

The final amendments are designed to help ensure the Commission's RFA analyses capture a more meaningful population of "small entities" so the Commission can continue to address the special concerns of small businesses. Updating the definitions of "small business" and "small organization" is appropriate to reflect the substantial growth in, and distribution of, regulatory assets under management and net assets over the decades since these thresholds were set.[33] The updates to the definitions reflect more reliable and consistent metrics for whether an adviser or fund is small, compared to those in the current rules.

Some commenters stated that the proposed amendments would classify too many funds or advisers as small (effectively leading the Commission to prioritize benefits of large funds and advisers instead of truly small funds and advisers),[34] or otherwise could result in regulatory arbitrage between investment advisers and broker-dealers[35] and diminish investor protections.[36] As explained below, the final amendments will not classify too many funds or advisers as small. The final amendments also will not diminish investor protections. Designating an entity as a small entity does not reduce investor protection. Investor protection is a concern regardless of the size of an entity. The purpose of the small entity definition is, in part, to ensure that the Commission considers whether its rules are appropriately calibrated so that smaller entities are

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33 *See infra* section II.A.1 and section II.B.1.

34 *See, e.g.*, PIABA Comment Letter.

35 Comment Letter of the Securities Industry and Financial Markets Association (Mar. 13, 2026) ("SIFMA Comment Letter") (noting the differences between the regulatory frameworks applicable to broker-dealers and investment advisers and stating that regulatory arbitrage is a contributing factor driving the shift from broker-dealer to registered investment adviser frameworks).

36 PIABA Comment Letter.

not subject to regulations that may be disproportionately burdensome relative to the benefits or improvements in investor protection. The final amendments will enhance the Commission's rulemaking process by helping ensure the RFA analyses reflect current economic realities by incorporating the evolution of adviser and fund growth since the rules were first adopted, as other commenters stated.[37]

One commenter stated that the proposal did not appear to evaluate the investor-protection consequences of the proposed amendments and asserted the proposal focused primarily on industry size, rather than regulatory risk or compliance capacity. It outlined certain areas that the Commission should quantify and analyze in this regard, in particular to focus any regulatory relief on genuinely small entities and in a risk-based manner.[38] Because the final amendments primarily affect the process by which the Commission considers potential impacts on small entities, including benefits and costs of future rulemaking on small entities, the final amendments will not have any immediate impact on investor protection. Rather, the final amendments will

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37 *See e.g.*, IAA Comment Letter. One commenter expressed concern that the proposal would be inconsistent with an Executive Order and other Federal efforts to make housing affordable. This commenter expressed concern that reclassifying billion-dollar advisers and multi-billion-dollar fund families as "small" for securities rulemaking works at cross purposes with efforts to curb large institutional purchases of single-family homes. *See* Comment Letter of Angela Dowell (Feb. 26, 2026) ("Dowell Comment Letter") (citing, for example, "Stopping Wall Street From Competing with Main Street Homebuyers," Donald J. Trump Executive Order, Jan. 20, 2026, *available at* https://www.whitehouse.gov/presidential-actions/2026/01/stopping-wall-street-from-competing-with-main-street-homebuyers/). We disagree that the final amendments will be inconsistent with the Executive Order or other Federal efforts to make housing affordable. The plain language of the current and final rules limits the application of the definitions, stating that the definitions of "small business" and "small organization" are for purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act, unless otherwise defined for purposes of a particular rulemaking.

38 Comment Letter of James E. Scarborough (Mar. 12, 2026) ("Scarborough Comment Letter") (requesting analysis of investor exposure, regulatory relief consequences, risk-based threshold alternatives, and regulatory gap risk).

require the Commission to consider and address the potential impacts of future rulemaking on small entities, including effects on investor protection.

Separately, the methodology for the proposed thresholds reflects that advisory fees are generally scaled with an adviser's assets under management, where greater advisory fees can support an increased compliance capacity. The updated thresholds also will allow the Commission to more appropriately address in future rulemakings, in a risk-based manner, concerns that are unique to those entities that should be deemed small entities in view of the growth in assets since the rules were adopted and the appropriateness of any regulatory accommodations that may be provided to small entities.

While conducting RFA analyses in future rulemakings, the Commission can take into account any potential for regulatory arbitrage between broker-dealers and investment advisers and adjust its future rules accordingly. The Commission carefully weighs the economic impact of its rules on all regulated entities, including small businesses, and tailors its regulations to the relevant characteristics of the particular entities regulated. In this way, the Commission works to meet its mandate under the Federal securities laws while at the same time considering any potentially disproportionate costs and regulatory burdens for small entities. The Commission intends to continue this careful, measured regulation that addresses small business concerns within the protections of the Federal securities laws.

## II. DISCUSSION

### A. Amendments to Rule 0-10 under the Investment Company Act

#### 1. Raising the Net Asset Threshold

The Commission is amending the net asset threshold for small funds, as proposed. The final rule will amend paragraph (a) of rule 0-10 to increase the net asset threshold from $50 million to $10 billion and, as discussed in more detail in section II.C below, establish a

mechanism to inflation-adjust this figure every ten years. The increase accounts for the overall growth in the fund industry since the $50 million threshold was originally set in 1982.[39] At that time, 62.4% of funds were deemed "small entities," but by 2024, the share of funds deemed "small entities" had fallen to 0.6%.[40] Raising the net asset threshold in rule 0-10 to reflect growth in the investment company industry over the past decades will improve the utility of RFA analyses by more closely reflecting the population of funds that does not have the same competitive advantages as larger fund families (for instance, due to economies of scale when these larger families perform certain compliance and other operational functions in-house).[41] It also will more closely reflect the population of funds that does not have the same negotiating power as larger fund families when retaining service providers to perform compliance and operational functions.

In determining how to calibrate the amended threshold, the Commission considered the distribution of assets across individual funds and fund families, with the goal of ensuring that the proportion of funds that may face greater challenges in complying with Commission regulations due to their size be included in the small entity definition. Specifically, the Commission analyzed data reported on Form N-CEN to sort families of investment companies into percentiles according to their cumulative average total net assets. The Commission further analyzed this data

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39 *See* Proposing Release, at nn.50-55 and accompanying text.

40 *See* 1982 Adopting Release; Proposing Release, at n.55 (85 small entities / 13,630 total registered investment companies and BDCs = 0.6%).

41 Unless stated otherwise, the use of the term "fund family" or "fund families" in this release has the same meaning as "family of investment companies."

to determine the percentage of individual funds and the percentage of average total net assets represented by each percentile.[42] At proposal, the Commission estimated that, as of December 2024, fund families at or below the 80th percentile threshold of $10.04 billion in net assets accounted for 22.91% of individual funds and only 2.13% of fund assets.[43] The analysis that formed the basis for the proposed threshold reflects that the assets of the investment company industry are heavily concentrated at the largest fund families, and these largest fund families not only manage a large majority of assets in the industry, but also account for a majority of the individual funds.[44]

Most commenters supported generally raising the net asset threshold from the current level to account for growth in the industry.[45] Several commenters supported raising the net asset threshold to $10 billion in particular, stating that this threshold appropriately reflects current market size and structure.[46] One of the commenters specifically expressed its support for the distribution-based methodology used to reach the proposed $10 billion threshold for funds.[47]

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42 *See* Proposing Release, at section II.A.1.

43 *See* Proposing Release, at n.60; Table 1 and accompanying text. The data the Commission presented in the proposing release continues to represent the distribution of fund families, individual funds, and fund assets. *See also infra* footnote 52 and accompanying text.

44 The SBA considers economic characteristics composing the structure of an industry such as degree of competition, average firm size, start-up costs and entry barriers, and distribution of firms by size in establishing size standards. *See* 13 CFR 121.102. We have focused our analysis on the distribution of firms by size, as that is the metric for which we have the best available data.

45 *See e.g.*, Comment Letter of Federated Hermes, Inc. (Mar. 12, 2026) ("Federated Hermes Comment Letter"); CAI Comment Letter; Proskauer Comment Letter.

46 *See e.g.*, IDC Comment Letter; Comment Letter of the American Securities Association (Mar. 13, 2026) ("ASA Comment Letter").

47 ICI Comment Letter.

This commenter, while supporting the proposal, further encouraged the Commission to adjust the threshold to $12 billion to account for growth in the industry since the date of the data underlying the proposal. Some other commenters expressed concerns that $10 billion is too high, one of whom requested that the Commission quantify and analyze the investor-protection consequences of the higher threshold and another expressed concerns about the effects of entities with billions of dollars in assets being deemed to be "small" (*i.e.*, very large firms could receive regulatory accommodations intended for smaller firms with limited regulatory capacity, which the commenter indicated could cause smaller firms to lose the advantages the RFA provides them and have negative investor protection consequences).[48] One commenter suggested adjusting the thresholds adopted in the 1998 amendments for inflation, resulting in a $100 million threshold, or alternatively using the SBA's small entity standard based on $40 million in gross receipts.[49] Another commenter, asserting that the proposed threshold is too high, suggested defining "small entities" as those at or below the 20th percentile of aggregate fund family net assets using a distribution methodology based on Form N-CEN data.[50]

After considering these comments, we are, as proposed, raising the net asset threshold to $10 billion for funds. We agree with commenters' statements that the increased threshold would better reflect the growth in the fund industry and aid the Commission's analysis of regulatory

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48 *See e.g.*, Better Markets Comment Letter; Scarborough Comment Letter.

49 Better Markets Comment Letter.

50 Dowell Comment Letter.

and compliance costs on small funds.[51] Based on analysis of the distribution of data discussed above, we are adopting a "small entity" definition that incorporates a $10 billion net asset threshold, which continues to correspond to the 80th percentile threshold in that distribution-based analysis.[52] While the amended threshold will deem some relatively large individual funds "small" for purposes of the RFA, such an outcome is consistent with the economies of scale rationale for aggregating funds within a family. A single large fund with no other related funds will bear similar regulatory costs to several smaller, related funds that collectively represent a similar level of net assets. Therefore, aggregating assets across fund families reflects the Commission's understanding that funds within a complex typically use the same administrative, management, and compliance systems to oversee all the funds within the complex, so fees imposed on the fund by the adviser or administrator typically reflect economies of scale that the adviser or administrator achieves from managing other funds.

While the Commission seeks to ensure that funds and fund families that may face greater challenges with regulatory compliance due to their size be deemed small entities, we are also mindful that setting the threshold too high has the potential to be counterproductive and to undermine the purpose of the Commission's RFA analyses. A higher threshold would result in a larger pool of small entities and therefore would increase the number of small entities needed to be affected by a rule for the rule to "have a significant economic impact on a substantial number

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51 *See e.g.*, IDC Comment Letter.

52 Based on Form N-CEN data as of December 2025, fund families at or below the 80th percentile threshold of $10.59 billion in net assets similarly accounted for 22.6% of individual funds and 2.1% of fund assets.

of small entities," which could lead to fewer RFA analyses being performed.[53] Setting the threshold too high might also inadvertently lead to the Commission overlooking issues that concern the smallest entities when the Commission attempts to tailor its rules, and instead focusing primarily on issues of more general concern to the industry. Such an outcome might have the potential to perpetuate larger funds' advantages in the market, to the detriment of the smaller funds that the RFA was designed to protect.[54] Accordingly, the Commission's amended threshold is meant to identify a level below which a meaningful proportion of funds would be deemed small entities, but above which the size of, and concentration of assets in, fund families increases to such an extent that treating individual funds within those families as small entities would not be consistent with the goals of the RFA. We are therefore not adopting a smaller threshold than the proposed $10 billion threshold. We are also therefore not adopting a threshold of $12 billion as one commenter suggested. We do not believe this change from the proposed approach, based on one-year market movements, would be appropriate, as the proposed threshold was designed to be stable and flexible enough to guide Commission analysis for the next 10 years and not to reflect short-term market fluctuations.

We are not adjusting the current threshold for inflation, as some commenters suggested, but rather are retaining the proposed distribution-based methodology as the basis for the final

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53 *See* 5 U.S.C. 605(b); *see also, e.g.*, 1982 Adopting Release, *supra* footnote 13, at n.41 and accompanying text (stating, in the context of the AUM threshold for investment advisers, "the bigger the class, the greater the number of entities within it that must be adversely affected by a particular rulemaking before it can be said that the rulemaking affects a 'substantial' number of the class").

54 *See* discussion at *supra* footnotes 7-9 and accompanying text.

rules' threshold adjustment. A net asset threshold of $100 million (the result of inflation-adjusting the current rule's threshold) would cover less than 3% of funds and less than .03% of fund assets and would constrain future Commission analysis of small entity issues to this limited group.[55] Further, we are not adopting a threshold based on a gross receipts analysis. As discussed in the Proposing Release, gross receipts are not well suited to the fund industry, primarily because the Commission does not have or collect data for gross receipts of registered investment companies.[56] As the Proposing Release also discussed, funds primarily generate revenue through capital appreciation and other investment returns rather than receipts from the sale of goods or services, and a fund's investment returns may be attributable primarily to its particular investment strategy, meaning that two funds of identical size but pursuing different investment strategies may produce vastly different returns.[57] Commenters did not address or dispute these rationales for using an approach other than a gross receipts analysis.

