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Ms. Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F St. NW  
Washington, DC 20549-9303

File No. S7-15-07

Dear Ms. Morris:

Here are my comments on the proposed rule regarding Smaller Reporting Company Regulatory Relief and Simplification. As a former member of Nasdaq's OTCBB Advisory Committee, I am very aware of the problems faced by smaller firms.

Basically, this proposal seeks to do two main things:

- 1) It increases the size at which a company qualifies for small company treatment and thus seeks to reduce the regulatory burden for small companies.
- 2) It eliminates the simplified SB forms and requires the registrants instead use S-X-based forms. However, the S-X-based forms would require less information from the new category of "smaller reporting companies."

**Right On!**

The SEC's heart is in the right place. Anything that can be done to reduce the heavy burdens on smaller firms is worth considering. It is gratifying to see that the SEC is listening to at least some of the recommendations of its Advisory Committee on Smaller Public Companies. Please work to implement the other recommendations as well.

Clearly, after years of inflation the old definition of a small company was outdated and the size level needed to be increased. In particular, the mechanism for indexing the cutoff point every five years is a good one. Combining the confusing categories of "small business issuer" and "non-accelerated filer" together into "smaller reporting company" is also a good idea.

### **A larger cutoff than \$75 million makes sense.**

There is, however, no clear economic justification for the \$75 million public float cutoff. The release says in effect, “Well, we use it for other rules so it must be OK.” Many of those other rules were promulgated long ago, so the \$75 million figure is obsolete as well. My professional intuition is that many companies larger than that are still quite small and would appropriately qualify for simpler regulatory treatment. The Commission should seriously consider a much higher number, such as the \$787 million suggested by SBA’s Office of Advocacy.

Economically, the right way to approach this is to ask at what size company does the added value to society of the long-form disclosures overcome the added cost? The Commission does not really address this question in the proposing release, although this is an extremely important area that deserves more research.

### **Will eliminating SB forms really save money?**

The value of eliminating the SB forms remains to be seen. To draw a parallel with IRS forms, it looks like a proposal to eliminate Form 1040EZ and make everyone use the longer standard Form 1040. This simplifies life for the government because there is only one form to deal with. But it takes more time to do the long form, even if one qualifies for the 1040EZ, and this is reflected in the rates charged by tax preparation services.

The problem here is that the S-X-based form becomes more complex, and thus will take more time to fill out as the accountants, CFOs, and lawyers for the smaller reporting companies wade through the longer form to figure out what exactly applies to them and what does not.

Furthermore, increasing the complexity of the S-X-based forms may increase compliance costs for all reporting companies, as larger firms need to wade through the forms and separate what applies to them from the stuff that applies only to the smaller reporting companies. This has not been reflected in the cost-benefit analysis. Adding just a few hours (at \$400 per hour) to the reporting burden for all reporting companies, both big and small, makes a big impact on the net cost of the rule.

Furthermore, the added complexity will lead to more mistakes, causing enforcement headaches for the government as well as costly embarrassments to filers that are trying to comply with the rules.

### **A pilot program makes sense.**

I want to echo the comments of others that call for a pilot program to see if this really reduces the burden for smaller firms. The new forms should be beta-tested on a group of volunteer companies in the first year of the pilot and then on a randomly selected group

of companies in the second year. This pilot will give the staff time to gain experience with the new filing regime and to identify any problems before rolling the new forms out on everyone.

**Make it optional.**

The proposing release alleges that SB filings have less acceptance in the marketplace. One way around this “stigma” is to keep SB and inform SB-eligible filers that they are free to file on S-X-based forms if they want.

Respectfully submitted,

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