

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos.33-10934; 34-91344; 39-2537; IA-5698; IC-34225; File No. S7-02-21]

List of Rules to be Reviewed Pursuant to the Regulatory Flexibility Act

AGENCY: Securities and Exchange Commission.

ACTION: Publication of list of rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is publishing a list of rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act. The list is published to provide the public with notice that these rules are scheduled for review by the agency and to invite public comment on whether the rules should be continued without change, or should be amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of small entities.

DATES: Comments should be submitted by April 26, 2021.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's internet comment form (<http://www.sec.gov/rules/submitcomments.htm>); or

Paper comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-02-21. We will post all submitted comments, requests, other submissions and other materials on our internet website (<http://www.sec.gov/rules/other.shtml>). Typically, comments are also available for website

viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Due to pandemic conditions, however, access to the Commission’s public reference room is not permitted at this time. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Leila Bham, Senior Special Counsel, Office of the General Counsel, 202-551-5532.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (“RFA”), codified at 5 U.S.C. 601-612, requires an agency to review its rules that have a significant economic impact upon a substantial number of small entities within ten years of the publication of such rules as final rules. 5 U.S.C. 610(a). The purpose of the review is “to determine whether such rules should be continued without change, or should be amended or rescinded . . . to minimize any significant economic impact of the rules upon a substantial number of such small entities.” 5 U.S.C. 610(a). The RFA sets forth specific considerations that must be addressed in the review of each rule:

- the continued need for the rule;
- the nature of complaints or comments received concerning the rule from the public;
- the complexity of the rule;
- the extent to which the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules; and
- the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5

U.S.C. 610(b).

The list below includes rules adopted in 2011 that may have a significant economic impact on a substantial number of small entities (but excludes rules that have been substantially changed since adoption, rules that are minor amendments to previously adopted rules, and rules that are ministerial, procedural, or technical in nature). Where the Commission has previously made a determination of a rule's impact on small businesses, the determination is noted on the list.

The Commission particularly solicits public comment on whether the rules listed below affect small businesses in new or different ways than when they were first adopted. The rules and forms listed below are scheduled for review by staff of the Commission.

<u>Title:</u>	Mine Safety Disclosure
<u>Citation:</u>	17 CFR 229.104, 17 CFR 229.601, 17 CFR 249.308, 17 CFR 249.308a, 17 CFR 249.310, 17 CFR 249.220f, 17 CFR 249.240f, and 17 CFR 239.13
<u>Authority:</u>	15 U.S.C. 77g, 77j, 77s(a), 78l, 78m, 78o, 78w; and Section 1503 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")
<u>Description:</u>	The Commission adopted rule amendments to implement Section 1503 of the Dodd-Frank Act. Section 1503(a) of the Dodd-Frank Act requires issuers that are operators, or that have a subsidiary that is an operator, of a coal or other mine to disclose in their periodic reports filed with the Commission information regarding specified health and safety violations, orders and citations, related assessments and legal actions, and mining-related fatalities. Section 1503(b) of the Dodd-Frank Act mandates the filing of a Form 8-K disclosing the receipt of certain orders and notices from the Mine Safety and Health Administration.
<u>Prior RFA Analysis:</u>	When the Commission adopted the rule amendments on December 21, 2011, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. 33-9286, available at: https://www.federalregister.gov/documents/2011/12/28/2011-33148/mine-

[safety-disclosure](#). The Commission received no comments on the Initial Regulatory Flexibility Analysis published in the proposing release, Release No. 33-9164 (Dec. 15, 2010), available at: <https://www.federalregister.gov/documents/2010/12/22/2010-31941/mine-safety-disclosure>.

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Title: **Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF; Joint Final Rule**

Citation: 17 CFR 275.204(b)-1 and 17 CFR 279.9

Authority: 15 U.S.C. 80b-4 and 80b-11

Description: The Commodity Futures Trading Commission and the Securities and Exchange Commission adopted new rules under the Commodity Exchange Act and the Investment Advisers Act of 1940 (“Advisers Act”) to implement provisions of Title IV of the Dodd-Frank Act. The rule adopted by the SEC, Rule 204(b)-1, requires investment advisers registered with the SEC that advise one or more private funds and have at least \$150 million in private fund assets under management to file Form PF with the SEC. Advisers must file Form PF electronically, on a confidential basis. The information contained in Form PF was designed, among other things, to assist the Financial Stability Oversight Council in its assessment of systemic risk in the U.S. financial system.

Prior RFA Analysis: When the Commission adopted this rule on October 31, 2011, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. IA-3308, available at: <https://www.federalregister.gov/documents/2011/11/16/2011-28549/reporting-by-investment-advisers-to-private-funds-and-certain-commodity-pool-operators-and-commodity>. The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release, Release No. IA-3145 (Jan. 26, 2011), available at: <https://www.sec.gov/rules/proposed/2011/ia-3145fr.pdf>.