We are also not adopting an approach that defines small entities as fund families with net assets at or below the 20th percentile as determined annually. The $10 billion net asset threshold and corresponding percentile we are adopting were derived from a distribution analysis particular to that data and set of facts and, therefore, is not necessarily indicative of the proportion of funds that should be deemed small entities in the future. A fixed percentile may become stale over time as the size and distribution of fund family net assets changes. Additionally, as discussed above,

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55 Proposing Release, at n.59 and accompanying text (table showing the distribution of assets across funds and fund families by percentile).

56 Proposing Release, at n.63 and accompanying text.

57 *See id.*

we continue to believe that a lower net asset threshold would not appropriately define "small entities" for future Commission analysis.[58]

Some commenters recommended aligning the adviser and fund thresholds so that if either a fund or an adviser qualifies as small, both would be treated as small.[59] These commenters expressed concerns that a mismatch between the fund and adviser thresholds could produce anomalous outcomes where, for example, an adviser managing a few billion dollars is not considered "small," while the funds it manages are. We continue to believe that independent asset thresholds for advisers and funds are appropriate. Advisers and funds are separate industries with different regulatory requirements and resources available to comply with these requirements. Therefore, the status of a fund as small and not dominant in its field is not indicative of its adviser being similarly situated, or vice versa.

### 2. Group Definition Amendments

As proposed, we are amending rule 0-10 to replace the term "group of related investment companies" with "family of investment companies," as that term is used in Item B.5 of Form N-CEN.[60] Currently, while the "small entity" designation applies to individual funds, whether any individual fund is deemed small depends upon the aggregate net assets of all funds within its respective "group of related investment companies." The change from using the term "group of related investment companies" to using "family of investment companies" in the small entity definition will enable the Commission to rely on information that is already reported on Form N-

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58 *See supra* footnotes 52, 54-55 and accompanying text.

59 *See* Federated Hermes Comment Letter; ICI Comment Letter; IDC Comment Letter.

60 *See* final 17 CFR 270.0-10(a)-(b); proposed 17 CFR 270.0-10(a)-(b). Item B.5 of Form N-CEN requires investment companies to report whether they are part of a "family of investment companies" and, if so, to disclose the full name of the family of investment companies.

CEN to identify small entities for purposes of RFA analyses and to more efficiently consider whether future adjustments to the net asset threshold are warranted. For comparison, the table below provides the existing definition of "group of related investment companies" from rule 0-10 alongside the existing definition of "family of investment companies" from Form N-CEN:

**Table 1**

| **"Group of Related Investment Companies"** | **"Family of Investment Companies"** |
|---|---|
| (a) . . .<br>(1) In the case of a management company, ***group of related investment companies*** means two or more management companies (including series thereof) that:<br>(i) Hold themselves out to investors as related companies for purposes of investment and investor services; and<br>(ii) Either:<br>(A) Have a common investment adviser or have investment advisers that are affiliated persons of each other; or<br>(B) Have a common administrator<br>**(2)** In the case of a unit investment trust, the term ***group of related investment companies*** shall mean two or more unit investment trusts (including series thereof) that have a common sponsor.<br>**(b)** ***Special rule for insurance company separate accounts.*** In determining whether an insurance company separate account is a *small business* or *small entity* pursuant to paragraph (a) of this section, the assets of the separate account shall be cumulated with the assets of the general account and all other separate accounts of the insurance company. | "Family of investment companies" means, except for insurance company separate accounts, any two or more registered investment companies that:<br>(i) share the same investment adviser or principal underwriter; and<br>(ii) hold themselves out to investors as related companies for purposes of investment and investor services.<br>Insurance company separate accounts that may not hold themselves out to investors as related companies (products) for purposes of investment and investor services should consider themselves part of the same family if the operational or accounting or control systems under which these entities function are substantially similar. |

Commenters expressed support for the proposed changes.[61] They agreed that the Commission should leverage data that is already collected in Form N-CEN, so as not to impose the additional burden of a new reporting requirement related to the "group of related investment

61 *See, e.g.*, ICI Comment Letter; CAI Comment Letter; IDC Comment Letter.

companies" definition.[62] Some commenters, while expressing support for the proposed changes, also offered views on how the "family of investment companies" definition in Form N-CEN might be improved.[63]

After considering commenters' input, we are adopting a final definition that uses "family of investment companies," as proposed. As described in the Proposing Release, the definition of "family of investment companies" serves a substantially similar purpose to the definition of "group of related investment companies" in seeking to group together funds that hold themselves out to investors as related (the "holding out prong") and that share an investment adviser or key service provider (an administrator for a "group of related investment companies" or underwriter for a "family of investment companies").[64] We acknowledge that specific differences from the "group of related investment companies" concept may produce different outcomes at the margins, such as the extent to which an insurance company's separate account is aggregated (with the insurance company's general account, as well as with other separate accounts) to determine whether individual separate accounts are small entities.[65] Notwithstanding the differences between the two terms, we continue to anticipate, as discussed in the Proposing Release, that funds that are part of the same "family of investment companies" are likely to experience similar economies of scale as those funds that are part of the same "group of related investment companies." Examples of potential cost savings due to economies of scale might

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62 *Id*. *See also* Proposing Release, at n. 77 and accompanying text.

63 *See* Comment Letter of Rohan Sharma (Jan. 27, 2026) ("Sharma Comment Letter"); CAI Comment Letter.

64 Proposing Release, at nn.69-71 and accompanying text.

65 Proposing Release, at nn.74-75 and accompanying text (discussing the treatment of insurance company separate accounts under the current and proposed definitions); *see also* Proposing Release, at nn.72-73 and accompanying text (discussing the treatment of UITs under the current and proposed definitions).

include complex-wide policies and procedures and recordkeeping systems, a shared chief compliance officer or board members, and one legal and compliance function that services the whole complex.

We are not amending the current definition of "family of investment companies" in Form N-CEN as some commenters have suggested. One commenter suggested amending the Form N-CEN definition so that it does not aggregate funds based on a shared principal underwriter, stating that funds that share an underwriter do not necessarily share compliance infrastructure.[66] This commenter, however, did not address the second prong of the Form N-CEN definition that requires registered investment companies to hold themselves out as related companies for purposes of investment and investor services in order to be grouped in the same family of investment companies, which in our view is likely indicative that two funds share compliance and operational infrastructure. Another commenter suggested that the Form N-CEN definition should aggregate separate accounts if they have the same insurance company sponsor or depositor, similar to the current "group of related investment companies" definition that aggregates assets of the general account and all other separate accounts of the insurance company.[67] While this commenter stated that this approach would be appropriate because the financial guarantees of variable contracts issued by the same insurance company are backed by the financial strength and claims-paying ability of the same general account, regardless of whether those contracts are supported by different separate accounts, the commenter did acknowledge that the suggested change would likely not significantly change how separate accounts are grouped for small entity definitional purposes.

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66 Sharma Comment Letter.

67 CAI Comment Letter. *See also* 17 CFR 270.0-10.

As other commenters have noted, leveraging data from an existing definition does not impose an additional burden on registrants of having to amend their filings. If we were to amend Form N-CEN as these two commenters suggest, registrants would have to review and possibly amend their filings, reducing or eliminating the benefit of using existing data. Our final approach reflects a view that the burden on other registrants of amending Form N-CEN would not provide commensurate benefits in any incremental improvements to the Commission's analysis of small entities. Further, the "family of investment companies" definition from Form N-CEN and associated data collection have long been used in assisting the Commission's analysis of multiple funds across the same family of investment companies.[68]

### B. Amendments to Rule 0-7 under the Advisers Act

#### 1. The RAUM Threshold

As proposed, the final amendments will raise the RAUM Threshold from $25 million to $1 billion and add the Inflation Adjustment Mechanism.[69] Rule 0-7 currently provides that an adviser is a small entity if it has assets under management of less than $25 million "or such higher amount as the Commission may by rule deem appropriate under Section 203A(a)(1)(A) of the Act."[70] As proposed, the final amendments remove the phrase "or such higher amount as the Commission may by rule deem appropriate under Section 203A(a)(1)(A) of the Act (15 U.S.C.

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68 *See* Proposing Release, at n.71 and accompanying text (explaining that this definition has been used by the Commission and registrants since 1985).

69 We discuss the Inflation Adjustment Mechanism in section II.C; final 17 CFR 275.0-7(a)(1).

70 17 CFR 275.0-7(a)(1).

80b-3a(a)(1)(A))."[71] The final amendments are designed to update the RAUM Threshold to reflect the growth of advisers' assets under management over time.[72]

### a. *Consideration of Alternative Non-RAUM Thresholds*

As proposed, the final amendments use an RAUM-based metric for threshold purposes. In the Proposing Release, we discussed feedback the Commission received suggesting alternatives to an asset-based approach to identifying small advisers and requested comment on alternatives to the RAUM Threshold.[73] Some commenters suggested the Commission should replace the RAUM Threshold with a non-RAUM threshold, such as a threshold based on revenue,[74] number of employees,[75] officers, owners, clients, non-accredited investors, or a combination thereof.[76] These commenters expressed concern that RAUM may not reflect the

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71 In a change from the proposal, we are correcting an erroneous cite in 17 CFR 275.0-7(a)(1), so instead of erroneously citing to 15 U.S.C. 80b-3a(a)(2), it correctly cites to 15 U.S.C. 80b-3a(a)(3), which defines "assets under management" under the Advisers Act.

72 Proposing Release at section II.B.1 for a discussion of the growth of advisers' assets under management over time.

73 Proposing Release at section II.B.1.

74 Garcia Hamilton Comment Letter (supporting a revenue-based threshold); *but see, e.g.*, IAA Comment Letter (opposing a revenue-based threshold).

75 *See e.g.*, CFP Board Comment Letter (supporting an employee-based threshold), *but see, e.g.*, Sharma Comment Letter (opposing an employee-based threshold).

76 *See e.g.*, Comment Letter of Neil Patrick Murphy (Feb. 8, 2026) ("Murphy Comment Letter") (supporting a flexible non-RAUM-based threshold), *but see, e.g.*, Sharma Comment Letter (supporting an RAUM-based threshold). A commenter recommended that the Commission should consider "risk-based threshold alternatives" such as "investor exposure," and appeared to define "investor exposure" as "total investor assets managed by firms." *See* Scarborough Comment Letter. While it appears the commenter was recommending an RAUM-based threshold, given that the commenter suggested the Commission analyze investor exposure, which it defined as "total investor assets managed by firms," the Commission also has considered a total assets based threshold, as well as other types of investor exposure-based thresholds, and

breadth of compliance resources that advisers may or may not have available.[77] According to these commenters, certain other non-RAUM-based thresholds would better evidence compliance burdens and risks of small advisers.[78] Other commenters opposed replacing the RAUM Threshold with a non-RAUM-based threshold.[79]

After considering comments, we are not persuaded to replace the RAUM Threshold with a non-RAUM-based threshold.[80] The Commission has long used RAUM to appropriately differentiate between small and other advisers to identify a universe of entities that are not dominant in the field, a principal element of the small entity status under the RFA.[81] As some commenters stated, RAUM is a meaningful proxy for business scale and compliance capacity,[82] and RAUM metrics directly correlate to the financial resources available for compliance.[83]

In contrast, a non-RAUM-based threshold would not be as reliable a metric to determine whether an adviser is small for RFA purposes as an RAUM-based threshold. An employee-based standard raises implementation challenges in appropriately addressing the use of service

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we continue to believe that an RAUM-based threshold is the most reliable indicator of whether an adviser is small, for the reasons discussed in this release.

77 *See e.g.*, CFP Board Comment Letter.

78 *See e.g.*, CFP Board Comment Letter.

79 *See e.g.*, Sharma Comment Letter.

80 Given that the Commission is maintaining an RAUM-based threshold, we are not persuaded to impose additional reporting requirements such as data concerning revenue, as one commenter recommended. *See* Garcia Hamilton Comment Letter.

81 *See* Proposing Release at section II.B.1.

82 Proskauer Comment Letter (stating that for advisers, RAUM is a much more meaningful proxy for business scale and compliance capacity, not the amount of assets carried on the adviser's balance sheet).

