

AZXEW intersection, to the Cedar Lake, NJ, VORTAC. An air traffic survey conducted from June 1, 2009 to May 31, 2010, revealed that only 15 instrument flight rules flights utilized V-284. The FAA believes that retaining the airway for this low number of IFR activities is not cost effective.

VOR Federal airways are published in paragraph 6010 of FAA Order 7400.9T, dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway listed in this document would be removed subsequently from the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as required to preserve the safe and efficient flow of air traffic within the National Airspace System.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not

expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009 and effective September 15, 2009, is amended as follows:

*Paragraph 6010 VOR Federal Airways.*

\* \* \* \* \*

#### V-284 [Removed]

Issued in Washington, DC, on August 27, 2010.

**Edith V. Parish,**

*Manager, Airspace & Rules Group.*

[FR Doc. 2010–22007 Filed 9–2–10; 8:45 am]

**BILLING CODE 4910–13–P**

#### SECURITIES AND EXCHANGE COMMISSION

##### 17 CFR Part 232

[Release No. 33–9137; File No. S7–18–10]

RIN 3235–AK70

#### Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission proposes to further extend the temporary filing accommodation in Rule 312 of Regulation S–T that allows static pool information required to be disclosed in a prospectus of an asset-backed issuer to be provided on an Internet Web site

under certain conditions. Under this rule, such information is deemed to be included in the prospectus included in the registration statement for the asset-backed securities. This rule currently applies to filings with respect to asset-backed securities filed on or before December 31, 2010. We propose to amend this rule to extend its application for an additional eighteen months. Under the proposed extension, the rule would apply to filings with respect to asset-backed securities filed on or before June 30, 2012.

**DATES:** Comments should be received on or before October 4, 2010.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/proposed.shtml>);
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–18–10 on the subject line; or
- Use the Federal Rulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–18–10. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/proposed.shtml>). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Jay Knight, Attorney-Adviser, Division of Corporation Finance, at (202) 551–3370, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3720.

**SUPPLEMENTARY INFORMATION:** We are proposing an amendment to Rule 312<sup>1</sup> of Regulation S–T.<sup>2</sup>

## I. Background

In December 2004, we adopted new and amended rules and forms to address the registration, disclosure and reporting requirements for asset-backed securities (“ABS”) under the Securities Act of 1933<sup>3</sup> (the “Securities Act”) and the Securities Exchange Act of 1934<sup>4</sup> (the “Exchange Act”).<sup>5</sup> As part of this rulemaking, we adopted Regulation AB,<sup>6</sup> a new principles-based set of disclosure items forming the basis for disclosure with respect to ABS in both Securities Act registration statements and Exchange Act reports. Compliance with the revised rules was phased in; full compliance with the revised rules became effective January 1, 2006. One of the significant features of Regulation AB is Item 1105, which requires, to the extent material, static pool information to be provided in the prospectus included in registration statements for ABS offerings.<sup>7</sup> While the disclosure required by Item 1105 depends on factors such as the type of underlying asset and materiality, the information required to be disclosed can be extensive. For example, a registrant may be required to disclose multiple performance metrics in periodic increments for prior securitized pools of the sponsor for the same asset type in the last five years.<sup>8</sup>

As described in the 2004 Adopting Release, in response to the Commission’s proposal to require material static pool information in prospectuses for ABS offerings, many commentators representing both asset-backed issuers and investors requested flexibility in the presentation of such information. In particular, commentators noted that the required static pool information could include a

significant amount of statistical information that would be difficult to file electronically on EDGAR as it existed at that time and difficult for investors to use in that format. Commentators accordingly requested the flexibility for asset-backed issuers to provide static pool information on an Internet Web site rather than as part of an EDGAR filing.<sup>9</sup> In response to these comments, we adopted Rule 312 of Regulation S–T, which permits, but does not require, the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.<sup>10</sup> We recognized at the time that a Web-based approach might allow for the provision of the required information in a more efficient, dynamic and useful format than was currently feasible on the EDGAR system. At the same time, we explained that we continued to believe at some point for future transactions the information should also be submitted with the Commission in some fashion, provided investors continue to receive the information in the form they have requested. Accordingly, we adopted Rule 312 as a temporary filing accommodation applicable to filings filed on or before December 31, 2009.<sup>11</sup> We explained that we were directing our staff to consult with the EDGAR contractor, EDGAR filing agents, issuers, investors and other market participants to consider how static pool information could be filed with the Commission in a cost-effective manner without undue burden or expense that still allows issuers to provide the information in a desirable format. We also noted, however, that it might be necessary, among other things, to extend the accommodation.<sup>12</sup>

