

SEC Eliminates or Reduces Certain Disclosure Requirements in SEC Filings

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On August 17, 2018, the Securities and Exchange Commission (SEC) adopted amendments to eliminate or modify certain disclosure requirements that have become redundant, duplicative, overlapping, outdated or superseded in light of other SEC rules, U.S. Generally Accepted Accounting Principles (GAAP), International Financial Reporting Standards (IFRS) or changes in the information environment. The amendments, which are intended to simplify compliance without significantly altering the total mix of information provided to investors, will affect various disclosure requirements in Regulations S-K and S-X, as well as several SEC forms.

The SEC believes the changes may improve investors' ability to make investment decisions more efficiently and reduce issuer compliance costs, which may encourage capital formation. The amendments are a result of the SEC's ongoing Disclosure Effectiveness Initiative, the goal of which is to comprehensively review disclosure requirements and make recommendations on how to update them to facilitate timely, material disclosure by companies and investors' access to that information.

Regulation S-K

Several disclosure requirements under Regulation S-K that have become redundant or duplicative will be eliminated, including:

- **Item 101(b) – Disclosure of business segment information.** Similar disclosure is required under GAAP and Item 303(b) of Regulation S-K and will continue to be available in the notes to the financial statements and the Management's Discussion and Analysis (MD&A) section of applicable filings.
- **Item 101(c)(1)(xi) – Disclosure of funds spent on research and development activities.** Similar disclosure is required under GAAP and IFRS in the notes to the financial statements. Note that information regarding trends in research and development expenses, if material, is still required in the MD&A section of applicable filings under Item 303 of Regulation S-K.
- **Item 101(d)(1), (2), (3) and (4) – Disclosure of financial information by geographic area.** Similar disclosure is required under GAAP in the notes to the financial statements and Item 503(c) of Regulation S-K in the risk factors section of applicable filings.
- **Instruction 5 to Item 303(b) – Disclosure of seasonal aspects of the business.** Similar disclosure is required under GAAP in combination with the remainder of Item 303 of Regulation S-K. Note that the seasonality disclosure requirements in annual reports under Item 101(c)(1)(v) of Regulation S-K are not eliminated by the amendments.
- **Item 503(d) and Item 601(b)(12) – Disclosure of ratios of earnings to fixed charges and/or preference dividends.** The SEC noted that a variety of analytical tools are available to investors to provide similar information. Current SEC guidance also requires that companies discuss the material impacts of debt covenants to the extent they are reasonably likely to be breached or limit future financings.

Additionally, the amendments will modernize certain Regulation S-K disclosure requirements that have become outdated due to developments in information technology, including:

- **Item 201(a)(1) – Disclosure of historical stock price information.** The requirement to disclose historical information about the company's stock price will be replaced with disclosure of the company's ticker symbol, which investors can use to obtain easily accessible current and historical stock price information now freely available online.
- **Item 101(e)(2) and Item 101(h)(5)(iii) – Disclosure of SEC Public Reference Room.** The requirement to identify the Public Reference Room and disclose its physical address and phone number in certain filings will be

eliminated. The SEC acknowledged that the Public Reference Room is rarely used by the public to obtain or review filings, as paper filings are only submitted in very limited circumstances.

- **Item 101(e)(3) and Item 101(h)(5)(iii) – Disclosure of Issuer Internet Address.** In addition to eliminating disclosures regarding the Public Reference Room, the amendments also modify Item 101 of Regulation S-K to require all issuers to disclose their Internet address, if they have one, in applicable filings. Prior to the amendments, only accelerated and large accelerated filers were required to make such disclosure.

Regulation S-X

Many disclosure requirements under Regulation S-X will also be eliminated due to overlap with substantially similar requirements under GAAP. The eliminated disclosure requirements, which provided for certain disclosures regarding the presentation of financial statements and accompanying footnotes, include:

- **Rule 3A-02, Rule 3A-03 and Rule 3A-04** – Financial Statement Consolidation;
- **Rule 4-08(f)** – Debt Obligations;
- **Rule 4-08(h)(2)** – Income Tax;
- **Rule 4-08(i)** – Securities Subject to Convertible Instruments;
- **Rule 4-08(k)(1)** – Related Party Transactions;
- **Rule 8-03(b)(2) and Rule 10-01(a)(5)** – Contingencies; and
- **Rule 10-01(b)(2)** – Earnings per Share.

The amendments will become effective 30 days after publication in the Federal Register. Accordingly, public companies should plan to conduct more thorough form checks in order to prepare upcoming SEC filings in accordance with the more streamlined disclosures that will be permitted once the amendments become effective.

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