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U.S. Securities and Exchange Commission
Office of Public Affairs

Briefing Paper: Proposed changes in corporate disclosure requirements.

This summary of recommendations which are being made by the staff of the Commission has been prepared in order to assist persons attending an open meeting scheduled for August 21, 1980, in following the discussion at the Commission table. It is neither exhaustive nor definitive, and users should be aware that changes in the proposals under consideration may be made in response to comments by Members of the Commission.

The major revisions to the disclosure systems under the Securites Act of 1933 and the Securities and Exchange Act of 1934, which are under consideration by the Commission, are part of an ongoing effort to integrate and make less burdensome the disclosure requirements those systems impose on corporations. If approved, it is expected that these recommendations will also improve the disclosure made to investors by bringing together elements of the two Acts into a single disclosure system.

The actions being recommended to the Commission include adopting amendments to revise and restructure the annual report on Form 10-K; adopting Form S-15, an optional short form for registering securities issued in connection with business combinations not having a significant financial impact on the acquiring company; publishing for comment three proposed integrated disclosure registration statements (designated proposed Forms A, B, and C) under the Securities Act and publishing for comment proposed amendments to Form 10-Q. In a related matter, the Office of the Chief Accountant is recommending amendments to Regulations S-X and S-K.

The Commission asked for comments on some of these rulemaking proposals in January of this year and received over 300 letters on the proposed revisions to Form 10-K and over 90 letters concerning

changes in Form S-15. The letters were overwhelmingly supportive of the expressed goals outlined in that release.

Based on the analysis of these comments and other data, it is believed the new rules and the proposals, if adopted, will benefit both preparers and users of filed reports and registration statements.

Following are summaries of the proposals under consideration by the Commission:

1. Form 10-K

The recommendations focus on format and content changes in the annual report filed with the Commission on Form 10-K and in the annual report which most companies send shareholders. Under the proposal, certain uniform disclosure requirements would apply to both the 10-K and the annual report to shareholders.

A review of the purpose and utility of the Form 10-K has led to the belief that there is a basic information package which most, if not all, investors expect to be furnished. Further, it has become apparent that this basic information package, which in the context of Form 10-K developed to support the current information requirements of an active trading market, is virtually identical to the similar information package independently developed in connection with the registration and sale of newly issued shares under the Securities Act. The essential content of these Form 10-K and registration statement information packages includes audited financial statements, a summary of selected financial data appropriate for trend analysis and a meaningful description of the company's business and financial condition.

The restructured Form 10-K would segregate the basic information package contained in that form from proxy related or supplemental information. In this regard, the new Form 10-K is structured in four parts. The first part retains the detailed disclosure requirements relating to business, properties, legal proceedings and beneficial ownership. The Commission has decided not to require that this information be placed in annual reports to shareholders. The second part consists of the basic disclosure package which is common to both annual reports to shareholders and Form 10-K's. The third part consists of the traditional proxy disclosure information relating to directors and executive officers and management remuneration. Finally, the fourth part contains requirements for financial statement schedules and, in accordance with a recent Commission release, scaled-down requirements for exhibits.

2. Annual Report to Shareholders.

In January 1974 the Commission amended Rules 14a-3 and 14c-3 to require that annual reports to shareholders contain a variety of data, including certified financial statements, a summary of operations, a management analysis, a brief description of the issuer's business, a line of business breakdown, an identification of the issuer's directors and executive officers, and an identification of the principal market in which securities entitled to vote were traded. These requrements were based on substantially similar requirements in the then existing Form 10-K. Under the current proposal, requirements for annual report to shareholders would be changed so as to remain consistent with the Form 10-K requirements on which they are based. This results in a uniformity

of the minimum disclosure package in the annual report to shareholders and in Form 10-K. Comparable uniformity would also be achieved by adopting uniform financial statements requirements, by amending Regulation S-X, by adopting new provisions in Regulation S-K and by adopting several changes in Rule 14a-3. The equivalency of the minimum disclosure package in both documents would meet shareholder and investor needs, and also avoid duplication by allowing companies to use the disclosure in the annual report to shareholders to satisfy some of the requirements of Form 10-K and, if they choose, when selling securities to the public.