83 Sharma Comment Letter.

providers and outsourcing by investment advisers, which could distort the extent to which the number of an adviser's own employees reflects its actual resources and size. A commenter agreed, stating that an employee-based metric would penalize operational efficiency and outsourcing.[84] This commenter cautioned that moving to an employee-based metric would incentivize the misclassification of staff as contractors to maintain "small entity" status. Similarly, a threshold based on the number of clients or non-accredited investors also would not necessarily reflect an adviser's ability to devote resources towards compliance.[85] For example, while an adviser could have only one fund as a client, that fund could be large both by RAUM and number of investors resulting in the adviser maintaining the capacity to devote significant resources towards compliance-related matters. Conversely, an adviser may have a large number of clients, but those clients' assets could represent a small amount of RAUM, so that the adviser would not have economies of scale comparable to a larger adviser with significantly more RAUM. Likewise, we are not persuaded that a threshold based on the number of officers or owners would be a meaningful measure of adviser size for RFA purposes, because those metrics do not directly relate to how an adviser would scale resources in connection with compliance. A revenue-based threshold also would not provide as meaningful a measure of adviser size for RFA purposes as an RAUM-based threshold. Advisers have diverse fee structures, and as a result, annual receipts may not correlate with firm scale, operational complexity, or available compliance resources. A commenter agreed, stating that revenue recognition practices may differ

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84 Sharma Comment Letter.

85 Murphy Comment Letter.

among firms depending on their accounting methods, further reducing comparability and administrative simplicity.[86]

The Commission has ready access to RAUM data for the types of advisers that are generally subject to our rules, not just those registered with us.[87] Commenters agreed, with one commenter stating that it supported the RAUM-based threshold, in part, because it was readily available to the Commission.[88] For example, while the Commission collects RAUM information from both SEC-registered advisers and exempt reporting advisers, it does not collect revenue information from either type of adviser, and it does not collect employee counts from exempt reporting advisers.[89]

Using RAUM to distinguish between advisers is an approach that is broadly consistent with size standards generally under the Advisers Act and the rules thereunder, as well as advisers' existing reporting and compliance obligations. Congress has repeatedly differentiated the regulations to which an adviser is subject by using assets under management thresholds as size standards under the Advisers Act. For example, Advisers Act section 203(m) sets forth an assets under management threshold for the private fund adviser exemption from registration, and Advisers Act section 203A(a)(2) sets forth an assets under management threshold for mid-sized

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86 IAA Comment Letter.

87 *See* Proposing Release at section II.B.1.

88 *See, e.g.*, ICI Comment Letter.

89 *See* Form ADV, General Instruction 3; Item 2 of Part 1A; Item 5 of Part 1A; section 7.B. of Schedule D of Part 1A; Proposing Release at n.82 (describing exempt reporting adviser reporting).

advisers. Some commenters agreed.[90] For example, one commenter stated that it appreciated the Commission's explanation for proposing to maintain an RAUM-based threshold, including the view that RAUM aligns with existing regulatory frameworks.[91] Another commenter supported maintaining an RAUM metric, in part, because it is well understood and widely used.[92]

A commenter recommended that, no matter the approach, the Commission should establish a structured methodology that grounds any definition of "small entity" in empirical data.[93] The final amendments to the RAUM Threshold address this comment because they help ensure that rule 0-7 continues to use a structured methodology that grounds the definition of "small entity" in empirical data, namely RAUM, as discussed more fully in section II.B.1.b.

#### b. *The $1 Billion RAUM Threshold*

As proposed, we are raising the RAUM Threshold from $25 million to $1 billion. Commenters generally agreed that the current RAUM Threshold is too low.[94] Most commenters supported raising the RAUM Threshold to correct the misalignment between the current

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90 *See, e.g.*, IAA Comment Letter.

91 IAA Comment Letter.

92 ICI Comment Letter.

93 *See* CFP Board Comment Letter.

94 *See, e.g.*, ASA Comment Letter. Some commenters appeared to confuse the adviser RAUM Threshold with the SEC's adviser registration threshold, and opposed the proposed increase on that basis. *See, e.g.*, Comment Letter of Gallatin & Company, LLC (Feb. 19, 2026) ("Gallatin Comment Letter"). Most commenters, however, appeared to understand the distinction between the RAUM Threshold and the SEC-registration threshold. *See, e.g.*, SIFMA Comment Letter. Some commenters also cautioned the Commission to not raise the SEC-registration threshold. *See, e.g.*, CFP Board Comment Letter. The Commission did not propose to increase the SEC-registration threshold in the Proposing Release, and the Commission is not amending the SEC-registration threshold.

threshold and the current economic reality created by decades of industry growth,[95] the fact that capital has become concentrated among a small number of advisers,[96] and the structural changes in the investment management industry since the 1998 amendments, including that in 2010, the Dodd-Frank Act raised the SEC-registration threshold, resulting in fewer smaller advisers registering with the Commission.[97] In contrast, one commenter asserted it is counterintuitive that advisers' significantly increased RAUM supports their designation as small entities.[98] Another commenter stated that the Commission should not base the RAUM Threshold on the fact that there are some very large advisers.[99]

We continue to believe that the current RAUM Threshold is too low. The final RAUM Threshold is designed to capture the types and numbers of investment advisers that the Commission now considers to be "small" in light of industry growth since the 1998 amendments.[100] We disagree that industry asset growth or the presence of very large advisers undermines basing "small entity" status on an RAUM Threshold or the particular RAUM Threshold we are adopting.[101] It is appropriate to consider the size of the investment

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95 *See, e.g.*, Comment Letter of Logos Research Centre (Mar. 13, 2026) ("Logos Comment Letter").

96 *See, e.g.*, NVCA Comment Letter.

97 *See, e.g.*, MFA Comment Letter.

98 PIABA Comment Letter.

99 Better Markets Comment Letter.

100 *See* Proposing Release at section II.B.1.

101 PIABA Comment Letter (stating that the Commission's reasoning is circular); Better Markets Comment Letter (stating that the Commission should not base its threshold for deeming entities small on the fact that there are some very large investment companies and investment advisers).

management industry as a whole, as well as how the size is distributed across advisers, in determining adviser size thresholds under the RFA, because it helps ensure that such size thresholds are relevant to the adviser industry. What is "small" is an inherently relative exercise, and in an industry that ranges to very large advisers managing trillions of dollars in assets, even small advisers may manage sizeable amounts of assets. As discussed below, the distribution of advisory assets skewing heavily towards large advisers only exacerbates this effect.

Most commenters supported raising the adviser RAUM Threshold specifically from $25 million to $1 billion, saying that the proposed threshold would better reflect current market realities.[102] Others expressed concern that the proposed threshold would be too high because it would classify too many advisers as small.[103] One commenter cautioned that the Commission should not raise the adviser RAUM Threshold any higher than the proposed $1 billion threshold because it would obscure the impacts of rulemaking on small entities and deprive the public of a clear articulation of, and opportunity to comment on, those impacts.[104]

Some commenters recommended increasing the RAUM Threshold by a lesser amount than proposed.[105] For example, a commenter recommended that the Commission should increase the current RAUM Threshold for inflation since the 1998 amendments, instead, raising it to about $50 million.[106] Another commenter recommended amending the RAUM Threshold to

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102 *See, e.g.*, Sharma Comment Letter.

103 *See, e.g.*, Better Markets Comment Letter.

104 MFA Comment Letter.

105 *See, e.g.*, Better Markets Comment Letter, Dowell Comment Letter.

106 Better Markets Comment Letter.

align with the lowest 20th percentile of advisers.[107] We are not persuaded to increase the RAUM Threshold by a lesser amount than proposed because we are concerned that the commenters' recommended thresholds would not account for the fact that the distribution of RAUM across all advisers is highly uneven. As discussed in the Proposing Release, some advisers report having virtually zero RAUM, while a significant amount of the total RAUM is concentrated at the top 5 percent of advisers.[108] As discussed in the Proposing Release, the proposed $1 billion RAUM Threshold would represent 75 percent of advisers, but only under 3 percent of the total RAUM in the industry.[109] Therefore, we continue to believe that in light of the significant concentration of RAUM with the very largest advisers, the $1 billion RAUM Threshold will strike an appropriate balance between the level of RAUM per small adviser and the proportion of total RAUM in the industry.[110]

Some commenters recommended that the Commission provide certain data to support its proposal.[111] For example, a commenter recommended the Commission provide data concerning investor exposure, which the commenter appeared to define as total investor assets managed by firms that would newly qualify as small entities.[112] Another commenter expressed concern that the proposal did not provide details about why the RAUM Threshold should be $1 billion and

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107 Dowell Comment Letter.

108 Proposing Release at Table 3, and accompanying text.

109 Proposing Release at section II.B.1.

110 Proposing Release at section II.B.1.

111 *See, e.g.*, Scarborough Comment Letter.

112 Scarborough Comment Letter.

not another number.[113] This commenter expressed concern that the Commission described the proposed amendment as seeking to separate those who are "dominant in their field" from those who are "not dominant in" their field, but did not explain the "dominance" test or why that test would be appropriate in this circumstance.

Other commenters, however, expressed appreciation that the Commission chose the $1 billion figure based on data, which demonstrated industry concentration.[114] Another commenter stated that it appreciated the Commission's thoughtful and well-reasoned analysis supporting the proposed $1 billion RAUM Threshold.[115] This commenter discussed how the Proposing Release carefully considered both the significant concentration of assets among the largest advisers and the RFA's requirement that a small entity be one that is not "dominant in its field." The commenter stated that although the proposal would classify a substantial proportion of advisers as small entities, the Commission explained why this result would be appropriate given the comparatively modest amount of assets managed by these firms relative to the largest advisers.

The Commission proposed the $1 billion RAUM Threshold in light of the RFA's default definitions of the terms "small business" and "small organization," which define such entities as those that are independently owned and operated and are not dominant in their field.[116] The RFA provides that an agency may establish its own definitions of "small business" and "small

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113 CFP Board Comment Letter.

114 *See, e.g.*, MFA Comment Letter (stating that MFA appreciated the Commission's consideration of a threshold above that 75th percentile, given industry concentration).

115 IAA Comment Letter.

116 5 U.S.C. 601(3); 5 U.S.C. 601(4); 15 U.S.C. 632(a)(1).

organization" under certain circumstances.[117] Rule 0-7's Control Relationship Threshold is designed to address the element of the RFA's default definitions that require the "small business" or "small organization" to be independently owned and operated,[118] whereas the Commission proposed the $1 billion RAUM Threshold to address the requirement that a "small business" or "small organization" not be dominant in its field.[119]

As discussed in the Proposing Release, the Commission used Form ADV reporting data from SEC-registered advisers and exempt reporting advisers to analyze the distribution of investment advisers and RAUM, including data concerning the percentile of advisers, individual RAUM of advisers at the percentile, the total number of all advisers at or below the percentile, and the total RAUM of all advisers at or below the percentile in millions and as a percent.[120] The Commission estimated that the proposed $1 billion RAUM Threshold would still represent under 3 percent of total RAUM in the industry.[121] The Commission published these summary statistics in the Proposing Release, showing the distribution of assets across firms, and the proportion of

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117 5 U.S.C. 601(3); 5 U.S.C. 601(4).

118 Proposing Release at n.85.

119 Proposing Release at II.B.1.

120 *See* Proposing Release at n.82-83; Table 3 and accompanying text. The data the Commission presented in the Proposing Release continues to represent the distribution of investment advisers and RAUM.

121 *See* Proposing Release at section II.B.1; Table 3 and accompanying text; *See* Scarborough Comment Letter, which requested such quantification and analysis. This commenter recommended the Commission should quantify and analyze investor exposure, which the commenter appeared to define as total investor assets managed by firms that would newly qualify as small entities. Therefore, it appears the commenter was recommending analysis of an RAUM-based threshold, which the Proposing Release analyzed.

entities that would qualify under the proposed and other potential thresholds.[122] As discussed in the Proposing Release, these data revealed that the distribution of RAUM across all advisers is highly uneven, in part due to some advisers reporting zero or virtually zero RAUM, and more significantly because of the concentration of RAUM with the very largest advisers in the industry. The Commission compared data concerning the proposed RAUM Threshold to historical definitions, noting that the proposed RAUM Threshold would not result in the same proportion of advisers that were "small entities" as a result of the 1998 amendments.[123]

After considering comments, and in light of the RFA's default definitions and our data analysis, we continue to believe that a $1 billion RAUM Threshold is appropriate, and we do not believe that the final rules would inappropriately afford larger firms RFA accommodations that are intended for small entities.[124] A size standard threshold that is set too high could inadvertently cause Commission RFA analysis to mistakenly focus on issues of more general concern to the industry, instead of on issues that particularly impact smaller entities, as required by the RFA. Conversely, we are concerned that setting the RAUM Threshold too low would not be consistent with the RFA's default definition of "small business" and "small organization," because it would exclude advisers that are not dominant in their field. We believe such advisers may have fewer compliance resources, and therefore, would benefit from being considered a "small business" or "small organization" under the RFA. Although using $1 billion as the RAUM Threshold would classify a large proportion of investment advisers as small, this is a

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122 *See* Proposing Release at n.82-83; Table 3 and accompanying text; *see also* Logos Comment Letter, which requested such summary statistics.

