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# Amendments to Disclosure Requirements of the Securities and Exchange Commission

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On February 4, 2008, amendments to the disclosure requirements of the Securities and Exchange Commission for smaller companies became effective. As part of the changes, smaller reporting companies are allowed to use a new Form 10-K, with scaled disclosure requirements for smaller reporting companies, or the old Form 10-KSB and related Regulation S-B requirements for the annual report concerning 2007, as explained more below.

The changes adopted by the SEC are in summary:

- The "small business issuer" category is eliminated and replaced with the category of "smaller reporting companies."
- Smaller reporting company means, for most companies, an issuer with a public float of less than \$75 million as of the last business day of the most recently completed second fiscal quarter (June 30, 2007 for determinations this year in regard to calendar year companies). There is no revenue test.
- The Regulation S-B and the S-B forms are eliminated, except there is a phase-out period for the Form 10-KSB and related Regulation S-B disclosure requirements (and, for non-calendar year companies, also a phase-out of the Form 10-QSB).
- The small business disclosures have been integrated into the standard SEC disclosure and financial statement requirements (Regulation S-K and Regulation S-X). For example, the executive compensation disclosures for smaller reporting businesses are substantially the same in the amended Item 402 of Regulation S-K as they were in the S-B Regulation. In Regulation S-X, a new Article 8 for smaller reporting companies has been added.
- Smaller reporting companies can select on an "a la carte" basis to comply with the standard disclosure requirements or the scaled-down disclosure requirements. This can be done by smaller reporting companies on an item-by-item basis.
- Disclosure requirements in some areas have changed. The more significant changes are:
  - Article 8 of Regulation S-X requires two years of comparative audited balance sheet data rather than one year as currently permitted under Regulation S-B.

- Disclosures for related party transactions under Regulation S-B are based upon the amount exceeding the lesser of 1% of the small business issuer's total assets at the end of the last three completed fiscal years or \$120,000. (The standard Regulation S-K test is an amount exceeding \$120,000.) In the amended Item 404 of Regulation S-K, the tests for related party disclosures for a smaller reporting company is the lesser of 1% of the total assets at the end of the last two completed fiscal years or \$120,000.

Current small business issuers who are on a calendar year have the option to file their next annual report for 2007 on either a Form 10-KSB or Form 10-K. After the annual report on either of these Forms is filed for 2007, quarterly reports filed with the SEC (starting with the 10-Q for the first quarter of 2008) will need to be on Form 10-Q and not an S-B form.

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