

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 230, 232, 239, 240 and 249**

**[Release Nos. 33-11005; 34-93519; File No. S7-16-21]**

**RIN 3235-AM15**

**Updating EDGAR Filing Requirements**

**AGENCY: Securities and Exchange Commission.**

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing rule and form amendments to update filing requirements under our Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system. The proposed amendments would mandate the electronic filing or submission of most of the documents that are currently permitted electronic submissions under Regulation S-T, including all filings on Form 6-K and filings made by multilateral development banks; mandate the electronic submission in portable document format (“PDF format”) of the “glossy” annual report to security holders; mandate the electronic filing of the certification made pursuant to the Exchange Act and its rules that a security has been approved by an exchange for listing and registration; mandate the use of Inline eXtensible Business Reporting Language (“Inline XBRL”) for the filing of the financial statements and accompanying notes to the financial statements required by Form 11-K; and allow for the electronic submission in PDF format of certain foreign language documents.

**DATES:** Comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission’s Internet comment form (<https://www.sec.gov/regulatory-actions/how-to-submit-comments>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-16-21 on the subject line.

Paper comments:

- Send paper comments in triplicate to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-16-21. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/proposed.shtml>). Comments are also available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Operating conditions may limit access to the Commission’s public reference room. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information. You should submit only information that you wish to make available publicly.

Studies, memoranda or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission’s website. To ensure direct electronic receipt of such notifications, sign up through the “Stay Connected” option at [www.sec.gov](http://www.sec.gov) to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** Daniel Morris, at (202) 551-3430, in the Office of Rulemaking, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** We are proposing amendments to:

Commission Reference		CFR Citation (17 CFR)
Regulation S-T		§§ 232.11 through 232.903
	Rule 101	§ 232.101
	Rule 306	§ 232.306
	Rule 311	§ 232.311
Securities Act of 1933 <sup>1</sup> ("Securities Act")		
	Rule 158	§ 230.158
	Form SE	§ 239.64
Securities Exchange Act of 1934 <sup>2</sup> ("Exchange Act")		
	Rule 12d1-3	§ 240.12d1-3
	Rule 14a-3(c)	§ 240.14a-3(c)
	Rule 14c-3(b)	§ 240.14c-3(b)
	Form 6-K	§ 249.306
	Form 10-K	§ 249.310
	Form 11-K	§ 249.311
	Form 20-F	§ 249.220f
	Form 40-F	§ 249.240f

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<sup>1</sup> 15 U.S.C. 77a *et seq.*

<sup>2</sup> 15 U.S.C. 78a *et seq.*

In addition, we are proposing to adopt technical amendments to 17 CFR 239.40 (“Form F-10”), 17 CFR 239.42 (“Form F-X”) and 17 CFR 239.800 (“Form CB”) to remove certain outdated references on these forms. The rule text of these technical changes has been included with the proposed amendments.

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## I. INTRODUCTION

Registrants and individuals submit to the Commission most documents required to be filed or otherwise submitted under the Federal securities laws in electronic format using the Commission's EDGAR system. In 1993, when the Commission began to mandate the electronic filing of documents on EDGAR, it adopted Regulation S-T and other rule and form amendments to implement the operational phase of EDGAR.<sup>3</sup> EDGAR filings are available to the public on our website.<sup>4</sup> During the 2020 calendar year, electronic filers submitted approximately 832,000 filings on EDGAR.

When the Commission adopted Regulation S-T, it did not mandate the electronic filing of all documents that are required to be filed under the Federal securities laws.<sup>5</sup> Currently, 17 CFR 232.10(a) ("Rule 101(a)") mandates the electronic filing of over 400 different forms, schedules, reports, and applications. However, 17 CFR 232.101(b) ("Rule 101(b)") identifies a small number of documents that filers may choose (but are not required) to submit in electronic format via EDGAR and 17 CFR 232.101(c) ("Rule 101(c)") identifies a numbers of documents that are proscribed from submission in electronic format via EDGAR.<sup>6</sup> The mandated electronic filings with the Commission have enabled investors and other EDGAR users to access more quickly the

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<sup>3</sup> See *Rulemaking for EDGAR System*, Release No. 33-6977 (Feb. 23, 1993) [58 FR 14628]. Starting in April 1993, we required many of the documents required to be filed under the federal securities laws to be submitted electronically via the EDGAR system. Domestic registrants were scheduled to become subject to mandated electronic filing in a series of discrete phase-in groups. Following the completion of a congressionally-mandated test period, we certified that EDGAR satisfied all statutory requirements and announced a schedule for completing the transition to mandated electronic filing for all domestic registrants and persons filing documents with respect to those registrants.