123 *See* Proposing Release at n.82-83; Table 3 and accompanying text; *see also* Logos Comment Letter, which requested such comparative historical analysis.

124 Scarborough Comment Letter (requesting such analysis).

reasonable and appropriate result for purposes of our analyses under the RFA, in part due to the relative amount of assets managed by these advisers compared to the largest advisers, *i.e.*, those dominant in their field. We continue to believe that a $1 billion RAUM Threshold strikes an appropriate balance between the level of RAUM per small adviser and the proportion of total RAUM in the industry captured by the new threshold.[125]

A commenter recommended that "exempt reporting advisers" should have a higher adviser RAUM Threshold than SEC-registered advisers.[126] An "exempt reporting adviser" is an investment adviser that qualifies for the exemption from registration under section 203(l) of the Advisers Act because it is an adviser solely to one or more venture capital funds, or under rule 203(m)-1 of the Advisers Act because it is an adviser solely to private funds and has assets under management in the United States of less than $150 million.[127] According to this commenter, Congress has chosen to subject exempt reporting advisers to different and generally less burdensome regulatory obligations and it would be inconsistent with the logic underlying the RFA and the Advisers Act to not assess the burden on exempt reporting advisers independently in recognition of Congress's intent to subject these businesses to different regulatory regimes. We are not persuaded to raise the RAUM Threshold higher for exempt reporting advisers than for SEC-registered advisers, because, in our experience, we do not believe exempt reporting advisers and SEC-registered advisers would be subject to different economies of scale that should impact their status as a small adviser. For example, in our experience, both types of advisers could have similar business models or operational structures that could allow them to

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125 *See* Proposing Release at section II.B.1.

126 *See* Proskauer Comment Letter.

127 Form ADV, Glossary of Terms.

achieve similar economies of scale to implement certain rules. If a future rulemaking, however, would have a different impact on exempt reporting advisers than on SEC-registered advisers, the Commission could address that in the future rulemaking.

As discussed above, some commenters recommended aligning the adviser and fund thresholds so that if either a fund complex or its adviser qualifies as small, both would be treated as small for purposes of the RFA.[128] We are not persuaded to implement this recommendation, for the reasons discussed above.

The current rule provides that an adviser is a small entity if it has assets under management of less than $25 million "or such higher amount as the Commission may by rule deem appropriate under Section 203A(a)(1)(A) of the Act." Advisers Act section 203A(a)(1)(A) prohibits advisers from registering with the SEC if they have assets under management below a certain amount. The Commission originally adopted the phrase in 1998 so the RAUM Threshold could increase in tandem with any increase in the minimum threshold for SEC registration.[129] That has not happened in practice, however, despite the SEC registration threshold increasing in 2010.[130] Accordingly, we proposed to remove "or such higher amount as the Commission may by rule deem appropriate under Section 203A(a)(1)(A) of the Act (15 U.S.C. 80b-3a(a)(1)(A))," because the revised RAUM Threshold would exceed and thus not align with the minimum

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128 *See supra* footnote 59 and accompanying text.

129 1998 Adopting Release at n.48; Proposing Release at n.79.

130 *Id.*

threshold for adviser registration. The Commission did not receive any comments on this proposed change and is removing the phrase, as proposed.

### 2. The Total Assets Threshold

The final amendments eliminate the Total Assets Threshold, which currently excludes from the definition of small entity any adviser that has total assets of $5 million or more.[131] The Commission requested comment on whether to adjust or eliminate the Total Assets Threshold and proposed to amend the Total Assets Threshold to include an Inflation Adjustment Mechanism.[132]

The Total Assets Threshold was designed to enable the Commission to differentiate between small advisers and non-small advisers that may not have significant RAUM but do have significant assets related to a non-advisory line or component of their business.[133] The Total Assets Threshold also worked in concert with the Control Relationship Threshold in capturing common types of advisory industry affiliations.[134] The Commission had stated that an adviser in a control relationship with a large broker-dealer or other large financial services firm typically benefits from the financial and technical resources of the large firm, and that the large firm may

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131 To implement this amendment, the Commission is removing 17 CFR 275.0-7(a)(2), which sets forth the Total Assets Threshold. The Commission is redesignating the Control Relationship Threshold from 17 CFR 275.0-7(a)(3) to 17 CFR 275.0-7(a)(2) and making conforming amendments to remove references to total assets. The Commission also is removing 17 CFR 275.0-7(b)(2), which defines "total assets," and redesignating the subparagraphs of 17 CFR 275.0-7(b), to account for that removal.

132 Proposed 17 CFR 275.0-7(a)(2); Proposing Release at section II.B.2.

133 Proposing Release at section II.B.2.

134 *Id.*

handle much of the administrative and compliance needs of its affiliated adviser using resources not reflected in the adviser's client assets or business assets.[135]

Some commenters recommended eliminating the Total Assets Threshold, stating that total assets are not a reliable indicator of whether an adviser should be considered a small entity.[136] A commenter stated that total assets reflected on an adviser's balance sheet do not necessarily correlate with operational complexity, staffing levels, compliance capacity, or the scope of its advisory business.[137] This commenter stated that advisers may hold assets unrelated to their core advisory operations, including assets tied to non-advisory activities, temporary capital arrangements, or organizational structure, that do not meaningfully reflect firm size for RFA purposes. Another commenter stated that a balance sheet test can exclude advisers that are operationally small, while failing to meaningfully differentiate among advisers' ability to bear incremental compliance costs associated with Commission rulemakings.[138] According to this commenter, where an adviser has *de minimis* RAUM but substantial non-advisory assets, the adviser's investment advisory business is, by definition, not a meaningful component of the firm as a whole. The commenter indicated that in that circumstance, total assets may reflect the scale of the firm, taken as a whole, but does not reflect the resources that the firm is willing or able to allocate to an immaterial advisory business line. This commenter stated that when new adviser-

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135 Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Securities Act Release No. 7383 (Jan. 22, 1997), [62 FR 4106 (Jan. 28, 1997)] ("1997 Proposing Release"), at text following n.51.

136 Some commenters recommended that if the Commission retains the Total Assets Threshold, it should raise it to be commensurate with the proposed RAUM Threshold. *See e.g.*, Proskauer Comment Letter.

137 IAA Comment Letter.

138 Proskauer Comment Letter.

specific requirements increase fixed compliance costs, an enterprise with substantial non-advisory assets but minimal RAUM may rationally choose to exit the advisory business rather than devote incremental resources to comply with the rules affecting an immaterial portion of its overall operations.

After considering comments, we are eliminating the Total Assets Threshold. It is not necessary to maintain the Total Assets Threshold, because the RAUM Threshold and Control Relationship Threshold, as amended, are more reliable indicators of whether an adviser is a small entity for purposes of the RFA. Balance sheet assets, such as leases and equipment, do not reflect the scope of an advisory business as well as regulatory assets under management.[139] Furthermore, we understand an adviser that has *de minimis* RAUM, but significant assets related to a non-advisory business may not be willing or able to allocate resources from the non-advisory line to an immaterial advisory business if the non-advisory line does not share comparable compliance requirements. For example, while advisers and broker-dealers may have some comparable compliance requirements under the Advisers Act and the Exchange Act, respectively, other compliance requirements are not easily scalable for both. For example, both advisers and broker-dealers must deliver 17 CFR 279.1, Part 3 and 17 CFR 249.641, respectively ("Form CRS") to retail investors under the Advisers Act and the Exchange Act, respectively,[140] but only advisers must file Form ADV Part 1A, as applicable.[141] Therefore, a large broker-dealer

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139 *See* 1998 Adopting Release at n.42 (stating that "total assets" includes leases and equipment).

140 *See* 17 CFR 275.204-5 and 17 CFR 240.17a-14.

141 *See* 17 CFR 275.203-1 and 17 CFR 275.204-1.

under common control with an adviser with *de minimis* RAUM may be able to scale certain resources to the adviser concerning Form CRS, but not Form ADV Part 1A, because that requirement only concerns the adviser.

The RFA defines a "small business" and "small organization" as entities that are "not dominant in their field."[142] The final rules will continue to be consistent with the Commission's efforts to take into account the structure of business concerns and organizations in the securities industry when defining the terms "small business" and "small organization" and to preclude entities with significant economic or financial resources from obtaining potential regulatory benefits under the RFA.[143] The Control Relationship Threshold will continue to prevent affiliates of large advisers from obtaining potential regulatory benefits under the RFA. Currently and under the final rules, the Control Relationship Threshold precludes advisers from being considered small if they have *de minimis* RAUM, but control, are controlled by, or are under common control with another adviser that has assets under management equal to or greater than the RAUM Threshold. In such a case, the adviser with *de minimis* RAUM would appropriately continue to be precluded from obtaining potential regulatory benefits under the RFA.

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142 5 U.S.C. 601(3); 5 U.S.C. 601(4); 15 U.S.C. 632.

143 Proposed Definitions of "Small Business" and "Small Organization" for Purposes of the Regulatory Flexibility Act, Securities Act Release No. 6302 (Mar. 20, 1981), 46 FR 19251 (Mar. 30, 1981) ("1981 Proposing Release") (stating that the Commission believes that it is appropriate to take into account the structure of business concerns and organizations in the securities industry when defining the terms "small business" and "small organization" and to preclude entities with significant economic or financial resources from obtaining potential regulatory benefits under the RFA).

Although the Commission originally aligned the Total Assets Threshold with the total assets test used in the "small entity" definition in 17 CFR 240.0-10 ("Exchange Act rule 0-10"), it is not necessary to continue to align them through a total assets metric, as a commenter discussed.[144] Currently, Exchange Act rule 0-10(a) provides, among other things, that when used with reference to an "issuer" or a "person," other than an investment company, the term "small business" or "small organization" means an "issuer" or "person" that, on the last day of its most recent fiscal year, had total assets of $5 million or less.[145] The Commission stated that it aligned the values of the "small entity" definitions under the Advisers Act and the Exchange Act in view of financial industry affiliations between advisers and other large financial services firms to which the Exchange Act definition would apply.[146] However, as discussed above, the RAUM Threshold is a more reliable indicator of whether an adviser is a small entity for purposes of the RFA. As indicated by a commenter, RAUM is a more meaningful proxy for business scale and compliance capacity for advisers, rather than the amount of assets carried on the adviser's balance sheet.[147] The "small entity" definitions under the Advisers Act and the Exchange Act will continue to be aligned in other ways, including by both having thresholds that concern control relationships.[148]

The Commission receives limited information regarding advisers' total assets that would allow it to analyze with specificity the impact of potential changes to the Total Assets Threshold

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144 Proskauer Comment Letter.

145 In separate rulemaking, the Commission proposed to revise Exchange Act rule 0-10 (17 CFR 240.0-10) to raise the total assets threshold in the definition of small entity issuer (other than an investment company) from $5 million to $35 million. *See* 2026 Filer Status Release.

146 Proposing Release at section II.B.2.

147 Proskauer Comment Letter.

148 Final 17 CFR 275.0-7(a)(2) and 17 CFR 240.0-10(i).

over the distribution of investment advisers. The Commission only receives information in Item 1.O. of Part 1A of Form ADV regarding investment advisers with $1 billion or more in total assets as well as information in Item 12 from registered investment advisers with less than $25 million in RAUM regarding whether they have less than $5 million in total assets. Commenters did not support adopting additional reporting requirements to preserve this element of the definition of "small entity."[149] Given that the RAUM Threshold and Control Relationship Threshold are more meaningful thresholds to determine whether an adviser is small for purposes of the RFA than the Total Assets Threshold, we are not persuaded that imposing new reporting burdens to calibrate the Total Assets Threshold would be justified.

### 3. The Control Relationship Threshold

The Commission is amending the Control Relationship Threshold, with modifications from the proposal. Currently, the Control Relationship Threshold disqualifies an adviser from being considered small if it is in a control relationship with an affiliated adviser exceeding an assets under management test that mirrors the current RAUM Threshold of $25 million.[150] To continue to maintain a consistent threshold between the Control Relationship Threshold and the RAUM Threshold, the Commission is amending the value of the Control Relationship Threshold to conform it to the revised $1 billion RAUM Threshold, including its corresponding Inflation Adjustment Mechanism, as proposed.[151] Also, as proposed, the Commission is removing "(or

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149 *See e.g.*, Proskauer Comment Letter.

150 17 CFR 275.0-7(a)(3).

151 Final 17 CFR 275.0-7(a)(2).

such higher amount as the Commission may deem appropriate)" to further conform the Control Relationship Threshold with the revised RAUM Threshold, for which the Commission removed a similar phrase.[152] In a change from the proposal, the Commission is removing from the Control Relationship Threshold the elements that concern the Total Assets Threshold, namely that an adviser is disqualified from being considered a small entity if it has a control relationship with any person (other than a natural person) that had total assets of $5 million or more on the last day of the most recent fiscal year (as well as the proposed inflation adjustment to this amount).[153] As discussed above, an RAUM threshold is a more reliable indicator of whether an adviser is a small entity than a total assets threshold.[154] In another change from the proposal, the Commission is further amending the Control Relationship Threshold, after considering comments, to help advisers understand how to calculate the assets under management referenced in the Control Relationship Threshold, as discussed more fully below.[155] As a result, under the final amendments, an adviser would meet the Control Relationship Threshold if it does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management equal to or greater than the RAUM Threshold.