On October 19, 2009, we proposed to extend the temporary filing accommodation until December 31, 2010.<sup>13</sup> We received four comment letters that addressed the proposed extension.<sup>14</sup> Two commentators expressed support for the Rule 312 filing accommodation and the proposed

extension.<sup>15</sup> The ASF cited the strong preference among both its issuer and investor members for Web-based presentation of static pool information due to its efficiency, utility and effectiveness and the current lack of an adequate filing alternative.<sup>16</sup> The ABA Committees expressed their belief that the accommodation has been highly successful and of great value to investors.<sup>17</sup> Neither the ASF nor the ABA Committees was aware of any difficulties that investors or other market participants had locating, accessing, viewing or analyzing static pool information disclosed on a Web site.<sup>18</sup> For these reasons, among others, both the ASF and the ABA Committees requested that the filing accommodation be made permanent or, in the alternative, extended for a longer period of time.<sup>19</sup> Two commentators, in contrast, did not support the extension and suggested the Commission should require structured disclosure using an industry standard computer language.<sup>20</sup>

On December 15, 2009, we adopted the proposed one-year extension of the filing accommodation.<sup>21</sup> In the adopting release for the extension (“2009 Static Pool Extension Adopting Release”), we noted the staff’s experience with the rule and that a vast majority of

<sup>15</sup> See letters from the American Securitization Forum (the “ASF”) and the Committee on Federal Regulation of Securities and the Committee on Securitization and Structured Finance of the Section of Business Law of the American Bar Association (the “ABA Committees”).

<sup>16</sup> See letter from ASF.

<sup>17</sup> See letter from ABA Committees.

<sup>18</sup> See letters from ASF and ABA Committees.

<sup>19</sup> *Id.* The ASF requested a five-year extension if the rule could not be made permanent and the ABA Committees requested an 18 to 24 month extension in such a case. Both the ASF and the ABA Committees expressed the belief that a permanent or longer extension would encourage continued use of the Web-based presentation by providing more of an incentive for issuers to make investments in developing and innovating Web sites for static pool disclosure. A longer extension would also, the ASF noted, give the Commission adequate time to consider alternatives.

<sup>20</sup> See letters from Paul Wilkinson and EDGAR Online (noting they prefer immediately requiring static pool data be required in eXtensible Business Reporting Language (XBRL)). Subsequent to the 2009 Static Pool Extension Adopting Release (as defined below), we issued a comprehensive ABS proposal that included a proposed requirement to include asset-level information according to proposed standards and in a tagged data format using eXtensible Markup Language (XML). Additionally, we requested comment in the release as to whether static pool data should be required in an offering if there is an ongoing reporting requirement of asset-level data applicable to other pools of the sponsor of the same asset class.

<sup>21</sup> *Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities*, Release No. 33–9087 (Dec. 15, 2009) [74 FR 67812] (the “2009 Static Pool Extension Adopting Release”); see also 2009 Static Pool Extension Proposing Release.

<sup>1</sup> 17 CFR 232.312.

<sup>2</sup> 17 CFR 232.10 *et seq.*

<sup>3</sup> 15 U.S.C. 77a *et seq.*

<sup>4</sup> 15 U.S.C. 78a *et seq.*

<sup>5</sup> See *Asset-Backed Securities*, Release No. 33–8518 (Dec. 22, 2004) [70 FR 1506] (adopting release related to Regulation AB and other new rules and forms related to asset-backed securities) (hereinafter, the “2004 Adopting Release”).

<sup>6</sup> 17 CFR 229.1100 *et seq.*

<sup>7</sup> See Form S–1 (17 CFR 239.11) and Form S–3 (17 CFR 239.13) under the Securities Act. Static pool information indicates how groups, or static pools, of assets, such as those originated at different intervals, are performing over time. By presenting comparisons between originations at similar points in the assets’ lives, the data allows the detection of patterns that may not be evident from overall portfolio numbers and thus may reveal a more informative picture of material elements of portfolio performance and risk.

