

SEC Proposes Rule Amendments to Require Issuers to Include Hyperlinks to Exhibits in Filings

On August 31, 2016, the Securities and Exchange Commission (SEC) proposed amendments to its forms and rules that would require issuers that file registration statements and periodic and current reports, which include exhibits under Item 601 of Regulation S-K or Forms F-10 or 20-F, to include in these filings a hyperlink to each of the exhibits listed in the exhibit index. The proposed amendments also would require issuers to submit all filings in HyperText Markup Language (HTML) format to enable inclusion of these hyperlinks (filers currently can submit filings using either ASCII format or HTML format, although the majority of all filings are submitted in HTML format). The proposing release notes that, since the SEC's adoption of the Electronic Data Gathering, Analysis and Retrieval system (EDGAR) in 1984, the SEC has sought to automate the receipt, processing and dissemination of documents required to be filed under federal securities laws. SEC Chair Mary Jo White stated that, "[t]he proposed changes should make it significantly easier to locate documents attached to company filings," which "will benefit both investors and companies." Comments on the proposed rule amendments are due 45 days after publication of the rules in the Federal Register.

SEC Fees to Increase for Fiscal Year 2017

On August 31, 2016, the SEC announced that in fiscal year 2017 the fees that registrants pay to register securities with the SEC under Section 6(b) of the Securities Act of 1933, as amended, will increase to \$115.90 per million dollars, from the current \$100.70 per million dollars. The adjusted fee rate also will apply to repurchase of securities under Section 13(e) of the Securities Exchange Act of 1934, as amended (the Securities Exchange Act), proxy solicitations under Section 14(g) of the Securities Exchange Act and statements in corporate control transactions. The annual adjustment is required under federal securities laws and will be effective October 1, 2016.

SEC Seeks Comments on Management, Security Holders and Corporate Governance Disclosures Under Regulation S-K

On August 25, 2016, the SEC announced that it is seeking public comment on certain disclosure requirements in Subpart 400 of Regulation S-K, particularly those relating to management, security holders and corporate governance. The request for comment is part of the SEC's Disclosure Effectiveness Initiative to review disclosure requirements in Regulation S-K to consider ways to improve and simplify reporting for the benefit of investors and issuers. As part of this initiative, in April 2016, the SEC published a concept release seeking public comment on modernizing the business and financial disclosure requirements in Regulation S-K. This update of disclosure requirements is part of a comprehensive evaluation by the SEC of disclosure requirements recommended in the SEC staff's Report on Review of Disclosure Requirements in Regulation S-K, as mandated by the Jumpstart Our Business Startups Act (JOBS Act). Comments received will also be used to inform the SEC's study on Regulation S-K required by the Fixing America's Surface Transportation Act (FAST Act), which requires, among other things, that the Regulation S-K study emphasize a company-by-company approach that permits relevant material information to be disseminated without boilerplate language or static requirements, while preserving comparability of information across registrants, and that the SEC evaluate information delivery and presentation that discourages repetition and disclosure of immaterial information.

In this release, the SEC is specifically requesting comment on the following disclosure items within Regulation S-K:

- Item 401 that requires disclosure about a registrant's directors, executive officers, promoters and control persons;



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Related Practice Areas

- Corporate

- Item 402 as it relates to disclosure of plan and non-plan compensation awarded to, earned by, or paid to the registrant's named executive officers (NEOs) and directors;
- Item 403 that requires a description of security ownership by certain beneficial owners and management;
- Item 404 that requires a description of related party transactions, as well as transactions with promoters and certain control persons;
- Item 405 that requires identification of reporting delinquencies by specified persons under Section 16(a) of the Securities Exchange Act;
- Item 406 that requires disclosure of whether the registrant has adopted a code of ethics applicable to its executive officers; and
- Item 407 that requires disclosure about corporate governance matters, including director independence, board meetings and board committees, and the issuer's process for shareholder communications.

The SEC anticipates that comments received will result in recommendations and proposals to improve the SEC's disclosure requirements. Comments are due 60 days after publication of the release in the Federal Register.

To discuss any questions you may have regarding the issues discussed in this Alert, or how they may apply to your particular circumstances, please contact Christopher J. Bellini at (612) 260-9029 or cbellini@cozen.com.