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152 *See* section II.B.1.b of this release.

153 A commenter requested the Commission provide examples illustrating the application of the Control Relationship Threshold to common dual-registrant and holding company structures, stating that it was concerned large broker-dealer operations of dual registrants would cause an adviser to no longer be a small entity. This request appears to concern the element of the current Control Relationship Threshold that concerns total assets that we are removing, because only the total asset analysis considered non-advisory assets. Therefore, this request does not appear to be applicable to the final rules. *See* ASA Comment Letter; 17 CFR 275.0-7(a)(3); final 17 CFR 275.0-7(a).

154 *See* section II.B.2 of this release.

155 Final 17 CFR 275.0-7(a)(2).

The Control Relationship Threshold is designed to preclude entities with significant economic or financial resources from obtaining potential regulatory benefits under the RFA.[156] We continue to believe that Congress did not intend affiliates of large businesses to receive benefits under the RFA.[157] Only those businesses and organizations that are "independently owned" may qualify as small entities pursuant to the definitions contained in the RFA.[158] The final amendments to the Control Relationship Threshold are designed to help ensure the Control Relationship Threshold continues to preclude entities with significant economic or financial resources from their large business affiliates from obtaining potential regulatory benefits under the RFA.

Commenters supported the Commission's proposal to make conforming amendments to the Control Relationship Threshold to reflect the revised $1 billion RAUM Threshold, with its corresponding Inflation Adjustment Mechanism.[159] Commenters also offered recommendations concerning the Control Relationship Threshold. A commenter requested that the Commission confirm that RAUM as reported on Form ADV is the operative metric for adviser small entity status.[160] Under the current rule, the RAUM Threshold sets forth how to calculate assets under management: as defined under Advisers Act section 203A(a)(3) and reported on an adviser's

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156 Proposing Release at section II.B.3.

157 1997 Proposing Release, at text accompanying n.52.

158 1981 Proposing Release at text accompanying n.32; Proposing Release at text accompanying n.111.

159 *See, e.g.*, ASA Comment Letter.

160 ASA Comment Letter.

annual updating amendment to Form ADV.[161] The current Control Relationship Threshold, however, only discusses assets under management, without detailing the calculation method.[162]

After considering the comments, the Commission is confirming that advisers must calculate assets under management for the Control Relationship Threshold using the same method as the RAUM Threshold: as defined under Advisers Act section 203A(a)(3) and reported on the adviser's annual updating amendment to Form ADV. In this regard, in a change from the proposal, the Commission is amending the Control Relationship Threshold so that instead of specifying the amount of assets under management of an affiliated investment adviser to surpass the threshold, as it currently does, it instead references rule 0-7 paragraph (a)(1), which sets forth the RAUM Threshold, including its corresponding Inflation Adjustment Mechanism and the calculation method.[163] This amendment does not change how the Control Relationship Threshold operates as compared to the current rule. Instead, it is designed to ensure that advisers understand how to calculate the assets under management in the Control Relationship Threshold.

A commenter recommended the Commission amend the Control Relationship Threshold to provide a special rule for insurance companies, so that an insurance company's affiliated institutional advisers would not be cumulated with an insurance company's affiliated retail advisers.[164] This commenter stated that institutional advisers and retail advisers involve substantially different infrastructures, systems, and regulatory requirements, they do not share management or advisory personnel, they have distinct costs and burdens, and there are few

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161 17 CFR 275.0-7(a)(1).

162 17 CFR 275.0-7(a)(3).

163 Final 17 CFR 275.0-7(a)(2).

164 CAI Comment Letter.

opportunities for economies of scale between them. The commenter expressed concern that a retail adviser may be disproportionately and unfairly impacted by changes in Commission regulation if its assets under management are cumulated with an institutional adviser merely due to common control.

We are not persuaded to provide a special rule for insurance companies, so that an insurance company's affiliated institutional advisers would not be cumulated with an insurance company's affiliated retail advisers. Currently, the requirements in rule 0-7 do not distinguish between retail advisers and institutional advisers. We are not persuaded that advisers should be treated differently under rule 0-7 solely based on the fact that they are affiliated with an insurance company. We disagree with this commenter's assertion that an adviser's retail and institutional advisory businesses involve substantially different regulatory requirements. Retail and institutional advisory businesses involve substantially similar regulatory requirements, because both are subject to the Advisers Act, and the rules thereunder, among other things which do not generally differentiate between the type of client. Even if affiliated advisers choose different infrastructures, systems, management, or advisory personnel, there remain opportunities for economies of scale concerning compliance with and operation under the Advisers Act and the rules thereunder, even if some particular provisions do not apply to each adviser. Therefore, we disagree with the commenter's assertion that a retail adviser would be disproportionately or unfairly impacted by changes in Commission regulation if its assets under management are cumulated with an institutional adviser due to common control.

#### 4. Conforming Amendments to Form ADV and the Adviser Hardship Exemption Rule

The Commission is making conforming amendments to Form ADV, General Instruction 17, and Item 12 of Part 1A, as well as Advisers Act rule 203-3(b), with modifications from the

proposal. Form ADV is the uniform application for investment adviser registration and report form by exempt reporting advisers. General Instruction 17 summarizes the conditions for certain small advisers to apply for an exemption from filing Form ADV electronically with the IARD. Item 12 of Part 1A requires an eligible SEC-registered adviser to report how it qualifies as a "small business" or "small organization" under rule 0-7. It is designed to provide information to the public and the Commission about advisers, including information that enables the Commission to consider the effect of its regulations on small entities, as required by the RFA.[165] Rule 203-3(b) sets forth conditions for certain small SEC-registered advisers to apply for a continuing hardship exemption from the requirement to make Advisers Act filings electronically with the IARD, among other things.

As proposed, the Commission is making conforming amendments to Form ADV, including General Instruction 17 and Item 12, as well as rule 203-3(b) to reflect the final amendments to the RAUM Threshold, the Control Relationship Threshold, and their corresponding inflation adjustments. Currently, General Instruction 17 states, in part, that an adviser is a small business, and may be eligible for a continuing hardship exemption, if it is required to answer Item 12 of Part 1A "(because you have assets under management of less than $25 million)" and it is able to respond "no" to each question in Item 12. As proposed, the Commission is removing the parenthetical "(because you have assets under management of less than $25 million)." This parenthetical is implicit, given that the sentence also directs advisers to Item 12, which provides the relevant instructions. Removing this phrase will avoid requiring the Commission to update it periodically, as the Commission adjusts the RAUM Threshold for

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165 *See* Form ADV, Item 12 of Part 1A.

inflation. Also, as proposed, the Commission is revising General Instruction 17 and rule 203-3(b) so they explicitly apply to an adviser that is either a "small business" or "small organization," as Item 12 does, rather than just a "small business."

In a change from the proposal, the Commission is making additional conforming amendments to Form ADV, Item 12 of Part 1A to remove references to the Total Assets Threshold, to reflect that the Commission is eliminating the Total Assets Threshold from rule 0-7. In connection with this change, the Commission also is amending rule 203-3(b)(5) to remove the phrase "that you were required to answer" because it is no longer relevant in light of the amendments to Item 12. In another change from the proposal, the Commission is revising the language of Form ADV Item 12, so that it refers to rule 0-7, rather than re-stating the threshold, as proposed. This amendment does not change the substance of Item 12 as compared to the proposal. The purpose of this amendment is to help ensure Item 12 remains operative, without additional rulemaking, in light of future Commission orders that may adjust rule 0-7's threshold for inflation.

One commenter supported the proposed amendments to Form ADV, discussing that the proposed amendments would help ensure internal consistency across Commission rules.[166] This commenter, along with another commenter, recommended not imposing any additional reporting requirements.[167] The Commission did not propose additional reporting requirements, and is not adopting additional reporting requirements at this time. A commenter requested the Commission

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166 IAA Comment Letter.

167 IAA Comment Letter; Proskauer Comment Letter.

quantify and analyze regulatory relief consequences, which the commenter described as Commission reporting, compliance, or procedural accommodations that would become newly available once firms qualify as small entities.[168] We are confirming that rule 203-3(b) provides such an accommodation and its continuing hardship accommodation will become newly available once firms qualify as small entities.[169]

### C. Periodic Future Adjustments

The final amendments to rules 0-10 and 0-7 will, as proposed, provide an Inflation Adjustment Mechanism for periodic future adjustments of the asset-based thresholds used in these rules' small entity definitions.[170] Specifically, the amendments provide that the Commission will issue an order every ten years adjusting: (i) the net asset threshold in the investment company small entity definition; and (ii) in the investment adviser small entity definition, the RAUM Threshold (which will also now have the effect of adjusting the Control Relationship Threshold). As proposed, the final amendments to rule 0-10 and rule 0-7 will require that the adjustment of the asset-based thresholds be calculated by reference to the Personal Consumption Expenditures Chain-Type Price Index (the "PCE Index").[171] The final amendments providing the Inflation Adjustment Mechanism will require rounding the

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168 *See* Scarborough Comment Letter.

169 Currently, the Commission's definition of "small entity" under the RFA is incorporated into the Commission's other rules and regulations only in connection with an adviser's responses to Form ADV (and this release is implementing corresponding amendments to the form) and rule 203-3(b). *See infra* footnote 189, and accompanying text.

170 Final 17 CFR 270.0-10(c); final 17 CFR 275.0-7(c).

171 *See id.*

investment company small entity net asset threshold to the nearest multiple of $1,000,000,000 and rounding the investment adviser small entity RAUM Threshold (and thus the Control Relationship Threshold) to the nearest multiple of $100,000,000.[172]

In order to adjust the asset-based thresholds for the "small entity" definitions as discussed above, the Commission considered an analysis of the distribution of fund and adviser assets and the growth in these assets over time. As described in the Proposing Release, however, these amended thresholds may become less useful over time due to growth in markets and any subsequent changes in the fund and adviser industries. The proposed Inflation Adjustment Mechanism was designed to ensure that the thresholds are adjusted every ten years, because the adjustment would be required by rule and effected through a Commission order.

Some commenters supported the proposed inflation adjustments.[173] Other commenters supported the goal of periodic adjustments, but expressed concern about the details of the proposal.[174] For example, some commenters recommended the Commission use a shorter cadence for adjustments, such as five or seven years, to ensure that the thresholds remain

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172 Final 17 CFR 275.0-7(c)(2) and final 17 CFR 270.0-10(c)(2). Final 17 CFR 270.0-10 will require the net asset threshold for small entities be adjusted for inflation by dividing the year-end value of the PCE Index for the calendar year preceding the calendar year in which the order is being issued, by the year-end value of the PCE Index for the calendar year in which any final rule that is adopted becomes effective, multiplying $10 billion (*i.e.*, the final amendments' net asset threshold) by that quotient, and rounding the product to the nearest multiple of $1 billion. Final 17 CFR 275.0-7(c)(2) will adjust the RAUM Threshold (and thus the Control Relationship Threshold) by starting with the same quotient but will multiply that by $1 billion, rounded to the nearest multiple of $100 million.

173 *See, e.g.*, NVCA Comment Letter.

174 *See, e.g.*, Federated Hermes Comment Letter.

reasonable.[175] Some commenters recommended using an adjustment mechanism they consider more relevant than inflation, such as a broad-based index of asset prices,[176] or the proposal's own asset-based distribution analysis for RAUM and net asset percentiles.[177]

After considering comments, we are adopting the Inflation Adjustment Mechanism substantially as proposed.[178] Adjustments that the Commission makes mechanically by order could help maintain the thresholds at levels that reflect the buying power of money over time, without the need for Commission action through rulemaking.[179] We expect, as discussed in the Proposing Release and by commenters, that the Inflation Adjustment Mechanism will prevent the thresholds in the small entity definitions from becoming less meaningful over time on account of anticipated changes in dollar value.[180] Specifically, because a fund's or adviser's size is related to its ability to bear compliance costs, adjusting the asset-based thresholds is designed to account for potential increases in those compliance costs.

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175 *See, e.g.*, Sharma Comment Letter (recommending a five-year cadence); Federated Hermes Comment Letter and ICI Comment Letter (each recommending a seven-year cadence).

176 Proskauer Comment Letter.

177 *See, e.g.*, Proskauer Comment Letter; ICI Comment Letter.

178 As discussed above, for advisers, we are removing the Total Assets Threshold and its corresponding inflation adjustment, and we are revising the Control Relationship Threshold to refer to the RAUM Threshold and its inflation adjustment in establishing the threshold under which an affiliated adviser may affect an adviser's small entity status. *See* sections II.B.2 and II.B.3.