<sup>4</sup> EDGAR documents are also available through some third-party information providers that obtain filings from EDGAR and disseminate them through their own websites.

<sup>5</sup> The Commission recognized that, at the time of adoption of Regulation S-T, certain documents, due to the graphical content or the format of data contained in the document and limitations of information technology, could be difficult to convert into an electronic format.

<sup>6</sup> 17 CFR 232.101(c).

information contained in registration statements, periodic reports, and other filings made with the Commission.

Since our implementation of EDGAR, we have increasingly sought to make the system more comprehensive by including more filings in the mandated electronic filing category. For example, in 2002, we adopted amendments to require foreign private issuers and foreign governments to submit electronically via EDGAR many of the documents that they are required to file.<sup>7</sup> In 2003,<sup>8</sup> we adopted rule and form amendments to mandate the electronic filing of Forms 3,<sup>9</sup> 4,<sup>10</sup> and 5.<sup>11</sup>

In furtherance of this objective, we are proposing amendments to update some of our EDGAR filing requirements. Specifically, we are proposing rule and form amendments that would: (1) mandate the electronic filing or submission of most of the documents that are currently permitted electronic submissions under Rule 101(b) of Regulation S-T;<sup>12</sup> (2) mandate the electronic submission in PDF format of the “glossy” annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to 15 U.S.C. 78l(d) (“Section 12(d) of the Exchange Act”) and 17 CFR 240.12d1-2 (“Exchange Act Rule 12d1-3”) that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial

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<sup>7</sup> See *Mandated EDGAR Filing for Foreign Issuers*, Release No. 33-8099 (May 14, 2002) [67 FR 36678].

<sup>8</sup> See *Mandated Electronic Filing and Website Posting for Forms 3, 4 and 5*, Release No. 33-8230 (May 7, 2003) [68 FR 25788].

<sup>9</sup> 17 CFR 249.103.

<sup>10</sup> 17 CFR 249.104.

<sup>11</sup> 17 CFR 249.105.

<sup>12</sup> 17 CFR 232.101(b).

statements required by Form 11-K; and (5) allow for the electronic submission in PDF format of certain foreign language documents.

We welcome feedback and encourage interested parties to submit comments on any or all aspects of the proposed rule amendments. When commenting, it would be most helpful if you include the reasoning behind your position or recommendation.

## **II. DISCUSSION OF PROPOSED AMENDMENTS**

### **A. Mandating the Electronic Filing or Submission of Permissible Electronic Submissions**

Currently under Rule 101(b) of Regulation S-T, filers have the option to submit the following documents either electronically or in paper format:

- Annual reports to security holders (colloquially referred to as the “glossy” annual reports) furnished for the information of the Commission pursuant to Exchange Act Rules 14a-3(c) or 14c-3(b), or under the requirements of Form 10-K<sup>13</sup> for registrants reporting pursuant to 15 U.S.C. 78o(d) (“Section 15(d) of the Exchange Act”), or by foreign private issuers on Form 6-K pursuant to Exchange Act Rules 17 CFR 240.13a-16 (“Rule 13a-16”) or 17 CFR 240.15d-16 (“Rule 15d-16”);
- Notices of exempt solicitation furnished for the information of the Commission pursuant to 17 CFR 240.14a-6(g) (“Exchange Act Rule 14a-6(g)”), and notices of exempt

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<sup>13</sup> In 2016, the Division of Corporation Finance stated that it would not object if a registrant posts an electronic version of its “glossy” annual report to security holders to its corporate website by the applicable date specified in Rule 14a-3(c), Rule 14c-3(b), or in Form 10-K, in lieu of mailing paper copies or submitting it on EDGAR if the report remains accessible for at least one year after posting. The staff may, in its discretion, obtain paper copies of these reports from registrants upon request as necessary. *See Proxy Rules and Schedule 14A (Regarding Submission of Annual Reports to SEC Under Rules 14a-c(3) and 14c-3(b))*, U.S. Sec. & Exch. Comm’n (Nov. 2, 2016), available under “Compliance and Disclosure Interpretations – Proxy Rules and Schedule 14A” at <https://www.sec.gov/divisions/corpfin/guidance/exchange-act-rule-14a3-14c3.htm> (“Proxy Rules and Schedule 14A Guidance”). If the proposed amendments are adopted, the 2016 staff guidance would be withdrawn. *See infra* Section II.B.

