



441 G St. N.W.
Washington, DC 20548

B-330200

July 24, 2018

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Smaller Reporting Company Definition*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on major rules promulgated by the Securities and Exchange Commission (Commission) entitled “Smaller Reporting Company Definition” (RIN: 3235-AL90). We received the rules on June 29, 2018. They were published in the *Federal Register* as final rules on July 10, 2018. 83 Fed. Reg. 31,992. The effective date of the final rules is September 10, 2018.

The final rules adopt amendments to the definition of “smaller reporting company” as used in the Commission’s rules and regulations. The amendments expand the number of registrants that qualify as smaller reporting companies and are intended to reduce compliance costs for these registrants and promote capital formation while maintaining appropriate investor protections. SEC stated that it is amending the definition of “smaller reporting company” to include registrants with a public float of less than \$250 million, as well as registrants with annual revenues of less than \$100 million for the previous year and either no public float or a public float of less than \$700 million. The Commission stated that it is also amending other rules and forms in light of the new definition of “smaller reporting company,” including amendments to the definitions of “accelerated filer” and “large accelerated filer” to preserve the existing thresholds in those definitions.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rules. Our review of the agency’s submissions to us indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Brent J. Fields
Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON MAJOR RULES
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
“SMALLER REPORTING COMPANY DEFINITION”
(RIN: 3235-AL90)

(i) Cost-benefit analysis

The Securities and Exchange Commission (Commission) found that it could not isolate the costs associated with scaled disclosures using available data from small reporting companies because it cannot isolate from the data the effects of scaled disclosures from the effects of some other accommodations. The Commission estimated a total annual cost savings per newly eligible registrant with a public float around the \$75 million threshold to be between \$98,439 and \$298,052.

The Commission summarized the benefits of the amendments in the final rule. The Commission determined that the benefits include reduction in compliance costs for the registrants that will newly qualify as small reporting companies, encourage capital formation, and provide a modest change in some indicators of the overall quality of the information environment.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared a Final Regulatory Flexibility Analysis in accordance with section 604 of the RFA. Additionally, the Commission stated that it considered alternatives including: establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities, clarifying consolidating or simplifying compliance and reporting requirements for small entities under the Commission’s rules as revised by the amendments, using performance rather than design standards, and exempting small entities from coverage of all or part of the amendments.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551*et seq.*

On June 27, 2016, the Commission published proposed rules. 81 Fed. Reg. 43,130. The Commission stated that it considered comment letters received as well as recommendations made by the Securities Exchange Commission Advisory Committee on Small and Emerging Companies and the SEC Government-Business Forum on Small Business Capital Formation in developing the final rules.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined that the final rules will affect existing rules, regulations, and forms that contain “collection of information requirements.” The Commission also stated that it is submitting the proposals to the Office of Management and Budget (OMB) for review in accordance with PRA and its implementing regulations.

Statutory authorization for the rule

The Commission stated that it promulgated these rules pursuant to 15 U.S.C. § 77a *et seq.*, 15 U.S.C. § 78a *et seq.*, and section 72002 of the Fixing America’s Surface Transportation Act.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.