179 The Commission has historically incorporated periodic and mechanical adjustments to certain dollar-based thresholds in regulations affecting funds and investment advisers. These adjustments reflect that some level of change in dollar value is reasonably anticipated to occur in the future and help ensure that the rules' intended application remains consistent and relevant over time. *See, e.g.*, 17 CFR 270.3c-7; 17 CFR 275.205-3; *see also* Proposing Release, at n.128 (discussing Commission releases that have used the PCE Index for inflation adjustment).

180 *See* Proposing Release at section II.C; *see also, e.g.*, CAI Comment Letter; IAA Comment Letter.

While certain comments recommended a shorter adjustment cadence, the final amendments' Inflation Adjustment Mechanism reflects the same ten-year cadence as proposed. Given the distributions of different-sized entities for funds and investment advisers, inflationary changes over shorter periods would generally not result in a meaningfully different set of funds and investment advisers being considered small entities under their respective definitions.[181]

Likewise, after considering comments recommending an adjustment mechanism based on a metric other than inflation, we are adopting this aspect of the Inflation Adjustment Mechanism as proposed. We acknowledge that inflation may not perfectly represent growth in the fund and adviser industries. Nevertheless, as discussed above, our view continues to be that inflation adjustment is the most appropriate mechanism for periodically and mechanically adjusting the asset thresholds and implementing the adjustments by order. Inflation, unlike the asset-based distribution analysis mechanisms described by commenters, is a known factor for which a precise value can reliably be derived from a defined index. Periodically adjusting the thresholds to a set percentile from a distribution analysis would similarly be inappropriate. The percentile that resulted from the distribution analysis performed in the Proposing Release is particular to that data and set of facts and, therefore, is not necessarily indicative of the proportion of funds or advisers that should be deemed small entities in the future. In addition, performing the same or similar analysis to determine a future percentile based on then-current data would involve a level of analysis that would require a future rulemaking rather than an adjustment by Commission order. Similarly, we do not consider using a broad-based index of asset prices as the basis for adjustment as suggested by commenters to be appropriate in light of the breadth of fund and

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[181] *See, e.g., supra* footnotes 42-43 and 52 and accompanying text; *supra* footnotes 108-110 and accompanying text.

adviser strategies. Any one particular index of asset prices would not be appropriate for certain strategies, and if multiple indexes were used, this could result in different levels of adjustment depending on the index, as well as operational complexity.

It is possible, but less predictable, that the asset-based thresholds may become less useful over time even taking the Inflation Adjustment Mechanism we are adopting into account (for example, with the advent of market events, changes in the makeup or distribution of size of the fund or adviser markets, or other industry changes). In this case, the Commission could consider performing appropriate analyses to propose amendments to the thresholds again in the future independent of the Inflation Adjustment Mechanism. Similarly, in the future, the Commission also could consider proposing a periodic adjustment approach using analysis other than one based on the Inflation Adjustment Mechanism.

### D. Effective Date and Compliance Date

The effective dates and compliance dates are as follows:

- Final amendments to rule 0-10 and rule 0-7 are effective [INSERT 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], which is 90 days from the date of publication in the *Federal Register*.
- Final amendments to rule 203-3 and Form ADV are effective, and have a compliance date of, [INSERT 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], which is 90 days from the date of publication in the *Federal Register*.

One commenter recommended an implementation period of 180 days, so advisers can reassess their "small entity" status, update internal Form ADV filing procedures, train compliance and personnel on the revised Form ADV Item 12 logic and hardship exemption

eligibility, and coordinate updates with third-party compliance vendors or filing service providers where applicable.[182] We are not persuaded to provide an implementation period of 180 days. While additional SEC-registered advisers will have to update their small entity status in Item 12 of Form ADV and will be newly eligible for the hardship exemption under rule 203-3(b), the information required to comply with the final amendments is readily available to advisers and the additional cost of the final amendments would be minimal. Also, as a practical matter, most advisers will have additional time to update their Form ADV because Form ADV does not require advisers to file an other-than-annual amendment to update Item 12; most advisers will update Item 12 as part of their regularly scheduled annual amendments.[183] The compliance period for rule 203-3 and Form ADV is designed to provide the Financial Industry Regulatory Authority ("FINRA") sufficient time to update the IARD to reflect revised Item 12.[184]

In the event that FINRA is unable to update the IARD by the end of the compliance period, until the IARD is updated, advisers should leave Item 12 blank, and provide responses to revised Item 12 in the miscellaneous section of Schedule D of Form ADV.

We are adopting an effective date for rule 0-7, rule 203-3, and Form ADV that matches the compliance date for rule 203-3 and Form ADV, because these rules and form are connected to each other. We are adopting the same effective date for rule 0-10 for consistency.

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182 Comment Letter of Charles Schwab & Co. (Mar. 13, 2026) ("Schwab Comment Letter").

183 *See* Form ADV, General Instruction 4.

184 FINRA operates the IARD.

## III. ECONOMIC ANALYSIS

The Commission is mindful of the economic effects, including the costs and benefits, of its rules. The Commission has a long-held focus on small entities when engaged in rulemaking. 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 consistent with the stated objectives of applicable statutes.[185] The Commission is required to determine if a rulemaking is likely to have a "significant economic impact on a substantial number of small entities" under the RFA.[186] In applicable rulemakings, the Commission's definitions of "small entities" determine the scope of the regulatory flexibility analyses conducted at the proposal and final stages. The updated definitions are expected to better tailor the Commission's analyses of the specific regulatory challenges faced by small entities by expanding the scope of the analyses that the Commission conducts under the RFA. These analyses, in turn, are expected to better inform the Commission of the regulatory impacts faced by small entities so that it may consider adapting its rulemaking accordingly.[187] To the extent such adaptations to future rulemakings will occur, the use of the amended definitions of "small entities" in RFA analyses could result in different benefits and

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185 *See supra* footnote 7.

186 *See supra* footnote 8.

187 Many commenters agreed that the updated definitions will better inform the Commission of the regulatory impacts faced by small entities. *See, e.g.*, IAA Comment Letter, MFA Comment Letter, Schwab Comment Letter. Other commenters stated that the updated definitions, as proposed, would not better inform the Commission in this regard. *See, e.g.*, Better Markets Comment Letter and PIABA Comment Letter. These and other comments received on the substance of the proposed changes to the definitions are discussed throughout *supra* section II.

costs of such rulemakings.[188] For example, if the Commission, informed by the more tailored RFA analyses, determined to scope fewer small entities into future rulemakings or tailor obligations imposed by such rulemakings differently for small entities, there could be lower compliance costs imposed on such entities.

In addition to these indirect effects, the final rule will have direct economic effects arising in situations where the updated small entity definitions affect the application of existing Commission rules and regulations. Currently, the Commission's definition of "small entity" under the RFA is incorporated into the Commission's other rules and regulations only in connection with an adviser's responses to Form ADV (and this release is implementing corresponding amendments to the form) and to rule 203-3(b). We thus consider the effects of the updated definition as it relates to the use of that definition in Form ADV, as well as the effects of the other associated changes to the form and to rule 203-3(b).[189]

First, we are amending Form ADV to revise General Instruction 17, which currently permits registered or registering investment advisers to receive a continuing hardship exemption from Form ADV electronic filing requirements, pursuant to rule 203-3(b), if such investment

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188 One commenter argued that the revised definitions may lengthen the rulemaking process. *See* Logos Comment Letter (stating that "[b]roader inclusion may also increase frequency with which [RFA] analyses are required. This could lengthen the rulemaking process and require administrative resources. While these procedural costs are relatively modest compared to potential regulatory impacts on smaller firms, they represent an operational trade off.") Our experience with conducting RFA analyses has been that they have not significantly lengthened the rulemaking process.

189 The scope of the economic analysis therefore addresses the request by one commenter stating that the Commission "should quantify and analyze […] which SEC reporting, compliance, or procedural accommodations become newly available once firms qualify as small entities." *See* Scarborough Comment Letter.

adviser is a small business and can demonstrate that filing Form ADV electronically would impose an undue hardship.[190] As proposed, we are revising General Instruction 17 to define an investment adviser as a "small business" or "small organization" if it is required to answer Item 12 (which itself relies on the definition in rule 0-7) and if it is able to respond "no" to each question in Item 12. Since the amendments to Item 12, in conformity with rule 0-7, reflect the removal of the Total Assets Threshold and that the RAUM Threshold is increasing from $25 million to $1 billion, General Instruction 17 will similarly reflect these changes for the availability of the continuing hardship exemption.

As a result, 10,180[191] additional registered investment advisers may be eligible for the exemption under the revised definition, as reflected in the amended General Instruction 17, before any future adjustment for inflation. However, we expect that the increased availability of the continuing hardship exemption to registered investment advisers meeting the updated definition will have minimal economic impact. Due to the ubiquity of inexpensive access to computers and the internet—both to advisers themselves and to the service providers they may employ—any newly eligible advisers are unlikely to be able to demonstrate that filing Form

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190 Also, as proposed, the Commission is revising General Instruction 17 and rule 203-3(b) so they explicitly apply to an adviser that is either a "small business" or "small organization," as Item 12 does, rather than just a "small business."

191 This estimate captures the number of registered investment advisers with RAUM equal to or above $25 million but below $1 billion. The estimate does not account for the number of such advisers in a control relationship with an affiliated adviser managing $1 billion or more, who would be disqualified from being eligible for the exemption. This estimate also excludes advisers with RAUM below $25 million who may newly qualify as small entities because the amendments eliminate the total-assets tests and increase the RAUM threshold for affiliated advisers.

ADV electronically would impose an undue hardship.[192] We therefore anticipate that few, if any, additional advisers will be able to rely on the exemption.

Second, as proposed, we are amending Item 12 of Part 1A of Form ADV to align the RAUM threshold for completing the questions in that item with the final amendments to the definitions of "small business" and "small organization" under rule 0-7.[193] In a departure from the proposal, we are revising Item 12 and rule 203-3(b)(5) to reflect that the final amendments eliminate the Total Assets Threshold from rule 0-7.

As a result of the final amendments, approximately 10,180[194] additional registered investment advisers will be required to complete Item 12 of Part 1A (before any future adjustment for inflation). These advisers may incur costs associated with training their compliance personnel, updating internal procedures, and coordinating updates with third-party service providers,[195] and will incur costs associated with preparing the disclosure. Because the

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192 The Commission has not received applications for the continuing hardship exemption in recent years. In addition, registered advisers or advisers registering with the Commission may still be eligible for the temporary hardship exemption under 17 CFR 275.203-3(a), regardless of whether they are a small business or small organization, if they experience certain unanticipated technical difficulties. However, we acknowledge that any advisers that may consider applying for the exemption may incur costs to train their compliance personnel on the revised exemption eligibility. *See* Schwab Comment Letter (stating that "the proposed updates will require advisors to […] [t]rain their compliance and personnel on the revised […] hardship exemption eligibility.").

193 *See supra* section II.B.4. In another change from the proposal, the Commission is revising the language of Form ADV Item 12, so that it refers to rule 0-7, rather than re-stating the threshold, as proposed. This amendment would help ensure Item 12 remains operative, without additional rulemaking, in light of future Commission orders that may adjust rule 0-7's threshold for inflation. This amendment thus does not have independent economic effects.

194 *See supra* footnote 191.

195 *See* Schwab Comment Letter (stating that "the proposed updates will require advisors to: [r]eassess their 'small entity' status using new thresholds; [u]pdate internal form ADV filing procedures; [t]rain their

information needed to complete the corresponding questions will be readily available to advisers, we estimate the cost increase for each affected adviser will be minimal, averaging approximately $91 per adviser per year,[196] or $928,925 per year for the industry as a whole.[197]

Consistent with the requirements of Executive Order 12866, the Commission reports estimated total monetized benefits and costs for all affected entities in two additional ways specified in OMB Circular A-4.[198] The two presentations are intended to address the fact that the various benefits and costs of the final amendments will not accrue at the same point in time; rather, benefits and costs that accrue sooner are generally more valuable than those that occur later in time.[199] The following discussion focuses on the monetized costs presented in the Economic Analysis, given that the principal benefits of the final rule depend on future Commission action and are thus impossible to predict.

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compliance and personnel on the revised Item 12 logic […]; and [c]oordinate updates with third-party compliance vendors or filing service providers where applicable.")

196 The $91 is based on the following calculations: hourly rate of a Management Analyst in the securities industry at $365 for 0.25 hours ≈ $91. *See infra* Table PRA-1 and accompanying footnotes 5 and 7.

197 $928,925 = $91.25 per adviser x 10,180 advisers.

