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## Securities and Exchange Commission Draft Data Quality Assurance Guidelines

### Introduction

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554; H.R. 5658) ("Appropriations Act") directed the Office of Management and Budget ("OMB") to issue guidance to federal agencies on: (i) publishing their own guidelines for ensuring and maximizing the quality of information disseminated by federal agencies; and (ii) establishing administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information that does not comply with the agencies' information quality guidelines. Under the guidelines issued by OMB, all federal agencies subject to the Paperwork Reduction Act (PRA) are required to publish on their websites draft data quality assurance guidelines for public comment.

In accordance with OMB's guidelines, the Commission has developed the following draft guidelines for public review and comment. These guidelines do not create a new mechanism for addressing policy decisions made by the Commission. Rather, they address the agency's internal procedures for ensuring and maximizing the quality of certain types of information disseminated by the Commission, as described below. In addition, they provide an administrative mechanism for correcting, when appropriate, information that does not comply with the Commission's guidelines. Please send us your comments on any aspect of these draft guidelines by Monday, June 3, 2002. All comment letters should refer to File No. S7-12-02; this file number should be included in the subject line if you use electronic mail. Your comment letters should be sent to:

Jonathan G. Katz  
Office of the Secretary  
United States Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549-0609

You also may submit your comments electronically to the following address: [dataquality@sec.gov](mailto:dataquality@sec.gov). The final guidelines are to be posted on the Commission's website by October 1, 2002.

Please note that the Commission's data quality guidelines:

- Are not a regulation and do not change any existing regulatory requirements or trigger any regulatory obligations;

- Do not create any legal rights or impose any legally binding requirements or obligations on the Commission or the public;
- Do not affect any otherwise available judicial review of agency action;
- May be revised periodically; and
- Where appropriate, the Commission may apply alternative methods for assuring and correcting data quality in particular circumstances.

## Definitions

For purposes of the Commission's data quality assurance guidelines, the following terms will have the meanings below. These definitions follow or are derived from OMB's guidelines. Consistent with OMB's guidelines, we have adapted OMB's definitions in ways appropriate to the Commission's particular practices and programs.

- ▶ **Dissemination** means a Commission-initiated or sponsored distribution of information to the public. Dissemination does not include: (i) distributions limited to government employees or agency contractors or grantees; (ii) intra- or inter-agency use or sharing of government information; or (iii) responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. Dissemination further does not include distributions limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.
- ▶ **Information** means any communication or representation of knowledge, such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. "Information" includes data posted on the Commission's website, but does not include the provision of hyperlinks to information that others disseminate. "Information" also does not include opinions, where the Commission or the author makes clear that what is being offered is the author's opinion rather than either fact or the Commission's views.
- ▶ **Influential** is a specialized term that means certain scientific, financial or statistical information that the agency can reasonably determine will have or does have a clear and substantial impact on important public policies or important private sector decisions. Consistent with the scope of these guidelines, the term "influential" applies only to certain scientific, financial or statistical information and does not apply to policy decisions that the information may support. If a decision or action by the Commission is itself very important, a particular piece of information supporting that decision or action may or may not be "influential." In rulemaking, influential information is scientific, financial or statistical information that the Commission considers outcome-determinative with respect to one or more critical issues in a "major rule," as such term is defined in the Small Business Regulatory Enforcement Fairness Act of 1996. In most rulemakings, the Commission's decisions on critical issues will be based on a variety of information and considerations, and accordingly, no particular scientific, financial or statistical information by itself likely will be outcome-determinative. In non-rulemaking contexts, the scope and significance of the effect of the information on important public policies or important private sector decisions will determine whether the information is influential.
- ▶ **Integrity** refers to the security of the Commission's information, i.e.,

protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

- ▶ **Objectivity** refers both to: (i) presenting information in a proper context to set out that information in a clear, complete and unbiased manner; and (ii) ensuring that the substance of the information is accurate, reliable and unbiased.
- ▶ **Quality** is an encompassing term comprising utility, objectivity and integrity.
- ▶ **Reproducibility** means that "influential" information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. With respect to analytic results, "capable of being substantially reproduced" means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.
- ▶ **Utility** refers to the relative usefulness of the information to its intended users.

## Data Quality Assurance Guidelines

In accordance with OMB's guidelines, the level of quality assurance appropriate for information will vary according to the relative importance of the information and the costs and benefits of requiring additional assurances for the particular information. The Commission has created the following guidelines to describe its quality standards and formalize a correction mechanism.