<sup>8</sup> 17 CFR 229.1105.

<sup>9</sup> See 2004 Adopting Release, Section III.B.4.b.

<sup>10</sup> 17 CFR 232.312(a). Instead of relying on Rule 312, an issuer can include information required by Item 1105 of Regulation AB physically in the prospectus or, if permitted, through incorporation by reference from an Exchange Act report.

<sup>11</sup> 17 CFR 232.312(a); see also 2004 Adopting Release, Section III.B.4.b.

<sup>12</sup> 2004 Adopting Release, Section III.B.4.b.

<sup>13</sup> *Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities*, Release No. 33–9074 (Oct. 19, 2009) [74 FR 54767] (the “2009 Static Pool Extension Proposing Release”).

<sup>14</sup> The public comments we received are available online at <http://www.sec.gov/comments/s7-23-09/s72309.shtml>.

residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site. We also noted that the staff of the Division of Corporation Finance was, at the time, engaged in a broad review of the Commission's regulation of ABS including disclosure, offering process, and reporting of ABS issuers and that along with this review, the staff of the Division of Corporation Finance was continuing to explore whether it was feasible to provide a filing mechanism for static pool information that fulfills the Commission's objectives. We also stated our belief that a proposal for a longer-term solution for providing static pool disclosure would be better considered together with other proposals on the regulations relating to the offer and sale of ABS.

On April 7, 2010, we proposed significant revisions to Regulation AB and other rules regarding the offering process, disclosure and reporting for asset-backed securities (the "2010 ABS Proposals").<sup>22</sup> In that release, we proposed to revise Rule 312 to remove the temporary accommodation set to expire on December 31, 2010 for asset-backed securities to post the static pool information required by Item 1105 on an Internet Web site under conditions set forth in Regulation AB. In lieu thereof, under the proposal, ABS issuers would be required to file all static pool information on EDGAR; however, we proposed to allow that such information be filed in Portable Document Format (PDF).<sup>23</sup> Also, in lieu of providing the static pool information in the prospectus, we proposed to allow issuers to file the disclosure on Form 8-K and incorporate it by reference. The comment period for the 2010 ABS Proposals expired on August 2, 2010.

## II. Discussion of Proposed Amendment

We believe it is appropriate to further extend the filing accommodation provided by Rule 312, which is currently set to expire on December 31, 2010. As we stated in the 2009 Static Pool Extension Adopting Release, we

believe a proposal for a long-term solution for providing static pool disclosure would be better considered together with other proposals to revise the regulations governing the offer and sale of ABS. On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act").<sup>24</sup> Among other things, the Act mandates a number of significant changes to the regulation of ABS offerings. In order to provide ample time for the Commission and its staff to give proper consideration to comments received on the 2010 ABS Proposals and in light of the changes to the regulations of ABS offerings that are mandated by the Act, we are proposing to extend the temporary filing accommodation set forth in Rule 312 of Regulation S-T for an additional eighteen months so that it would apply to filings with respect to ABS filed on or before June 30, 2012. Although we are proposing an eighteen-month extension of Rule 312, we may take action on the 2010 ABS Proposals, including the static pool proposal, at any time before the expiration of the proposed extension.

Under our proposed extension, the temporary filing accommodation set forth in Rule 312 of Regulation S-T would apply to filings with respect to ABS filed on or before June 30, 2012. During the proposed extension, the existing requirements of Rule 312 would continue to apply. Pursuant to these requirements, the registrant must disclose its intention to provide static pool information through a Web site in the prospectus included in the registration statement at the time of effectiveness and provide the specific Internet address where the static pool information is posted in the prospectus filed pursuant to Rule 424.<sup>25</sup> The registrant must maintain such information on the Web site unrestricted and free of charge for a period of not less than five years, indicate the date of any updates or changes to the information, undertake to provide any person without charge, upon request, a copy of the information as of the date of the prospectus if a subsequent update or change is made to the information and retain all versions of the information provided on the Web site for a period of not less than five years in a form that permits delivery to an investor or the Commission. In addition, the registration statement for the ABS must contain an undertaking pursuant to Item 512(l) of Regulation S-K<sup>26</sup> that the

information provided on the Web site pursuant to Rule 312 is deemed to be part of the prospectus included in the registration statement.<sup>27</sup>

