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SEC Requires Hyperlinks to Exhibits to Ease Investor Access

The Securities and Exchange Commission (SEC) recently voted to make its public EDGAR database more accessible by requiring filers to include a hyperlink to each exhibit in their filings. These amendments will alter the filing requirements for issuers under Item 601 of Regulation S-K or Forms F-10 or 20-F. The final rules are scheduled to take effect on September 1, 2017, for large accelerated and accelerated filers.

Exhibit Hyperlink Requirements

Under the new rules and form amendments, an issuer will be required to insert a hyperlink for each exhibit within the filing's exhibit index. This allows investors searching for a particular exhibit in the EDGAR database to simply click on the hyperlink rather than try to locate the exhibit themselves.

A hyperlink will be required unless the exhibit is or was filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201, 202 or 311 of Regulation S-T. The new rules also exclude XBRL exhibits and exhibits filed with Form ABS-EE. In addition to the forms that require exhibits under Item 601 of Regulation S-K, the rules require hyperlinks in Forms F-10 and 20-F, but do not require exhibit hyperlinks in other forms under the multijurisdictional disclosure system used by certain Canadian issuers or in Form 6-K.

The SEC provided in its final release that the exhibit hyperlinks will be required in an issuer's initial registration statement and each subsequent pre-effective amendment, not only in the final registration statement that becomes effective. The SEC, however, is not requiring the refiling of exhibits, including organizational documents, previously filed only in paper.

Non-accelerated filers and smaller reporting companies that submit filings in American Standard Code for Information Interchange (ASCII) format do not have to comply with the new amendments until September 1, 2018. The rules do not provide exemptions for emerging growth companies.

Issuers submitting a Form 10-D filing that would require a hyperlink to an exhibit filed with Form ABS-EE, which provides for electronic exhibit filings for asset-backed securities, will not have to comply with the new amendments until the SEC has completed technical programming changes to allow issuers to include such forms in a single submission. The SEC will announce when those changes are complete.

HTML Format

Currently, issuers using the EDGAR system may submit electronic filings in either the ASCII or HyperText Markup Language (HTML) formats. Because the ASCII format does not support hyperlink functionality, the new rules will require issuers to file registration statements and reports subject to these requirements in HTML. The SEC will allow issuers to file in ASCII format any schedules or forms that are not subject to the exhibit filing requirements, such as proxy statements or other documents included with a filing, such as an exhibit.

What This Means to You

These new requirements will require issuers to employ new formats and hyperlinks in registration statements and periodic reports filed with the SEC. While these new amendments will not take effect until September 2017, barring any exemptions, issuers should begin to familiarize themselves with the specified formats and language and start creating the hyperlinks. The SEC encourages early adoption to the extent possible.

Contact Us

For more information on these new requirements, contact Jeff Haughey, Rebecca Taylor, Noble Freeman or any other member of Husch Blackwell's Securities & Corporate Governance team.