



Appendix A

Summary of Most Significant SEC Proposed Amendments¹

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Topic	Proposed Rule(s) Impacted	Summary of Proposed Change / Amendment
Significance Tests - Investment Test	Rule 1-02(w)(1)(i); Definition of "Significant Subsidiary" in Securities Act Rule 405 and Exchange Act Rule 12b-2	<p>The current investment test compares the registrant's investment in the target to the carrying value of the registrant's total assets.</p> <p>The proposed test compares the registrant's investment in the target to the "aggregate worldwide market value" of the registrant's voting and non-voting common equity, when available, as of the end of the registrant's most recently completed fiscal year. If the registrant does not have publicly traded equity, the current investment test will continue to apply.</p> <p>The SEC believes that using the registrant's aggregate worldwide market value would align the test more closely with the economic significance of the acquisition to the registrant.</p>
Significance Tests - Income Test	Rule 1-02(w)(1)(iii); Definition of "Significant Subsidiary" in Securities Act Rule 405 and Exchange Act Rule 12b-2	<p>The current income test compares the target's and registrant's income from continuing operations <i>before</i> income taxes, extraordinary items and cumulative effects of changes in accounting principles.</p> <p>The proposed rule adds a revenue component to compare the target's revenue to the registrant's revenue. The registrant would use the lower of the revenue and net income components to determine the target's significance. The proposed rule also revises the net income component calculation so that it is based on income or loss from continuing operations <i>after</i> income taxes, and proposes the calculation of average net income using absolute values. Unlike current staff guidance, which indicates that "zero" should be used for loss years in computing the</p>

¹ This summary does not address proposed amendments via this [proposing release](#) that are applicable to financial statements of a target that includes oil and gas producing activities (discussed on pages 36-41 of the release), and proposed amendments to financial disclosure about acquisitions specific to investment companies as addressed by Article 6 (discussed on pages 93-118 of the release) which generally conforms the requirements to Rule 3-05.

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		<p>average net income for the last five fiscal years, the proposed rule requires using the <i>absolute value</i> of the loss or income amounts for each year.</p> <p>The SEC expects that adding a revenue component would reduce the frequency of the anomalous result of immaterial acquisitions being deemed significant. In proposing the revision to the net income component calculation, the SEC noted that this enables registrants to use line item disclosure from their financial statements, thereby simplifying the determination.</p>
<p>Number of Years of Financial Statements for Significant Acquisitions</p>	<p>Rule 3-05(b)(2)</p>	<p>The proposed rule eliminates the current requirement to file the third year of Rule 3-05 financial statements for an acquisition that exceeds 50% significance. Where a significance test exceeds 20%, but none exceeds 40%, the proposal eliminates the requirement to provide a comparative interim period when only one year of audited Rule 3-05 financial statements is required.</p> <p>In proposing this rule change, the SEC noted that older financial statements can be less relevant for evaluating an acquisition and providing a comparative interim period when there is no requirement for a corresponding comparative annual period may have limited utility for investors.</p>
<p>Financial Statements For Acquisition of Component of an Entity that Constitutes a “Business” (as defined in Rule 11-01(d))</p>	<p>Rule 3-05(e)</p>	<p>The proposed rule permits registrants to provide audited financial statements of assets acquired and liabilities assumed, and statements of revenues and expenses that exclude allocations of corporate overhead, interest and income tax expenses, instead of Rule 3-05 financial statements when the registrant acquires a component of an entity (such as a product line or line of business), if certain conditions are met. These conditions include, that the business constitutes less than substantially all of the assets and liabilities of the seller, no separate financial statements or accounts for the omitted expenses have been previously prepared or maintained, and the notes to the financial statements include certain additional disclosures.</p> <p>The SEC recognizes that registrants frequently acquire a component of an entity that is a “business” as defined in Rule 11-</p>