## Request for Comment

We request and encourage any interested person to submit comments regarding the proposed amendment described above. In particular, we solicit comment on the following questions:

- Is a further extension of the filing accommodation appropriate? What would be the consequences if the accommodation lapsed on December 31, 2010 and static pool information was required in an EDGAR filing beginning January 1, 2011?
- Should we consider proposed changes to static pool disclosure together with the other proposals outlined in the 2010 ABS Proposing Release? If not, why should we separate the static pool disclosure proposal from the rest of the ABS related proposals?
- Would the proposed eighteen-month extension present particular problems for investors? Would a shorter or more narrowly tailored extension address those concerns?
- Is an eighteen-month extension the appropriate length for an extension? Are there reasons for a shorter (12 month) or longer (24 month) extension?

## III. Paperwork Reduction Act

Rule 312 of Regulation S-T was adopted along with other new and amended rules and forms to address the registration, disclosure and reporting requirements for ABS under the Securities Act and the Exchange Act. In connection with this prior rulemaking, we submitted a request for approval of the "collection of information" requirements contained in the amendments and rules to the Office of Management and Budget ("OMB") in accordance with the Paperwork Reduction Act of 1995 ("PRA").<sup>28</sup> OMB approved these requirements.<sup>29</sup>

Item 1105 of Regulation AB<sup>30</sup> requires certain static pool information, to the extent material, to be provided in prospectuses included in registration

<sup>27</sup> 17 CFR 232.312. As we indicated in the 2004 Adopting Release, if the conditions of Rule 312 are satisfied, then the information will be deemed to be part of the prospectus included in the registration statement and thus subject to all liability provisions applicable to prospectuses and registration statements, including Section 11 of the Securities Act [15 U.S.C. 77k]. 2004 Adopting Release, Section III.B.4.b.

<sup>28</sup> 44 U.S.C. 3501 *et seq.*

<sup>29</sup> The collections of information to which Rule 312 of Regulation S-T relates are "Form S-1" (OMB Control No. 3235-0065) and "Form S-3" (OMB Control No. 3235-0073).

<sup>30</sup> 17 CFR 229.1105.

<sup>22</sup> *Asset-Backed Securities*, Release No. 33-9117 (Apr. 7, 2010) [75 FR 23328] (the "2010 ABS Proposing Release").

<sup>23</sup> Portable Document Format (PDF) is a file format created by Adobe Systems in 1993 for document exchange. PDF captures formatting information from a variety of desktop publishing applications, making it possible to send formatted documents and have them appear on the recipient's monitor or printer for free as they were intended. To view a file in PDF format, you need Adobe Reader, an application distributed by Adobe Systems.

<sup>24</sup> Public Law 111-203, 124 Stat. 1376 (July 21, 2010).

<sup>25</sup> 17 CFR 230.424.

<sup>26</sup> 17 CFR 229.512(l).

statements for ABS offerings.<sup>31</sup> Rule 312 is a temporary filing accommodation that permits the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.<sup>32</sup> The proposed amendment to Rule 312 further extends the existing temporary filing accommodation provided by the rule for an additional eighteen months. As is the case today, issuers may choose whether or not to take advantage of the accommodation. The conditions of Rule 312 remain otherwise unchanged. The disclosure requirements themselves, which are contained in Forms S-1 and S-3 under the Securities Act and require the provision of the information set forth in Item 1105 of Regulation AB, also remain unchanged. Therefore, the proposed amendment, if adopted, will not result in an increase or decrease in the costs and burdens imposed by the "collection of information" requirements previously approved by the OMB.

#### IV. Benefit-Cost Analysis

In this section, we examine the benefits and costs of our proposed amendment. We request that commentators provide views and supporting information as to the benefits and costs associated with the proposal. We seek estimates of these costs and benefits, as well as any costs and benefits not already identified.