### Basic Principles

- ▶ **Quality.** The Commission takes pride in the quality of its information and is committed to disseminating information that meets the Commission's already rigorous standards for objectivity, integrity and utility. Before the Commission disseminates any information to the public, all aspects are thoroughly reviewed by expert staff and appropriate levels of management. The Commission's current internal review and approval policies and procedures ensure, to the best of the Commission's ability, that the Commission's disseminated information and data are accurate and timely, appropriate for external consumption, uncompromised and useful to the public.
- ▶ **Integrity.** The Commission's Office of Information Technology has established policies for carrying out the Commission's information security program pursuant to the Computer Security Act of 1987, the Government Information Security Reform Act of 2000 and the Security of Federal Automated Information Resources, OMB Circular A-130 (February 8, 1996). The Commission's information security program encompasses those measures necessary to protect the Commission's information resources. These measures include providing, for each IT project: (i) the appropriate technical, personnel, physical, administrative, environmental and telecommunications safeguards; and (ii) continuity of operations through contingency or disaster recovery plans. The Commission's protective measures cover the following information resources: data, applications, software, hardware, physical facilities and telecommunications. The Commission's information security program assures that each automated information system has a level of security that is commensurate with the risk and magnitude of the harm that could result from the loss, misuse, unauthorized disclosure or improper modification of the information contained in the system.

- ▶ **Utility.** The Commission evaluates and determines the audience for whom the information to be disseminated is intended and will benefit. The Commission is committed to maximizing the utility of the information it disseminates to the public. To this end, information and the appropriate form and vehicle for its dissemination are evaluated and reviewed by the relevant subject matter experts on a given project, along with appropriate levels of management within the Commission, before the information is disseminated to ensure its usefulness to the intended audience. This includes ensuring that the information is organized and written in a manner that facilitates its understanding and use by the intended audience. For example, the Commission issues investor alerts that are written in plain English to help investors understand complex and technical aspects of the securities laws. The information also is reviewed to ensure its timeliness and continuing relevance for the intended audience.
- ▶ **Objectivity.** The Commission is committed to disseminating information that is accurate, clear, complete and unbiased both in its content and in its presentation. The relevant subject matter experts and appropriate levels of management review information before it is disseminated, among other things, to evaluate whether the information is accurate, reliable and unbiased, including an assessment of collection, generation, and analysis of relevant information and data. The review also considers the presentation of the information to ensure that it is put in the proper context and presented in a clear, complete and unbiased manner. Where appropriate, in the context of certain rulemakings for example, the Commission also identifies the sources of supporting data so that the public can assess for itself the objectivity of those sources.
- ▶ **Influential Information.** Any information deemed to be "influential" as defined in these guidelines will be reviewed by subject matter experts within the Commission and appropriate levels of management to ensure adequate disclosure about underlying data and methods of analysis to facilitate reproducibility of the information by qualified third parties.

### General Categories of Information Subject to the Guidelines

- **Information Disseminated through the Regulatory Process -- With Notice and Comment.** Before the Commission disseminates a proposed or final rule, expert staff prepare drafts of the rule, which, where appropriate, are circulated to other staff members having direct or complementary subject matter expertise. The drafts are also reviewed by the Office of Economic Analysis and the Office of the General Counsel, and finally are reviewed and approved by the Commission. Proposed rulemakings generally include a public comment process pursuant to the Administrative Procedure Act ("APA"). These procedural safeguards assure a response to comments on the quality of information in the proposed rule and provide affected parties an opportunity to contest the final decision. The Commission will review any correction request about a pending rulemaking solely through the notice and comment process and not through the correction request procedures described below. If the final rule incorporates new facts or data that were not available for public comment, these new facts or data are subject to the correction request procedures.
- **Information Disseminated through the Regulatory Process -- No Notice and Comment.** The Commission sometimes disseminates information through its regulatory process that is not subject to the notice and comment requirements of the APA, including

Commission interpretive releases, concept releases and policy statements. These types of documents express the opinions of the Commission, provide clarification of previous statements by the Commission, or indicate a direction the Commission contemplates taking in the future with respect to various topics, including items that were the subject of prior rulemakings, where the Commission has had the opportunity to monitor the effect of the rule on the public. The supporting data are gathered and analyzed, and the statements are drafted, reviewed and revised by the relevant staff experts within the Commission, including the Office of Economic Analysis. In addition, further review is provided by appropriate levels of management and by complementary subject matter experts in other offices and divisions within the Commission, and, finally, approval is required by the Commission before dissemination to the public.