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Title: **Rules Implementing Amendments to the Investment Advisers Act of 1940**

Citation: 17 CFR 275.0-7, 17 CFR 275.203-1, 17 CFR 275.203A-1, 17 CFR 275.203A-2, 17 CFR 275.203A-3, 17 CFR 275.203A-5, 17 CFR 275.204-1, 17 CFR 275.204-2, 17 CFR 275.204-4, 17 CFR 275.206(4)-5, 17 CFR

275.222-1, 17 CFR 275.222-2, 17 CFR 279.1, 17 CFR 279.3, and 17 CFR 279.4

Authority: 15 U.S.C. 77s(a), 77sss(a), 78a-37(a), 78w(a), 78bb(e)(2), 80b-3(c)(1), 80b-3A(a)(2)(B)(ii), 80b-3A(c), 80b-4, 80b-6(4), 80b-6A, and 80b-11(a)

Description: The Commission adopted new rules and rule amendments under the Advisers Act to implement provisions of the Dodd-Frank Act. These rules and rule amendments were designed to give effect to provisions of Title IV of the Dodd-Frank Act that, among other things, increase the statutory threshold for registration by investment advisers with the Commission, require advisers to hedge funds and other private funds to register with the Commission, and require reporting by certain investment advisers that are exempt from registration. In addition, the Commission adopted rule amendments, including amendments to the Commission’s pay to play rule, that address a number of other changes made by the Dodd-Frank Act.

Prior RFA Analysis: When the Commission adopted these rules and rule amendments on June 22, 2011, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. IA-3221, available at: <https://www.federalregister.gov/documents/2011/07/19/2011-16318/rules-implementing-amendments-to-the-investment-advisers-act-of-1940>. The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release, Release No. IA-3110 (Nov. 19, 2010), available at: <https://www.federalregister.gov/documents/2010/12/10/2010-29956/rules-implementing-amendments-to-the-investment-advisers-act-of-1940>.

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Title: **Family Offices**

Citation: 17 CFR 275.202(a)(11)(G)-1

Authority: 15 U.S.C. 80b-2(a)(11)(G) and 80b-6A

Description: The Commission adopted a rule to define “family offices” that are excluded from the definition of an investment adviser under the Advisers Act and are thus not subject to regulation under the Advisers Act.

Prior RFA Analysis: When the Commission adopted this rule on June 22, 2011, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. IA-3220, available at: <https://www.federalregister.gov/documents/2011/06/29/2011-16117/family-offices>. The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release,

Release No. IA-3098 (Oct. 12, 2010), available at:
<https://www.federalregister.gov/documents/2010/10/18/2010-26086/family-office>.

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Title: **Shareholder Approval of Executive Compensation and Golden Parachute Compensation**

Citation: 17 CFR 240.14a-21, 17 CFR 240.14a-4, 17 CFR 240.14a-6, 17 CFR 240.14a-8, 17 CFR 240.14a-101, 17 CFR 240.14c-101, 17 CFR 229.402, 17 CFR 229.1011, 17 CFR 240.13e-100, 17 CFR 240.14d-100, 17 CFR 240.14d-101, and 17 CFR 249.308

Authority: 15 U.S.C. 77c(b), 77f, 77g, 77j, 77s(a), 78m, 78n(a), 78n-1, 78w(a), and 78mm, and Section 951 of the Dodd-Frank Act

Description: The Commission adopted rule amendments to implement the provisions of the Dodd-Frank Act relating to shareholder approval of executive compensation and “golden parachute” compensation arrangements. Section 951 of the Dodd-Frank Act amended the Securities Exchange Act of 1934 by adding Section 14A, which requires companies to conduct a separate shareholder advisory vote to approve the compensation of executives, as disclosed pursuant to Item 402 of Regulation S-K or any successor to that item. Section 14A also requires companies to conduct a separate shareholder advisory vote to determine how often an issuer will conduct a shareholder advisory vote on executive compensation. In addition, Section 14A requires companies soliciting votes to approve merger or acquisition transactions to provide disclosure of certain “golden parachute” compensation arrangements and, in certain circumstances, to conduct a separate shareholder advisory vote to approve the golden parachute compensation arrangements.

Prior RFA Analysis: When the Commission adopted the rule amendments on January 25, 2011, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. 33-9178, available at:
<https://www.federalregister.gov/documents/2011/02/02/2011-1971/shareholder-approval-of-executive-compensation-and-golden-parachute-compensation>. The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release, Release No. 33-9153 (Oct. 18, 2010), available at:
<https://www.federalregister.gov/documents/2010/10/28/2010-26535/shareholder-approval-of-executive-compensation-and-golden-parachute-compensation>.

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By the Commission.

J. Matthew DeLesDernier
Assistant Secretary

Dated: March 17, 2021