198 *See* E.O. 12866 (Sept. 30, 1993), 58 FR 51735, 51741 (Oct. 4, 1993) (requiring agencies to provide an analysis of benefits, costs, and regulatory alternatives to OIRA for significant regulatory actions); OMB, CIRCULAR A-4, at 31-34, 45 (Sept. 17, 2003) (providing guidance to agencies regarding compliance with E.O. 12866); *see also* E.O. 14215 (Feb. 18, 2025), 90 FR 10447, 10448 (Feb. 24, 2025) (requiring all Federal agencies, including the Securities and Exchange Commission to comply with E.O. 12866). In addition, E.O. 14192 requires agencies to provide their best approximation of the total costs or savings associated with each new regulation or repealed regulation consistent with the analyses required by E.O. 12866. *See* E.O. 14192 (Jan. 31, 2025), 90 FR 9065, 9066 (Feb. 6, 2025). For purposes of approximating the total cost savings and costs under E.O. 14192, the Commission uses the annualized monetized benefits and costs using a real discount rate of 7 percent. *See* Table 3 and accompanying discussion.

199 *See* CIRCULAR A-4, at 32.

We report (1) the present values of expected costs that are monetized in our Economic Analysis, aggregated across all affected entities, over a 10-year time horizon, starting in 2026, as well as (2) the annualized values over the same time horizon that are derived from the present values. This time horizon represents the period over which the principal costs that are monetized in the Economic Analysis are expected to accrue.[200] The present values and annualized values account for the timing of costs through discounting, which is a procedure that accounts for the time value of money.[201]

Table 2 reports the present values of the aggregate monetized annual costs described above.[202] The analysis uses annual real discount rates of 3 percent and 7 percent over a 10-year time horizon, starting in 2026.[203] We estimate that the present value of total monetized costs is $7,126,602 using a 3 percent discount rate and $5,850,846 using a 7 percent discount rate.

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200 *See id.* at 31 (stating that "[t]he ending point should be far enough in the future to encompass all the significant benefits and costs likely to result from the rule"). The analysis uses a 2026–2035 analytical horizon and expresses monetary amounts in constant 2026 dollars. Present values are measured as of the beginning of 2026. We assume that recurring monetized compliance costs begin in 2027 and occur at mid-year in each year from 2027 through 2035. The analysis uses calendar years and accounts for the compliance periods included in the release (*see* note a in Table 2).

201 *See id.* at 32 ("The Rationale for Discounting") & 45 ("Treatment of Benefits and Costs over Time"); *see also* OIRA, REGULATORY IMPACT ANALYSIS: A PRIMER, at 11 (Aug. 15, 2011), *available at* https://www.reginfo.gov/public/jsp/Utilities/circular-a-4_regulatory-impact-analysis-a-primer.pdf ("To provide an accurate assessment of benefits and costs that occur at different points in time or over different time horizons, an agency should use discounting. Agencies should provide benefit and cost estimates using both 3 percent and 7 percent annual discount rates expressed as a present value as well as annualized."); HARVEY S. ROSEN & TED GAYER, PUBLIC FINANCE 151 (8th ed. 2008) (defining present value as "the value today of a given amount of money to be paid or received in the future").

202 *See supra* footnote 197 and accompanying text.

203 This approach is consistent with OMB Circular A-4. *See* CIRCULAR A-4, at 31-34 (stating that, "[f]or regulatory analysis, [agencies] should provide estimates of net benefits using both 3 percent and 7 percent" discount rates and discussing why those rates are reasonable default rates). Also, we use a mid-year

Table 2: Present Value of Aggregate Monetized Benefits and Costs
over 10 years from 2026 to 2035
(2026 Dollars)

| Estimated Effects[a] | 3% real discount rate | 7% real discount rate |
|---|---|---|
| Benefits | not quantified | not quantified |
| Costs | $7,126,602 | $5,850,846 |

Notes:

[a] For each discount rate, the present value calculations are based on the assumption that recurring annual monetized costs begin to accrue in 2027, which is the year in which affected entities first comply with the amendments to Form ADV. We further assume that monetized costs occur in a steady stream, and we use a mid-year discount rate. Monetized costs are $928,925 per year for the industry as a whole. (*See supra* footnote 197 and accompanying text.)

Table 3 reports annualized aggregate monetized costs using real discount rates of 3 percent and 7 percent over a 10-year horizon.[204] The lump sum present values of aggregate costs reported in Table 2 are converted in Table 3 into a constant stream of annualized costs over a 10-year time horizon, starting in 2026.[205] We estimate that annualized total monetized costs are $823,198 per year using a 3 percent discount rate and $805,319 per year using a 7 percent discount rate.

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discount rate. *See* OMB, CIRCULAR A-94, at 21-22 (Oct. 29, 1992) (stating that, "When costs and benefits occur in a steady stream, applying mid-year discount factors is more appropriate.").

204 This approach is consistent with the recommended treatment of benefits and costs over time in Circular A-4. *See* CIRCULAR A-4 at 45 ("You should present annualized benefits and costs using real discount rates of 3 and 7 percent").

205 For each discount rate, the annualized monetized costs in Table 3 represent the constant annual stream of costs whose present value over the time horizon equals the corresponding present value in Table 2. *See* note a, Table 3 for additional calculation details. The annualized monetized costs present these values over the 10-year time horizon, starting in the year 2026.

Table 3: Annualized Aggregate Monetized Benefits and Costs
over 10 years from 2026 to 2035
(2026 Dollars)

| Estimated Effects[a] | 3% real discount rate | 7% real discount rate |
|---|---|---|
| Benefits | not quantified | not quantified |
| Costs | $823,198 | $805,319 |

Notes:

[a] For each discount rate, the annualized values are calculated by dividing the corresponding present values in Table 2 by the sum of discount factors over the time horizon. The discount factor in year *t* of the time horizon is equal to $1/(1 + discount\ rate)^{(t-0.5)}$.

We do not anticipate that the amendments will have any significant direct effects on efficiency, competition, or capital formation because, as discussed above, they will have minimal direct economic impact. But to the extent that the amended definitions of "small entities" contribute to the Commission better tailoring its rulemaking to account for the regulatory challenges faced by small entities, they could have indirect effects on efficiency, competition, and capital formation resulting from future rulemakings.[206] For example, if the Commission, informed by the more tailored RFA analyses, determined to tailor future rulemakings to reduce compliance costs for small entities, there could be benefits to competition.[207]

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206 Some commenters agreed that the updated definitions may have indirect effects on competition and capital formation. *See, e.g.*, SBIA Comment Letter, IDC Comment Letter, and Logos Comment Letter.

207 One commenter stated that "…[T]he proposed amendments prioritize the hypothetical efficiencies, capital formation, and competitive benefits supposedly gained by mislabeling large advisers as 'small' entities. Historically, rules that focus on reducing industry costs harm investors." *See* PIABA Comment Letter. As noted above, we do not anticipate that the amendments will have any direct effects on efficiency, competition, or capital formation. Further, the Economic Analysis cannot predict the economic impact, including the impact on efficiency, competition, and capital formation, of any future rulemakings based on whether or how the Commission may adapt its policy choices as a result of the revised small entity definition; and thus such economic analysis of any future rulemakings is outside of the scope of the analysis in this rulemaking.

Lastly, the Commission considered alternatives to the amendments to Form ADV to align the form with the amended definition.[208] Specifically, we considered replacing Item 12 of Part 1A of Form ADV with a single question that would ask advisers to indicate whether they fall under the amended small entity definition, instead of providing the information in each question in Item 12 that would allow the Commission to continue to make that determination, under the amended definition. While the alternative may streamline the information reported in that item, we expect that it would not materially reduce costs for advisers because an adviser would still have to gather from its own records the information needed to apply the small entity definition.[209] In addition, the alternative may impose some transition costs for some advisers that would complete the item.[210] Finally, maintaining the requirement for advisers to report the information needed to apply the "small entity" definition will continue to provide the Commission with insight into the class of small entity advisers and how the individual parts of the definition affect whether advisers qualify as a small entity.

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208 Given the scope and context for this rulemaking, the Commission does not believe there are specific reasonable alternatives to the final conforming changes to the instruction for the continuing hardship exemption because these changes merely align the language in the instruction with the amended small entity definition and related changes to Item 12.

209 While we anticipate that advisers would generate the necessary records in the ordinary course of their advisory businesses, we acknowledge that the alternative would impose some transition costs on advisers.

210 *See* IAA Comment Letter (stating that "Even incremental additions to Form ADV can require operational changes, compliance review, and ongoing monitoring.")

## IV. PAPERWORK REDUCTION ACT

### A. Introduction

The final amendments revise part of an existing "collection of information" within the meaning of the Paperwork Reduction Act of 1995 (the "PRA").[211] The title for the collection of information is "Form ADV" (OMB control number 3235-0049).[212] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Commission solicited comments on the proposed revision to the collection of information and submitted it to OMB for review, in accordance with PRA requirements.[213] The Commission did not receive any comments on the PRA. The Commission is submitting the final collection of information to the OMB for review and approval in accordance with the PRA.[214]

### B. Final Amendments

The final amendments in this release that will affect the collection of information titled "Form ADV" are the conforming amendments to Form ADV, Item 12 of Part 1A. Item 12 requires an SEC-registered adviser that is a "small business" or "small organization" to report how it qualifies as a "small business" or "small organization" under rule 0-7. Item 12 is designed

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211 44 U.S.C. 3501 *et seq.*

212 The PRA is not applicable to the final amendments to 17 CFR 275.0-7, 17 CFR 270.0-10, or the amendments to 17 CFR 275.203-3(b) because they do not contain a "collection of information" requirement within the meaning of the PRA; they do not create any new filing, reporting, recordkeeping, or disclosure requirements. 44 U.S.C. 3502(3).

213 44 U.S.C. 3507(d); 5 CFR 1320.11; Proposing Release at section IV.

214 44 U.S.C. 3507(d); 5 CFR 1320.12.

to provide information to the public and the Commission about advisers, including information that enables the Commission to consider the effect of its regulations on small entities, as required by the RFA.[215] The final amendments affect a sub-set of respondents of the "Form ADV" collection of information, namely SEC-registered advisers that qualify as "small businesses" or "small organizations" under rule 0-7. Responses are mandatory and are not kept confidential.

As proposed, the Commission is making conforming amendments to Item 12 to reflect the final amendments to rule 0-7 concerning the amended RAUM Threshold, the amended Control Relationship Threshold, and their corresponding inflation adjustments.[216] In a change from the proposal, the Commission is making conforming amendments to Item 12 to reflect the removal of the Total Assets Threshold in final rule 0-7.

### C. Estimated Burdens

Below is a table explaining the Commission's estimated annual burdens for the final amendments.

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215 *See* Form ADV, Item 12 of Part 1A.

216 *See supra* section II.B.4.

**Table PRA-1: Estimated Annual Burdens for the Final Amendments to Form ADV, Item 12 of Part 1A**

| | Proposed[1] | Final[3] | Difference[10] |
|---|---|---|---|
| **Respondents** | 10,051 respondents[2] | 10,180 respondents[4] | 129 respondents |
| **Aggregate Responses** | 10,051 responses | 10,180 responses | 129 responses |
| **Time Burden Per Response** | 0.25 hours | 0.25 hours[5] | No change |
| **Aggregate Time Burden** | 2,512.75 hours | 2,545 hours[6] | 32.25 hours |
| **Monetized Time Burden Per Response** | $94.50 | $91.25[7] | ($3.25) |
| **Aggregate Monetized Time Burden** | $949,819.50 | $928,925[8] | ($20,894.50) |
| **Aggregate Cost Burden** | $0 | $0[9] | No change |

Notes:

1. *See* Proposing Release at section IV, based on IARD data as of December 31, 2024.

2. The Commission estimated that 10,850 advisers would complete Item 12 under the proposed amendments – 799 estimated advisers that already complete Item 12 = approximately 10,051 advisers that would newly complete Item 12 under the proposed amendments.

3. Estimates of respondents and aggregate responses are based on IARD data as of December 31, 2025. We continue to estimate one response per respondent.

4. We estimate that 11,017 advisers would complete Item 12 under the final amendments – 837 estimated advisers that already complete Item 12 = approximately 10,180 advisers that would newly complete Item 12 under the final amendments.

5. Although, in a change from the proposal, the final amendments remove requirements concerning the Total Assets Threshold, we continue to estimate that final Item 12 as a whole would take approximately 0.25 hours, as we estimated in the proposal.