- **Statistical and Other Numerical Information Disseminated Outside of the Regulatory Process.** The Commission's divisions and offices from time to time prepare reports that display or rely on statistics and other data gathered by the staff. Sometimes the Commission staff gathers its own data and stores the data in databases that the staff controls and maintains. Data is often gathered by the staff from public filings made with the Commission. Although the Commission cannot always independently verify the content of those filings, the public filers are subject to liability under the federal securities laws if the information in their filings is found to be false or materially misleading. On other occasions, the staff relies on data gathered from independent third parties and vendors who supply data that the staff, and when appropriate, the Commission, reviews, analyzes and disseminates. These data include fee collection estimates, trade, quote, order flow, volume and market value summaries, order execution and quality reports, and various special studies and research reports. Both internally generated and externally obtained data are subjected to internal analysis, data filters and screens, and are reviewed by the appropriate levels of management in the office or division responsible for disseminating the reports, as well as the Office of Economic Analysis. In addition, this information may be reviewed by other offices and divisions within the Commission that may have complementary subject matter expertise. When appropriate, the data or the reports are also submitted to the Commission for review or approval.
- **Non-Statistical Information Disseminated Outside of the Regulatory Process.** The Commission disseminates many different kinds of information that do not rely on statistical analyses and quantitative foundations, such as investor education materials. Each document is drafted by the responsible staff member(s), reviewed by appropriate supervisory levels and, when necessary or appropriate, reviewed and approved by the Commission before dissemination. Because of the varied nature of these materials, the Commission and its staff use that level of quality assurance commensurate with the importance of the information and the likelihood that it will be relied on by the public.

### **Information Outside the Scope of the Guidelines**

Based on OMB's definitions of "dissemination" and "information," several types of information disseminated by the Commission and members of the Commission staff do not fall under these guidelines. Excluded categories include:

- Distributions limited to Commission employees or contractors, such as internal operating procedures, training manuals and requests for proposals.
- Intra- or inter-agency distributions or sharing of government information, such as the Commission's Annual Report, the Commission's annual budget and the Commission's plans and reports pursuant to the Government Performance and Results Act of 1993.
- Opinions of individual Commissioners and staff members, where the author's presentation states that the information is that person's opinion rather than fact or the Commission's views. These include articles, speeches, panel presentations, special studies and academic papers authored by staff members that state that the views expressed in their work are their own views and do not necessarily reflect the views of the Commission.
- Responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law.
- Correspondence with individual entities or persons, including staff comment letters, staff no-action letters, staff interpretive letters and staff deficiency letters.
- Commission and staff press releases, including litigation releases and the SEC Digest.
- Archival records maintained by the Commission public reference room and libraries.
- Information from third parties, for which the Commission is merely a conduit, such as public filings (both EDGAR and paper filings) and public comment letters.
- Subpoenas or adjudicative processes, including Commission orders, opinions, amicus and other briefs. Adjudicative processes also include factual allegations by the staff during the investigative and litigation phases of cases brought by the Commission's Division of Enforcement. Because there are well-established procedural safeguards and rights to address the quality of factual allegations and adjudicatory decisions, and to provide persons with an opportunity to contest decisions, these guidelines do not impose any additional requirements on the Commission during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal.

### **Requests for Correction**

The correction process is designed to provide a mechanism for affected

persons to seek correction of information disseminated by the agency that does not comply with these guidelines. Data correction requests should be sent only after October 1, 2002.

This process does not necessarily guarantee a correction in every instance. Rather, the decision of whether a correction is appropriate, and what degree of correction is appropriate, will be determined by the nature, completeness and timeliness of the information involved and such factors as the significance of the correction on the users of the information and the magnitude of the correction. Responses may be in the form of personal contacts by letter or telephone, form letters, press releases or mass mailings that correct widely disseminated errors or address a frequently raised request.

With respect to proposed rules, the thorough consideration required by the APA process provides an adequate complaint and appeal process. A separate complaint and appeal process for information that is already subject to such a public comment process would be duplicative, burdensome, disruptive to the orderly conduct of the action and unfair to other public commenters who submitted comments during the applicable comment period. Accordingly, the notice and comment process is the exclusive means by which an affected person may address the quality of data in a proposed rulemaking. If a final rule incorporates new facts or data that were not available for public comment in connection with the proposed rule, these new facts or data will be addressed through this correction request process.