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		<p>01(d) but does not constitute a separate entity, subsidiary or division. In such circumstances making relevant allocations of the selling entity's corporate overhead, interest and income tax expenses necessary to provide Rule 3-05 financial statements may be impracticable and abbreviated financial statements appropriately balances the cost of preparing financial disclosure with the protection of investors.</p>
Foreign Businesses	Rule 3-05(c); Rule 3-05(d)	<p>The current rule requires Rule 3-05 financial statements to be prepared in accordance with U.S. GAAP if the target is not a "foreign business" even if it would qualify as a "foreign private issuer" that would be permitted to prepare IFRS-IASB financial statements. In addition, if a target's Rule 3-05 financial statements are prepared using home-country GAAP, these financials must be reconciled to U.S. GAAP, even if the registrant is a "foreign private issuer" that prepares IFRS-IASB financial statements.</p> <p>The proposed rule permits Rule 3-05 financial statements of a target that is not a "foreign business" to be prepared in accordance with IFRS-IASB without reconciliation to U.S. GAAP if the target would qualify to use IFRS-IASB if it were a SEC registrant. In addition, if the target is a "foreign business" and prepares its financial statements using home country GAAP and the registrant is a "foreign private issuer" that prepares its financial statements using IFRS-IASB, the target's home-country GAAP financial statements can be reconciled to IFRS-IASB rather than to U.S. GAAP.</p>
Omission of Rule 3-05 Financial Statements	Rule 3-05(b)(4)(iii)	<p>The current rule does not require Rule 3-05 financial statements once the operating results of the target have been reflected in the audited consolidated financial statements of the registrant for a complete fiscal year, <i>unless</i> the Rule 3-05 financial statements have not been previously filed or, when previously filed, the target is of major significance (e.g., meets at least one of the significance tests at the 80% level).</p> <p>The proposed rule permits registrants to omit Rule 3-05 financial</p>

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		<p>statements once the operating results have been reflected in filed post-acquisition financial statements for a complete fiscal year, even when they have not been previously filed and regardless of the level of significance.</p> <p>In proposing this rule change, the SEC noted that it believes inclusion of post-acquisition results in the registrant's audited financial statements for a complete fiscal year should generally provide investors with sufficient information to make informed investment decisions about the registrant.</p>
Use of Pro Forma Financial Information to Measure Significance	Rule 3-05(b)(3); Rule 11-01(b)(3)	<p>The current rule permits a registrant to use pro forma, rather than historical, financial information to measure significance if the registrant made a significant <i>acquisition</i> subsequent to the latest fiscal year-end and filed its Rule 3-05 financial statements and pro forma financial information on Form 8-K.</p> <p>The proposed rule expands the circumstances for registrants to use pro forma financial information to measure significance as it permits registrants to use filed pro forma financial information depicting significant <i>dispositions</i> subsequent to the latest fiscal year-end provided such pro forma financials have been filed. In addition, registrants in initial public offerings will also be able to use pro forma information for significance testing. However, registrants may not include "Management's Adjustments" discussed below when using pro forma financial information to determine significance.</p>
Individually Insignificant Acquisitions	Rule 3-05(b)(2)(iv); Rule 11-01(c)	<p>Under the current rule, if the aggregate impact of "individually insignificant businesses" acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 50%, the registrant must provide pre-acquisition historical financial statements covering at least the "substantial majority" of the businesses acquired and related pro forma financial information.</p> <p>Similar to the current rule, the proposed rule would require disclosure if the aggregate impact of such businesses acquired since the date of the most recent audited balance sheet exceeds</p>