##### A. Benefits

We adopted the filing accommodation provided by Rule 312 of Regulation S-T because commentators requested flexibility in the presentation of required static pool information. Given the large amount of statistical information involved, commentators argued for a Web-based approach that would allow issuers to present the information in an efficient manner and with greater functionality and utility than might have been available if an EDGAR filing was required. We believe this greater functionality and utility has enhanced an investor's ability to access and analyze the static pool information because investors have been able to access static pool information in more user-friendly formats than was initially capable with filings on EDGAR and also removed the burden on issuers of duplicating the information in each prospectus as well as easing the burdens of updating such information.<sup>33</sup> As we discussed in the 2004 Adopting Release, since the information is deemed to be

part of the prospectus included in the registration statement, the rule is designed to give investors access to accurate and reliable information.

By further extending the accommodation provided by Rule 312, these benefits to both issuers and investors would continue to apply. As noted in the 2009 Static Pool Extension Adopting Release, based on the staff's experience since Rule 312 became effective in 2006, the vast majority of residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site.<sup>34</sup> If we do not further extend the accommodation provided by Rule 312, static pool information would be required in EDGAR filings beginning on January 1, 2011. We believe this would result in costs for issuers as they attempt to adjust their procedures in a short period of time in order to present the information in a format acceptable to the EDGAR system and could result in costs to investors if the information filed on EDGAR was presented in a less useful format.

As indicated above, on April 7, 2010, we issued a release proposing to require the filing of static pool information on EDGAR at the same time we proposed other amendments addressing the disclosure, offering process and reporting of asset-backed issuers.<sup>35</sup> We believe that the proposed eighteen-month extension to the temporary filing accommodation contained in Rule 312 will benefit both investors and issuers by maintaining a consistent approach to the filing of static pool information while we and our staff consider comments received on the proposed amendment to static pool filing together with our other proposals regarding the offering and sale of asset-backed securities and in light of the changes to the regulations of ABS offerings that are mandated by the Dodd-Frank Act.

##### B. Costs

We do not believe an eighteen-month extension of the Rule 312 accommodation would impose any new or increased costs on issuers. In the Cost-Benefit Analysis section of the 2004 Adopting Release, we noted that asset-backed issuers electing the Web-based accommodation provided by Rule 312 would incur costs related to the maintenance and retention of static pool information posted on a Web site and

might also incur start-up costs.<sup>36</sup> While it is likely that certain of those costs would continue to impact asset-backed issuers that elect the Web-based approach during the extension period, we do not believe our proposed amendment would impose any new or increased costs for asset-backed issuers because it does not change any other conditions to the accommodation or the underlying filing and disclosure obligations. As a result of the proposed extension of the accommodation, asset-backed issuers would be able to continue their current practices for an additional eighteen months.

For investors, there may be costs associated with the static pool information not being electronically filed with the Commission. For example, when information is electronically filed with the Commission, investors and staff can access the information from a single, permanent, and centralized location, the EDGAR Web site. We think these costs are mitigated by the fact that ABS issuers relying on the Rule 312 accommodation must ensure that the prospectus for the offering contains the Internet Web site address where the static pool information is posted, the Web site must be unrestricted and free of charge, such information must remain on the Internet Web site for five years with any changes clearly indicated and the issuer must undertake to provide the information to any person free of charge, upon request, if a subsequent update or change is made. Furthermore, because the information is deemed included in the prospectus under Rule 312, it is subject to all liability provisions applicable to prospectuses and registration statements.

Investors and issuers may have incurred costs to adjust their processes in anticipation of the lapse of the Rule 312 accommodation and potential reversion to a requirement to file static pool information on EDGAR. In this case, benefits to investors or issuers of not having to change their procedures regarding static pool reporting in a short time frame would be diminished by any costs already incurred in anticipation of the change. We believe such anticipatory action and any associated costs are minimal.

We request comment on the amount of any additional costs issuers or investors may incur as a result of the proposed amendment.

<sup>31</sup> See Form S-1 and Form S-3 under the Securities Act.

<sup>32</sup> 17 CFR 232.312(a).

<sup>33</sup> See Section I above and 2004 Adopting Release, Section V.D.

<sup>34</sup> See Section I of the 2009 Static Pool Extension Adopting Release.