In most instances, matters will be resolved at the appropriate division or office level within the Commission. Novel or highly complex matters may be sent to the Commission for review, at the discretion of the staff. If the matter is resolved at the staff level, the staff will use reasonable efforts to send its response to the requestor within 60 days of the date the office or division received the request. If the resolution of the matter is particularly complicated or would benefit from consultation with other divisions or agencies, the staff will use reasonable efforts to send a response to the requestor within 90 days of the date the original office or division received the request.

**Request Format.** To be treated as a data quality correction request under these guidelines, any affected person seeking correction of Commission-disseminated data should submit a request in writing (on paper or by email) and include the following:

- A description of the facts or data the requestor seeks to have corrected;
- An explanation of how the requestor is an affected person with regard to those facts or data;
- The factual basis for believing the facts or data need to be corrected;
- A proposed resolution, including the factual basis for believing the facts or data in the requestor's proposed resolution are correct;
- The consequences of not implementing the proposed resolution; and

- The requestor's contact information, including name, address, daytime telephone number and email address.

Requests should be marked "Data Quality Correction Request " on the first line of the envelope directly above the mailing address and on the correspondence itself, in the case of letters, or in the "Subject" line, in the case of email correspondence. Emails should be sent to the following address: [dataquality@sec.gov](mailto:dataquality@sec.gov). Letters should be addressed to:

United States Securities and Exchange Commission  
Office of the Secretary  
Attn: Data Quality  
450 Fifth Street, NW  
Washington, DC 20549-0609

**Processing Data Quality Correction Requests.** The Office of the Secretary will route the request to the head of the appropriate division or office within the Commission who will ensure that: (i) the request is reviewed; (ii) any appropriate corrective action is taken; and (iii) a response to the request is made.

**Requests for Staff Reconsideration.** If the requestor does not agree with the response, the requestor may send a request for a reconsideration of the original response by the staff. The staff reconsideration request should be postmarked (or, in the case of email, date-stamped) within 20 days of the date of the initial response, or 90 days after delivery of the original request, whichever is later. The request for staff reconsideration should include a copy of the original request, a copy of the original response (if in writing) or a summary of the response (if oral), and the following:

- A statement describing why the response to the original complaint did not comply with the data quality guidelines or why the requestor disagrees with the original response; and
- The requestor's contact information, including name, address, daytime telephone number and email address.

Staff reconsideration requests should be marked "Request for Reconsideration of Data Quality Correction " on the first line of the envelope directly above the mailing address and on the correspondence itself, in the case of letters, or in the "Subject" line, in the case of email correspondence. Emails should be sent to the following address: [dataquality@sec.gov](mailto:dataquality@sec.gov). Letters should be addressed to:

United States Securities and Exchange Commission  
Office of the Secretary  
Attn: Data Quality  
450 Fifth Street, NW  
Washington, DC 20549-0609

**Processing Staff Reconsideration Requests.** The Office of the Secretary will route the staff reconsideration request to the Office of the

Chief Counsel ("OCC") of the division or office that received the original request. If the OCC was involved in making the decision on the original request, or in producing the data that is the subject matter of the request, or if the division or office does not have an OCC, then the staff reconsideration request will be assigned to another objective official. The OCC or the designated official may seek the advice and counsel of other appropriate officials in rendering the decision. The OCC or the designated official will review the original response, determine if additional action is appropriate, and use reasonable efforts to send the staff's response to the reconsideration request within 30 days of the date the OCC or designated official received the request.

**Privacy Act Statement.** The Commission is authorized to collect the information provided by the requestor under Appropriations Act. The information is needed to process each request and to allow the Commission to reply appropriately. The requestor is not required to furnish the information, but failure to do so may prevent the request from being processed. The principal use is to process and respond to the request, but the Commission may disclose information to a Congressional office in response to an inquiry made on behalf of the requestor, to the Department of Justice, a court or other tribunal when the information is relevant and necessary to litigation, or to a contractor or another federal agency to help accomplish a function related to these guidelines.

**Paperwork Reduction Act Statement.** The information collection for data quality correction and staff reconsideration requests meets the clearance requirements of 44 U.S.C. 3507, as amended by Section 2, Paperwork Reduction Act of 1995. You are not required to provide the information requested unless we display a valid OMB control number. The OMB control number for this information collection is \_\_\_\_\_ . While the time may vary depending on the information at issue, we estimate that it will take you about 45 minutes on average to gather the necessary facts and provide the information to submit a data quality correction or staff reconsideration request.

<http://www.sec.gov/about/dataqualityguide.htm>

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[Home](#) | [Previous Page](#)

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