With the same information appearing in the annual report to shareholders, and in Part II of the Form 10-K, it is anticipated that most, if not all companies, would incorporate this portion of the annual report to shareholders into the Form 10-K, thereby realizing time and cost savings. Because of the benefits of this type of incorporation the original proposal called for mandatory incorporation of portions of the annual report into the Form 10-K and optional incorporation of portions of the annual report into certain Securities Act filings. The mandatory incorporation feature was severely criticized by the commentators. As a result of this criticism, the mandatory feature has been eliminated. Instead, the four part Form 10-K system has been designed to encourage, but not to require, the combination of annual reports and Form 10-K's into one document. For example, the revised financial statement requirements have been designed to require that only the primary financial statements required by Generally Accepted Accounting Principles

(GAAP") must appear in the annual report and in the financial statement section of the Form 10-K, Part II. The remaining financial statements and schedules have been designated "financial statement schedules" and have been placed into Part IV of the Form 10-K. This permits a less detailed minimum disclosure package, which is more compatible with a combined presentation, while nonetheless preserving in a separate information package the more technical accounting data for those who want it.

It should be emphasized that the minimal content changes recommended today are not intended to change the basic structure or quality of existing shareholder reports. Rather, it is hoped that the type of attention to style which is evidenced by better examples of shareholder reports will continue to have a salutary effect on all of the report content, whether or not the particular information is also a part of the Form 10-K.

3. Form S-15.

A new Form S-15 has been recommended as an optional, experimental form which could be used to register securities issued in business combination transactions. If adopted, Form S-15 would provide for an abbreviated prospectus to be delivered to security holders together with copies of the issuer's latest annual report to security holders.

4. Uniform Instructions as to Financial Statements.

The Commission is being asked to adopt amendments which establish uniform instructions governing the periods to be covered by financial statements included in most registration and reporting forms filed with the Commission under the

Securities Act and the Exchange Act, and in annual reports to shareholders. The rules would, among other things, require in all disclosure documents affected by the action, the inclusion of audited statements of income and changes in financial position for three fiscal years and audited balance sheets as of the end of two fiscal years.

In addition to considering a uniform requirement for periods to be covered by audited financial statements, revisions are being considered relating to the age, form and content of unaudited interim financial information required to be provided in registration statements. Under existing requirements of the various forms, a "90 day" or "six-month" rule must be followed to determine the age of financial information required to be filed. If adopted the rules would revise and update these requirements to recognize quarterly reporting requirements under the Exchange Act and ensure that information provided in registration statements under the Securities Act is at least as current as the data already required to be filed under the Exchange Act. As to form and content, changes are being considered which should greatly reduce the burden on most registrants who are required to file interim financial information. The amendments would eliminate the need to provide complete financial statements and schedules for interim periods and allow interim data in registration statements to be provided in the same degree of detail as is required in Form 10-Q under the Exchange Act.

5. Regulation S-X.

Recommendations calling for the general revision of Articles 3, 5 and 12 of Regulation S-X have been submitted to the Commission. Amendments which address the elimination, clarification and modification of rules received the overwhelming support of commentators and are in substantially the same form as those proposed for comment in January 1980. Changes have been made to respond to the concerns of the commentators with respect to the proposed expansion of disclosures. If adopted, this revision would eliminate rules which are presently duplicative of generally accepted accounting principles and would facilitate the integration of the Securities Act and the Exchange Act by attaining uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S-X.

6. New Registration Statement Forms.

As a final element of the revisions to the disclosure requirements, the Commission is being asked to approve publishing for comment, proposed basic changes in the forms used to register offerings of securities under the Securities Act. These forms would replace the most widely used existing registration statement forms and would constitute the fundamental framework for Securities Act registration.

Designated Forms A, B and C for proposal purposes, these forms are designed to work as a coordinated system using standard disclosure requirements for registration of securities under the Securities Act. Form A would be analogous to existing Form S-16,

would be used by companies widely followed by the market and would serve as the initial repository of the uniform disclosure item requirements. In this respect, Forms B and C refer to Form A for much of their content. Form A includes very little prospectus disclosure and would primarily entail incorporation by reference to periodic disclosure reports such as the Form 10-K. Form B provides an option to allow companies to incorporate certain information by reference and to either deliver the annual report to shareholders or to present similar information in the prospectus. Form C is a streamlined Form S-1 and provides for very little incorporation by reference.

By taking advantage of existing, high quality Exchange Act disclosure documents wherever possible, the approach embodied in these proposed revisions would go a long way toward integrating the disclosure systems under the two Acts.