

U.S. Securities and Exchange Commission  
**SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE**

August 23, 2019

The Honorable Jay Clayton  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1070

On behalf of the Small Business Capital Formation Advisory Committee, we are pleased to submit the below recommendations approved at the Advisory Committee's August 13, 2019 meeting.

**Recommendation on the Commission's Proposal to Amend Financial Disclosure Requirements Relating to Acquisitions and Dispositions of Businesses**

The Committee supports the Commission's proposal to amend the financial reporting requirements for the acquisitions and dispositions of businesses including Rules 3-05, 3-14, and Article 11 of Regulation S-X, subject to following recommendations:

- That the Commission continue to look at Regulation A companies and whether they warrant different treatment under these rules; and
- That the Commission further look at the proposed amendments to the pro forma financial information requirements with respect to whether the proposed addition of Management's Adjustments, which are intended to reflect reasonably estimable synergies and transaction effects, should be optional or not required at all.

Specifically,

- The Committee supports the proposed amendments to the Significance Tests under these rules by:
  - Revising the Income Test to include the addition of a revenue component, such that the registrant must exceed both the revenue and net income components; and
  - Revising the Investment Test to change the denominator of the Investment Test from the registrant's total assets to the registrant's fair market value.
- The Committee supports the proposed amendment that would require financial statements of the acquired business to cover up to the *two* most recent fiscal years rather than up to the *three* most recent fiscal years.

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**Recommendation on the Commission's Proposal to Amend the Accelerated and Large Accelerated Filer Definitions**

The Committee supports the proposal to amend the "accelerated filer" and "large accelerated filer" definitions such that an issuer that is eligible to be a Smaller Reporting Company and has less than \$100 million in revenue in the most recent fiscal year shall be a non-accelerated filer.

However, the Committee would welcome the Commission to explore additional further amendments to the definitions of "accelerated filer" and "large accelerated filer" such that more companies could be non-accelerated filers. The Committee's recommendations include:

- Exploring raising the revenue threshold to be a non-accelerated filer, so that issuers that are eligible to be a Smaller Reporting Company and have more than \$100 million in revenues could be a non-accelerated filer.
- Instead of basing revenues for the non-accelerated filer test on the amount of revenues in the most recent fiscal year, base the revenues for the non-accelerated filer test on the three-year rolling average of the amount of the company's revenues.
- Looking at whether all Smaller Reporting Companies should be non-accelerated filers.

The Commission should also consider input from institutional investors regarding whether or not the auditor attestation of SOX 404(b) is determinative in their investment decision.

Respectfully submitted on behalf of the Advisory Committee.



Carla Garrett  
Committee Chair



Jeffrey Solomon  
Committee Vice Chair