

NEWS

SECURITIES AND EXCHANGE COMMISSION

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The Commission announced today adoption of comprehensive amendments to the disclosure form used for registered offers of securities to employees of an issuer. Over the past several months, the Commission has accelerated its program to integrate, streamline and update the corporate disclosure system it administers under the federal securities laws, and today's action is another step in this program.

The amendments adopted were to Form S-8, a short registration form under the Securities Act of 1933 available for the registration of securities to be offered or sold to employees of the issuer, pursuant to employee benefit plans.

These amendments, intended specifically to reduce the cost and burden of preparing the form and to improve the quality of the disclosure to investors, were published in proposed form for public comment on July 2, 1976. Over 160 letters of comment were received on the proposals, and in response to those letters and to the staff's experience in reviewing and processing registration statements filed on the form, the Commission adopted the amendments to Form S-8 substantially as proposed, but with several modifications.

In one significant change from current practice, the Commission determined that the five regulatory conditions now in the rule as to the use of the form are no longer necessary for the protection of investors. Deletions of these conditions will enable more widespread use of the simplified form. In striking these conditions which limit the availability of the short form, the Commission noted that comparable protections are, in many instances, provided under the Employee Retirement Income Security Act (ERISA).

The part of the July proposals which had caused the greatest comment and controversy involved the proposed ban on the use of the Form S-8 prospectus for reoffers and resales by affiliates and underwriters. While the adopted form retains this prohibition as to "affiliates," it goes on to specify a method by which an affiliate might make reoffers pursuant to an even shorter prospectus prepared under Form S-16,

and to be filed with the same registration statement. The Form S-16 prospectus may be used in this manner for reoffers by affiliates if the issuer meets the conditions for use of Form S-7, or if the amount of securities to be sold by each affiliate during any six-month period does not exceed the volume limits of Rule 144. These limits are computed by a formula involving, generally, the lesser of one percent of the outstanding securities, or the average weekly trading volume.

In rejecting the arguments for keeping the present reoffer provisions, the Commission pointed out that registered resales by affiliates presently can be made under Form S-8 with no public information concerning the identity of the selling affiliate, the amount to be sold publicly, nor even the fact that such sales are taking place.

Other changes include the deletion of the requirement for an opinion of counsel regarding compliance with ERISA and modifications to certain financial disclosure items.

The amended form is applicable to registration statements and post-effective amendments filed after December 31, 1976.

In a related action, the Commission also invited public comments on a proposed new Rule 480 under the 1933 Act, to allow post-effective amendments to registration statements on Form S-8 to become effective automatically 20 days or more after the date they are filed.

Also, the Commission invited public comments on the general concept of expanding Rule 153 under the 1933 Act, presently allowing for a prospectus to be delivered to a national securities exchange. The proposal invites comments on whether this procedure might appropriately be extended to cover certain over-the-counter transactions, as well as those on stock exchanges.

Other recent steps taken by the Commission to shorten and simplify the disclosure process include a published proposal to broaden the availability of two other short forms, S-7 and S-16, and to adopt a new Form S-14A allowing a shorter prospectus to be used in connection with certain mergers and business combinations. The Commission also noted recent proposed amendments to its rules governing tender offers, including steps to allow persons making tender offers to communicate information to offerees in a more efficient and understandable manner.

The Commission has also invited public comments on proposals to reduce the number of monthly reports filed on Form 8-K by transferring much of the disclosure required there to be the quarterly report filed on Form 10-Q.

It has also been announced that the Commission is reviewing the procedures available to small businesses to raise capital, and that proposals may be published soon to solicit comments on how these procedures may be simplified.