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		<p>50% and would require pro forma financial information depicting the aggregate effects of all such businesses in all material respects. However, historical financial statements will only be required for those businesses whose individual significance exceeds 20% but are not yet required to file financial statements.</p> <p>The SEC noted that the current rule can have implications for business acquisition negotiations, as registrants may need to negotiate a requirement for the seller to timely provide historical financial statements of an insignificant business to cover the possibility that a future acquisition may trigger the Rule 3-05 “individually insignificant businesses” requirement. With the proposed change, the SEC believes it would both improve the information provided to investors and reduce burdens on registrants of providing audited historical financial statements for immaterial acquisitions.</p>
Adjustments Allowed in Pro Forma Financial Information	Rule 11-02(a) - (c)	<p>Under the current rule, the only adjustments that are appropriate in the presentation of pro forma condensed statement of comprehensive income are those that are directly attributable to the transaction, expected to have a continuing impact on the registrant, and factually supportable, whereas the pro forma condensed balance sheet reflects pro forma adjustments that are directly attributable to the transaction and factually supportable, regardless of whether the impact is expected to be continuing or nonrecurring.</p> <p>The proposed rule permits adjustments to pro forma financial information for (i) “Transaction Accounting Adjustments” and (ii) “Management’s Adjustments.” Transaction Accounting Adjustments are intended to reflect only the application of required accounting to the acquisition, disposition, or other transaction whereas Management’s Adjustments would be limited to synergies and other effects of the transaction, such as closing facilities, discontinuing product lines, terminating employees, and executing new or modifying existing agreements, that are both reasonably estimable and have occurred or are reasonably expected to occur.</p>

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		<p>Under the proposed rule Management's Adjustments are to be presented in a separate column after the presentation of the combined historical statements and Transaction Accounting Adjustments. The proposed rule also requires a description (including the material uncertainties) of the synergy or other transaction effects, underlying material assumptions, method of calculation and estimated time frame for completion, and qualitative information necessary to give a fair and balanced presentation of pro forma financial information.</p> <p>In proposing the rule changes, the SEC noted that it believes the existing pro forma adjustment criteria is not clearly defined nor easily applied and, in practice, can yield inconsistent presentations for similar fact patterns. In addition, the existing adjustments preclude the inclusion of adjustments for the potential effects of post-acquisition actions expected to be taken by management, which can be important to investors.</p>
Significance and Business Dispositions	Rule 11-01(b)(2)	The proposed rule conforms the significance threshold for the disposition of a business from 10% to 20%, to conform to the threshold at which an acquired business is significant.
Smaller Reporting Companies	Rule 8-04; Rule 8-05	<p>The proposed rule directs smaller reporting companies to Rule 3-05 for the requirements relating to the financial statements of business acquisitions, other than for form and content requirements, which would continue to be prepared in accordance with Rules 8-02 and 8-03.</p> <p>The proposed rule also revises Rule 8-05 to require that the preparation, presentation and disclosure of pro forma financial information by smaller reporting companies substantially comply with Article 11.</p>
Real Estate Operations	Rule 3-06; Rule 3-14; Rule 11-01(a)(5); Rule 11-01(b)(3); Item 8 of Form 10-K; Item 2.01 (and Instruction 4) and Item 9.01(a) of Form 8-K	<p>The proposed rule substantially aligns Rule 3-14 with Rule 3-05 where no unique industry considerations exist. Some of the more significant changes from the proposed rule are summarized below:</p> <ul style="list-style-type: none"> • Increases the significance threshold from 10% to 20%. • Increases the significance threshold from 10% to 50% for

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		<p>the aggregate impact of acquisitions for which financial statements are not required or not yet required and for individual probable acquisitions.</p> <ul style="list-style-type: none"> • Removes the differentiation on the number of periods of financial statements provided depending on whether the seller is a related party thereby reducing the requirement from three years to one year. • Permits registrants to omit Rule 3-14 financial statements once the acquired real estate operation is reflected in the registrant's financial statements for a complete fiscal year. • Permits the filing of financial statements covering nine to twelve months to satisfy the one year requirement, consistent with Rule 3-06. • Uses a "modified investment test" that compares the registrant's investment in the real estate operation, including any debt secured by the real properties assumed by the registrant, to the registrant's total assets. • Conforms the requirements for acquisitions of foreign real estate operations in Rule 3-14 with Rule 3-05 for foreign businesses as discussed above.

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