Appendix VI-2

Recommended Rearrangement of General Rules and Regulations under ’33 Act

It would be appropriate, in the Study’s judgment, to group together in a separate article the recommended new rules relating to underwriters and non-public offerings under Sections 2(11) and 4(2) of the ’33 Act. This is particularly true in light of the recommended preliminary note which precedes and explains such rules.

Accordingly, the Study suggests that a new Article 5 be substituted for the present Article 5 of the General Rules and Regulations, entitled “Rules relating to underwriters and non-public offerings under Sections 2(11) and 4(2) of the Act.” Both the new rules proposed by the Study, and related existing rules, would be located in this Article 5. (Rule 161, the single rule now located under Article 5, would be renumbered 101 and located in Article 1 of the General Rules and Regulations.)

Certain minor additional rule changes necessitated by the foregoing recommendation are indicated in the summary below:

Article 1.

Change title to “Definition of Terms Used in, and Applicability of, Rules and Regulations.”

Article 2.

No change.

Article 3.

No change.
Article 4.

Change title to “Definitions of Terms Used in the Act Elsewhere than in Sections 2(11) and 4(2).”

(Rules under this Article would be the following):

Rule 130  No change.
Rule 131  No change.
Rule 133  Revision recommended.  
          (See Chapter VII)
Rule 134  No change.
Rule 135  Revision recommended.  
          (See Chapter V and VII)
Rule 136  No change.
Rule 137  )  New; relate to  
          Rule 138  )  “gun jumping.”  
          Rule 139  )  (See Chapter V)
Rule 149  No change.
Rule 150  No change.
Rule 151  To be deleted.\footnote{The staff has recommended (and the Commission has approved) deletion of this rule, since the types of transactions referred to therein are no longer permitted.}
Rule 152  Rule 152A, renumbered.
Rule 153  No change.
Rule 153A New; definition of “preceded by a prospectus” for certain business combinations.  (See Chapter VII)
Rule 154  Revision recommended  
          (See Chapter VI)
[Rule 155] [Rescission recommended. See Chapter VI]

Rule 157 New; definition of underwriter’s duty of investigation when proposed Form S-17 is used. (See Chapter III)

Article 5.

Change title to “Rules Relating to Underwriters and Non-Public Offerings Under Sections 2(11) and 4(2) of the Act.”

(The new rules under this Article are proposed in Chapter VI):

Preliminary Note New; explanation of basic concepts.

Rule 160 New; definition of “directly or indirectly controlling an issuer” in Section 2(11), with examples.

Rule 161 New; definition of “restricted security.”

Rule 162 New; definition of “distribution” in Section 2(11).

Rule 163 New; certain persons deemed to be “underwriters” under Section 2(11).

Rule 164 New; “qualified list.”

Rule 165 Present Rule 140.

Rule 166 Present Rule 141.

Rule 167 Present Rule 142.2/

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2/ Clause 4 of this rule should be appropriately revised if new Rule 162 is adopted.
Rule 168  Present Rule 143.\textsuperscript{3/}

Rule 169  New; definition of certain terms used in Section 2(11) in relation to business combinations.

Rule 180  New; effect of transactions not constituting “distributions” under Rule 162 on applicability of the exemption contained in Section 4(2) of the Act.

Rule 181  New; definition of “not involving any public offering” in Section 4(2) of the Act in connection with acquisitions of bona fide going businesses.

Rule 182  Present Rule 152.

Rule 183  Present Rule 156.

\textbf{Article 6.}

Remember the rules in this Article, starting with Rule 190.

\footnote{\textsuperscript{3/} This rule may be obsolete; if so, it could be rescinded.}