<sup>35</sup> See 2010 ABS Proposing Release.

<sup>36</sup> See 2004 Adopting Release, Section V.D.

## V. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or “SBREFA,”<sup>37</sup> we solicit data to determine whether the proposal constitutes a “major” rule. Under SBREFA, a rule is considered “major” where, if adopted, it results or is likely to result in:

- An annual effect on the economy of \$100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendment on the U.S. economy on an annual basis, any potential increase in costs or prices for consumers or individual industries, and any potential effect on competition, investment or innovation.

Commentators are requested to provide empirical data and other factual support for their views if possible.

## VI. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 2(b) of the Securities Act requires us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to also consider whether the action will promote efficiency, competition, and capital formation.

As discussed in greater detail above, Rule 312 of Regulation S–T was adopted as a temporary filing accommodation so that issuers of ABS could present static pool information on an Internet Web site. The proposed amendment to Rule 312 of Regulation S–T further extends its application for eighteen months. We are not proposing changes to the conditions of Rule 312 or to the disclosure obligations to which it applies. We do not believe that an eighteen-month extension would impose a burden on competition. We also believe the extension of the filing accommodation would continue to promote efficiency and capital formation by permitting ABS issuers to disclose static pool information in a format that is more useful to investors and cost-effective and not unduly burdensome for asset-backed issuers.

We request comment on whether the proposed amendment, if adopted, would promote efficiency, competition,

and capital formation. Commentators are requested to provide empirical data and other factual support for their view to the extent possible.

## VII. Regulatory Flexibility Act Certification

The Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed amendment contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposal relates to the disclosure requirements for ABS in Securities Act registration statements. Securities Act Rule 157<sup>38</sup> defines an issuer, other than an investment company, to be a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year. As the depositor and issuing entity are most often limited purpose entities in an ABS transaction, we focused on the sponsor in analyzing the potential impact of the proposal under the Regulatory Flexibility Act. Based on our data, we only found one sponsor that could meet the definition of a small broker-dealer for purposes of the Regulatory Flexibility Act.<sup>39</sup> In addition, even if additional sponsors are small entities, the proposed amendment to Rule 312 would not have a significant economic impact on any such entities because it only extends a temporary filing accommodation that is currently in effect. Accordingly, the Commission does not believe that the extension, if adopted, would have a significant economic impact on a substantial number of small entities.

We encourage written comments on the Certification. Commentators are asked to describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

## VIII. Statutory Authority and Text of the Proposed Amendment

The amendment described is being proposed under the authority set forth in Sections 6, 7, 10, 19 and 28 of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77j, 77s and 77z–3).

### List of Subjects in 17 CFR Part 232

Reporting and recordkeeping requirements, Securities.

### Text of the Proposed Amendment

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

<sup>38</sup> 17 CFR 230.157.

<sup>39</sup> This is based on data from Asset-Backed Alert. See Section IX of the 2010 ABS Proposing Release.

## PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for part 232 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.*; and 18 U.S.C. 1350.

\* \* \* \* \*

2. Amend § 232.312 paragraph (a) introductory text by removing “December 31, 2010” and in its place adding “June 30, 2012” in the first sentence.

By the Commission.

Dated: August 30, 2010.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2010–22019 Filed 9–2–10; 8:45 am]

**BILLING CODE 8010–01–P**

## FEDERAL ENERGY REGULATORY COMMISSION

### 18 CFR Part 35

[Docket No. RM10–17–000]

### Demand Response Compensation in Organized Wholesale Energy Markets; Technical Conference

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Announcement of technical conference.

**SUMMARY:** This provides notice of the date and organization for the technical conference relating to the Supplemental Notice of Proposed Rulemaking (NOPR) and Notice of Technical Conference issued on August 2, 2010, and published in the **Federal Register** August 6, 2010. As described in the Supplemental NOPR, the conference will address the use of a net benefits test for determining when to compensate demand response providers and the allocation of costs associated with demand response.

**DATES:** The technical conference will be held at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, on September 13, 2010, beginning at 9 a.m.

### FOR FURTHER INFORMATION CONTACT:

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<sup>37</sup> 5 U.S.C. 603.