



COMMENTARY

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SEC Updates and Streamlines Disclosure Requirements

IN SHORT

The Situation: The U.S. Securities and Exchange Commission ("SEC") adopted amendments to Regulation S-K, Regulation S-X, and related rules and forms to update and streamline disclosure and ease unnecessary compliance burdens for issuers.

The Result: The amendments eliminate, integrate, or modify disclosure requirements related to segment financial information, information by geographic area, research and development activities, seasonality, stock price and dividend information, and other matters.

Looking Ahead: The amendments are modest, incremental changes but require issuers to consider the prominence and context of disclosure.

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On August 17, 2018, the SEC adopted [amendments](#) to Regulation S-K, Regulation S-X, and certain related rules and forms which, among other things:

- **Eliminate certain redundant or duplicative disclosure requirements** that provide substantially the same disclosures as U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), International Financial Reporting Standards ("IFRS"), or other SEC requirements;
- **Eliminate and/or integrate certain overlapping disclosure requirements**, which require reasonably similar disclosures as U.S. GAAP or other SEC requirements;
- **Amend certain outdated disclosure requirements**, which are outdated due to the passage of time or changes in regulatory, business, or technological environments; and
- **Amend certain superseded disclosure requirements** that have been superseded by newer accounting, auditing, and disclosure requirements.

The amendments are a part of the SEC's ongoing efforts to improve and simplify disclosure while continuing to provide all material information to investors. The amendments will be effective 30 days after publication in the *Federal Register*, which is projected to be late September 2018.



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SUMMARY OF THE AMENDMENTS

The following summary highlights some of the noteworthy amendments that will affect an issuer's typical SEC disclosures.

Description of Business (Item 101)

- **Segments and Geographic Information.** The amendments eliminate the requirement to provide segment financial information, financial information by geographic area, risks associated with an issuer's foreign operations, and any segment's dependence on foreign operations in light of existing U.S. GAAP and other Regulation S-K disclosure requirements. Such information will continue to be available in the notes to the financial statements, under "Risk Factors," and the MD&A, where applicable.
- **R&D Activities.** The amendments eliminate the requirement to disclose the amount spent on research and development ("R&D") activities for all years presented, since U.S. GAAP and IFRS require reasonably similar disclosure.

MD&A (Item 303)

The amendments retain the seasonality disclosure requirements in annual reports but eliminate the requirement in interim reports, since U.S. GAAP in combination with Item 303 of Regulation S-K requires reasonably similar information.

Market for Registrant's Common Equity (Item 201(a))

The amendments replace the outdated requirement to disclose the high and low trading prices of an issuer's common equity for each full quarterly period within the two most recent fiscal years and interim periods with required disclosure of the trading symbol(s) for each class of the issuer's common equity.

Dividends (Item 201(c)(1))

The amendments eliminate the requirement to state the frequency and amount of any cash dividends in an annual report, Form S-1, or other relevant filings. They also consolidate disclosure requirements regarding restrictions that currently, or are likely to, materially limit the issuer's ability to pay dividends on its common equity into a single requirement in Regulation S-X.

Ratio of Earnings to Fixed Charges (Item 503(d))

The amendments eliminate the requirement to disclose the historical and pro forma ratio of earnings to fixed charges (and ratio of combined fixed charges and preference dividends to earnings) in connection with the registration of debt securities and preference equity securities, as well as the related exhibit setting forth the computation of such ratio.

Where You Can Find More Information (Item 101)

The amendments eliminate the outdated requirement to identify the SEC's Public Reference Room and disclose its physical location and phone number, while retaining the requirements to disclose the SEC's internet address and to disclose the issuer's internet address if it has one.

Exhibits (Item 601)

The amendments eliminate the following exhibit requirements (although the exhibit-numbering system has been preserved):

- **Earnings Per Share.** The final amendments eliminate Item 601(b)(11), which requires a statement showing the calculation of per-share earnings (unless the computation can be determined from information already in the report) in annual filings.
- **Reports to Shareholders.** Various reports to security holders, required to be filed as exhibits under Items 601(b)(19) and (22), are also eliminated in light of, in the former case, other exhibit provisions or, in the latter case, the requirement to disclose shareholder voting results in a Form 8-K.

REFERRALS TO FASB

The SEC refrained from adopting amendments to other overlapping provisions and instead referred such items to the Financial Accounting Standards Board ("FASB") for potential incorporation into U.S. GAAP, including disclosure requirements relating to major customers, products, and services; foreign currency; equity compensation plans; debt obligations; related party transactions; and interim financial statements. The SEC has requested that FASB complete its determination process within 18 months after the amendments are published.

THREE KEY TAKEAWAYS

1. Although the changes are mainly incremental and clean-up in nature: (i) the relocation of certain disclosure from outside to inside the financial statements will subject such disclosure to annual audit and/or internal review, internal control over financial reporting, and XBRL tagging requirements; (ii) the PSLRA safe harbor for forward-looking information will no longer be available for disclosures relocated from outside to inside the financial statements and will have the opposite effect on disclosures relocated to outside the financial statements; and (iii) the relocation of some disclosure items could impact the prominence of, and context around, that disclosure.
2. Issuers should prepare for incorporation of these changes in upcoming periodic filings and registration statements and begin discussions with internal accounting and legal departments and their independent registered public accounting firm.
3. Issuers should expect additional changes in the future as part of the SEC's ongoing efforts to modernize and simplify disclosure requirements.

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