6. Aggregate responses x time burden per response = aggregate time burden.

7. We expect a management analyst in the securities industry would complete Item 12, at an hourly wage rate of $365 per hour. 0.25 hours per response x $365 per hour wage rate = $91.25. To calculate the occupational hourly rate, the Commission uses the May 2025 occupational mean hourly wage data from the Occupational Employment and Wage Statistics (OEWS) program of the Bureau of Labor Statistics (BLS) for "Securities, Commodity Contracts, and Other Financial Investments and Related Activities" (NAICS 523). *See* Occupational Employment and Wage Statistics, U.S. BUREAU OF LABOR STATISTICS, https://www.bls.gov/oes/; *see also* Standard Occupational Classification, U.S. BUREAU OF LABOR STATISTICS, https://www.bls.gov/soc/ (describing occupational classification system used by BLS); EXEC. OFF. OF THE PRESIDENT, OFF. OF MGMT. & BUDGET, NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (2022), *available at* https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf (describing the industry classification system used by BLS and other agencies). The mean hourly wage for each occupation is multiplied by an employment cost index (ECI) factor of 1.0227, calculated as one plus the percentage change in the seasonally adjusted ECI for wages and salaries of private industry workers from the second quarter of 2025 (ECI=173.563), which contains the May 2025 OEWS reference period, to the first quarter of 2026 (ECI=177.498), which is the date of the most recently available ECI observations when the occupational hourly rates used in this release were calculated. See Employment Cost Index, U.S. BUREAU OF LABOR STATISTICS, Seasonal Data 2001-Present, available at https://www.bls.gov/eci/tables.htm. The adjusted mean hourly wage is then multiplied by a nonwage cost adjustment factor of 5.734, which accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead. This factor is calculated as the average, over 2016-2025, of the ratio of the Bureau of Economic Analysis's gross output for NAICS 523 to total annual wages across all occupations for NAICS 523 in the OEWS data. See Gross Output by Industry, U.S. BUREAU OF ECONOMIC ANALYSIS, https://www.bea.gov/data/industries/gross-output-by-industry; Occupational Employment and Wage Statistics, U.S. BUREAU OF LABOR STATISTICS, https://www.bls.gov/oes/. The $365 occupational hourly rate for a management analyst is calculated as $62.16 x 1.0227 x 5.734, or approximately $365 (where $62.16 is the May 2025 mean hourly wage for management analysts in NAICS 523). The final product is the occupational hourly rate. *See generally* UPDATED METHODOLOGY FOR CALCULATING OCCUPATIONAL HOURLY RATES (Dec. 19, 2025), *available at* https://www.sec.gov/files/method-occupational-hourly-rates.pdf.

8. Aggregate responses x monetized time burden per response = aggregate monetized time burden.

9. We continue to estimate $0 external cost burdens for the final amendments, because we expect advisers would generate the necessary records in the ordinary course of their advisory business.

10. The differences between the proposed and final estimates are due to using updated data. We estimate that the changes from the proposal would not result in burden changes. *See* note 5 above.

## V. REGULATORY FLEXIBILITY ACT CERTIFICATION

Pursuant to section 605(b) of the RFA, the Commission certified that the proposed amendments to the rules would not, if adopted, have a significant economic impact on a substantial number of small entities. The Commission included this certification in section V of the Proposing Release.

As discussed in the Proposing Release, for purposes of the Advisers Act and the Regulatory Flexibility Act, currently an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than $25 million; (2) did not have total

assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[217] Currently, for the purposes of the Investment Company Act and the Regulatory Flexibility Act, funds are considered small entities if they, together with other funds in the same group of related funds, have net assets of $50 million or less as of the end of their most recent fiscal year.[218]

The Commission stated that the proposed amendments would ultimately affect its analyses under the RFA in future rulemakings but would not themselves impose an economic impact on funds or advisers. The proposed amendments to Advisers Act rule 203-3(b) are clarifying in nature and would not impose a significant economic impact on advisers. While additional advisers would have to complete Item 12 of Form ADV, the information required by this Item is readily available to advisers and the additional cost of this change would be minimal.[219] The Commission, therefore, stated that there would be no significant economic impact on a substantial number of small entities as a result of the proposed amendments.

The Commission requested comments on the certification, but did not receive any comments on the certification. We are adopting the amendments, with certain modifications from the proposal, as discussed above in section II. Such changes do not alter the basis of the

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217 17 CFR 275.0-7.

218 17 CFR 270.0-10.

219 *See* Proposing Release at n.140, and accompanying text.

Commission's certification in the Proposing Release. Accordingly, the Commission certifies that the final amendments will not have a significant economic impact on a substantial number of small entities.[220]

## VI. CONGRESSIONAL REVIEW ACT

For purposes of Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act),[221] the Commission must seek the determination of the Office of Management and Budget (the "OMB") as to whether a final regulation constitutes a "major rule." OMB has determined the final rule is not a "major rule."

## VII. OTHER MATTERS

The Office of Management and Budget has determined that this action is not a significant regulatory action under Executive Order 12866, and therefore it was not subject to Executive Order 12866 review. This rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

## STATUTORY AUTHORITY

The Commission is adopting the rule and form amendments contained in this document under the authority set forth in chapter 6 of title 5 of the United States Code (particularly section

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220 *See* 5 U.S.C. 605(b).

221 *See* 5 U.S.C. chapter 8.

601 thereof [5 U.S.C. 601]), the Investment Company Act, particularly section 38 thereof [15 U.S.C. 80a-37], and the Advisers Act, particularly section 211 thereof [15 U.S.C. 80b-11].

**List of Subjects in 17 CFR Parts 270, 275, and 279**

Investment companies, Investment advisers, Reporting and recordkeeping requirements, Administrative practice and procedure.

**Text of Rule and Form Amendments**

For the reasons set out in the preamble, the Commission is amending title 17, chapter II of the Code of Federal Regulations as follows:

**PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

1. The authority citation for part 270 continues to read, in part, as follows:

**Authority**: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, 80a-39, 1681w(a)(1), 6801-6809, 6825, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

2. Revise § 270.0-10 to read as follows:

**§ 270.0-10 Small entities under the Investment Company Act for purposes of the Regulatory Flexibility Act.**

(a) ***General.*** For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 *et seq.*) and unless otherwise defined for purposes of a particular rulemaking, the term *small business* or *small organization* for purposes of the Investment Company Act of 1940 shall mean an investment company that, together with other investment companies in the same family of investment companies, has net assets of $10 billion or less as of the end of its most recent fiscal year, or, following March 1, 2037, the dollar amount specified in the most recent order issued by the

Commission in accordance with paragraph (c) of this section and as published in the FEDERAL REGISTER. For purposes of this section, family of investment companies has the same meaning and conditions as in Item B.5 of Form N-CEN.

(b) ***Determination of net assets.*** The Commission may calculate its determination of the net assets of a family of investment companies based on the net assets of each investment company in the family of investment companies as of the end of such company's fiscal year.

(c) ***Future inflation adjustments.*** The dollar amount specified in paragraph (a) of this section shall be adjusted by order of the Commission, issued on or about March 1, 2037, and approximately every ten years thereafter. The adjusted dollar amount established in such orders shall be computed by:

(1) Dividing the year-end value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), as published by the United States Department of Commerce, for the calendar year preceding the calendar year in which the order is being issued, by the year-end value of such index (or successor) for the calendar year 2027; and

(2) Multiplying $10 billion times the quotient obtained in paragraph (c)(1) of this section and rounding the product to the nearest multiple of $1 billion.

**PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940**

3. The authority citation for part 275 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 80b-2(a)(11)(G), 80b-2(a)(11)(H), 80b-2(a)(17), 80b-3, 80b-4, 80b-4a, 80b-6(4), 80b-6a, 80b-11, 1681w(a)(1), 6801-6809, and 6825, unless otherwise noted.

* * * * *

4. Revise § 275.0-7 to read as follows:

**§ 275.0-7 Small entities under the Investment Advisers Act for purposes of the Regulatory Flexibility Act.**

(a) For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 *et seq.*) and unless otherwise defined for purposes of a particular rulemaking proceeding, the term *small business* or *small organization* for purposes of the Investment Advisers Act of 1940 shall mean an investment adviser that:

(1) Has assets under management, as defined under Section 203A(a)(3) of the Act (15 U.S.C. 80b-3a(a)(3)) and reported on its annual updating amendment to Form ADV (17 CFR 279.1), of less than $1 billion, or, following March 1, 2037, the dollar amount specified in the most recent order issued by the Commission in accordance with paragraph (c) of this section and as published in the Federal Register; and

(2) Does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management equal to or greater than the threshold in paragraph (a)(1) of this section.

(b) For purposes of this section, *control* means the power, directly or indirectly, to direct the management or policies of a person, whether through ownership of securities, by contract, or otherwise.

(1) A person is presumed to control a corporation if the person:

(i) Directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or

(ii) Has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities.

(2) A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership.

(3) A person is presumed to control a limited liability company (LLC) if the person:

(i) Directly or indirectly has the right to vote 25 percent or more of a class of the interests of the LLC;

(ii) Has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the LLC; or

(iii) Is an elected manager of the LLC.

(4) A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

(c) The dollar amount specified in paragraph (a) of this section shall be adjusted by order of the Commission, issued on or about March 1, 2037, and approximately every ten years thereafter. The adjusted dollar amount established in such orders shall be computed by:

(1) Dividing the year-end value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), as published by the United States Department of Commerce, for the calendar year preceding the calendar year in which the order is being issued, by the year-end value of such index (or successor) for the calendar year 2027; and

(2) Multiplying $1 billion times the quotient obtained in paragraph (c)(1) of this section and rounding the product to the nearest multiple of $100 million.

5. Amend § 275.203-3 by revising paragraphs (b)(1) and (b)(5) to read as follows:

**§ 275.203-3 Hardship exemptions.**

* * * * *

(b) ***Continuing hardship exemption*** —

(1) ***Eligibility for exemption.*** If you are a "small business" or "small organization" (as described in paragraph (b)(5) of this section), you may apply for a continuing hardship exemption.

The period of the exemption may be no longer than one year after the date on which you apply for the exemption.

* * * * *

(5) ***Small business or small organization.*** You are a "small business" or "small organization" for purposes of this section if you are required to answer Item 12 of Form ADV (17 CFR 279.1) and checked "no" to each question in Item 12.

* * * * *

**PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940**

6. The authority citation for part 279 continues to read as follows:

**Authority:** The Investment Advisers Act of 1940, 15 U.S.C. 80b-1, *et seq.*, Pub. L. 111-203, 124 Stat. 1376.

* * * * *

7. Amend Form ADV (referenced in § 279.1) by:

a. In the General Instructions, revising the second bullet point paragraph of Instruction 17 related to continuing hardship exemptions; and

b. In Part 1A, revising Item 12.

**NOTE: Form ADV is attached as Appendix A to this document. The text of Form ADV does not, and this amendment will not, appear in the Code of Federal Regulations.**

By the Commission.

**Dated:** November 4, 2026.

**Sherry R. Haywood,**

*Assistant Secretary.*

**Note: The following appendix will not appear in the Code of Federal Regulations.**

**APPENDIX A**

**FORM ADV (Paper Version)**

**UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION AND**

**REPORT BY EXEMPT REPORTING ADVISERS**

**Form ADV General Instructions**

*** * * * ***

**17. What if I am not able to file electronically?**

If you are required to file electronically but cannot do so, you may be eligible for one of two types of hardship exemptions from the electronic filing requirements.

*** * * * ***

- A **continuing hardship exemption** may be granted if you are a small business or small organization and you can demonstrate that filing electronically would impose an undue hardship. You are a small business or small organization, and may be eligible for a continuing hardship exemption, if you are required to answer Item 12 of Part 1A and you are able to respond "no" to each question in Item 12. See SEC rule 0-7.

  If you have been granted a continuing hardship exemption, you must complete and submit the paper version of Form ADV to FINRA. FINRA will enter your responses into the IARD. As discussed in General Instruction 16, FINRA will charge you a fee to reimburse it for the expense of data entry.

*** * * * ***

**PART 1A**

* * * * *

## Item 12 Small Businesses

The SEC is required by the Regulatory Flexibility Act to consider the effect of its regulations on small entities. In order to do this, we need to determine whether you meet the definition of "small business" or "small organization" under rule 0-7.

Answer this Item 12 only if you are registered or registering with the SEC and you indicated in response to Item 5.F.(2)(c) that you have regulatory assets under management of the thresholds provided in rule 0-7. You are not required to answer this Item 12 if you are filing for initial

registration as a state adviser, amending a current state registration, or switching from SEC to state registration.

For purposes of this Item 12 only, *control* means the power to direct or cause the direction of the management or policies of a *person*, whether through ownership of securities, by contract, or otherwise. Any *person* that directly or indirectly has the right to vote 25 percent or more of the voting securities, or is entitled to 25 percent or more of the profits, of another *person* is presumed to *control* the other *person*.

| | Yes | No |
|---|---|---|
| A. Do you *control* another investment adviser that had regulatory assets under management equal to or greater than the threshold provided in rule 0-7(a)(1) on the last day of its most recent fiscal year? | ☐ | ☐ |
| B. Are you *controlled* by or under common *control* with another investment adviser that had regulatory assets under management equal to or greater than the threshold provided in rule 0-7(a)(1) on the last day of its most recent fiscal year? | ☐ | ☐ |

* * * * *