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SEC Requires Revisions to Cover Pages of Many Forms

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The Securities and Exchange Commission (SEC) recently adopted technical amendments to its rules and regulations to conform to Titles I and III of the Jumpstart Our Business Startups Act of 2012 (JOBS Act), including changes to the cover pages of many forms filed under the Securities Act of 1933 (Securities Act) and the Securities Exchange Act of 1934 (Exchange Act). The changes require companies to check boxes on the form covers to indicate whether they are emerging growth companies (EGCs) and, if so, whether they have elected not to use the extended transition period to comply with new or revised financial accounting standards as permitted under the JOBS Act.

Under Section 107 of the JOBS Act, an EGC may waive any of the disclosure exemptions and instead comply with the requirements that apply to any issuer. However, if an EGC opts out of the extended transition period for complying with new or revised accounting standards, it must do so when it is first required to file a registration statement, periodic report or other report with the SEC under Section 13 of the Exchange Act and notify the SEC of its choice. The election is irrevocable. The new boxes will provide a uniform method for an EGC to notify the SEC and the public that it is an EGC and whether it has opted out of the extended transition period.

The box that is checked to indicate a company is an EGC will be located with the boxes that indicate whether a company is a large accelerated filer, accelerated filer, non-accelerated filer or smaller reporting company. EGCs will also still fall under one of those categories, so both applicable boxes will need to be checked.

The forms that now require these additional boxes include:

Forms S-1, S-3, S-4, S-8, S-11, F-1, F-3 and F-4 under the Securities Act

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Forms 10-Q, 10-K, 8-K, 10, 20-F and 40-F under the Exchange Act.

While the forms on the SEC's website have not yet been amended to reflect the additional boxes, the changes are effective as of April 12, 2017.

What This Means to You

Companies, even those that are not EGCs, should revise the cover pages of the relevant filings to reflect the new boxes. These changes should be made immediately, including on the cover pages of Form 10-Qs to be filed for the first quarter of 2017. EGCs will need to check the appropriate boxes.

Contact Us

For more information on the new requirements, contact Jeffrey T. Haughey, Steven R. Barrett, Rebecca C. Taylor or any other member of Husch Blackwell's Securities & Corporate Governance team.

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