preliminary roll-up communications furnished for the information of the Commission pursuant to 17 CFR 240.14a-6(n) (“Exchange Act Rule 14a-6(n)”);

- Annual reports for employee benefit plans on 17 CFR 249.311 (“Form 11-K”);<sup>14</sup>
- 17 CFR 239.144 (“Form 144”) where the issuer of the securities is subject to the reporting requirements under Section 13 or Section 15(d) of the Exchange Act;<sup>15</sup>
- Periodic reports and reports with respect to distributions of primary obligations filed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the European Bank for Reconstruction and Development (collectively, the “Development Banks”);<sup>16</sup>
- Reports or other documents submitted by a foreign private issuer under cover of Form 6-K that the foreign private issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer’s “home country”), or under the rules of the home country exchange on which the foreign private issuer’s securities are traded, as long as the report

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<sup>14</sup> Registrants who satisfy their Form 11-K filing obligations by filing an amendment to Form 10-K, as provided by Exchange Act Rule 15d-21 [17 CFR 240.15d-21], may also file these amendments in paper or electronic format.

<sup>15</sup> The Commission proposed amendments to mandate, among other changes, the electronic filing of all Form 144 notices related to the resale of securities of issuers that are subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, and eliminate the filing requirement for Form 144 notices related to the resale of securities of issuers that are not subject to Exchange Act reporting in December 2020. *See Rule 144 Holding Period and Form 144 Filings*, Release No. 33-10991(Dec. 22, 2020) [85 FR 79936] (proposing to remove and reserve paragraphs (b)(4) and (c)(6) of Rule 101 of Regulation S-T).

<sup>16</sup> Pursuant to rules adopted by the Commission, the Development Banks are required to file annual and quarterly reports with the Commission in connection with the distribution of primary obligations issued by the Development Banks. In addition, the Development Banks are required to file a distribution report with the Commission on or prior to the date on which any distribution of primary obligations are issued to the public in the United States. *See* 17 CFR 285-290.

or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has already been the subject of a Form 6-K or other Commission filing or submission on EDGAR; and

- Documents filed with the Commission pursuant to 15 U.S.C. 80a-32 (“Section 33 of the Investment Company Act”).<sup>17</sup>

Advances in information technology, the expanded use of the internet, and upgrades to EDGAR have made it easier for filers to prepare documents electronically and file or submit them on EDGAR. Moreover, documents filed or submitted on EDGAR are more quickly and readily available to the public than paper submissions. Generally, investors or other parties wishing to access and review paper filings must do so in person at the Commission’s public reference room, or subscribe to a third-party information service that scans and distributes the information after a paper filing is made. For an investor or other user, it can be both time consuming and cumbersome to obtain these filings in paper.

While filers are permitted to file or submit the documents listed in Rule 101(b) in paper, many currently do so electronically. The table below shows the number of these documents subject to the proposed amendments that were filed or submitted on paper and electronically during the 2019 and 2020 calendar years.

**Table 1:**

<b>Permissible electronic submissions pursuant to Rule 101(b) of Regulation S-T</b>	<b>CY2019 Paper Submissions</b>	<b>CY2019 Electronic Submissions</b>	<b>CY2020 Paper Submissions</b>	<b>CY2020 Electronic Submissions</b>
Annual reports to security holders furnished for the information of the Commission pursuant to Exchange Act Rules 14a-3(c) or 14c-3(b), or under the requirements of Form 10-K for	--	26	--	23

<sup>17</sup> See Rule 101(b)(9) of Regulation S-T [17 CFR 232.101(b)(9)].

registrants reporting pursuant to Section 15(d) of the Exchange Act, or by foreign private issuers on Form 6-K <sup>1</sup>				
Reports and other documents filed by foreign private issuers under cover of Form 6-K	3	22,553	2	23,373
Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a-6(g)	0	186	0	219
Notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Rule 14a-6(n)	0	0	0	0
Annual reports for employee benefit plans on Form 11-K filed under Section 15(d) of the Exchange Act	25	1,065	19	1,047
Periodic reports and reports with respect to distributions of primary obligations filed by Development Banks	72	38	82	53
Documents filed with the Commission pursuant to Section 33 of the Investment Company Act of 1940	5	4	0	3

1. In Table 1, "--" denotes the minimal number of "glossy" annual reports to security holders submitted to the Commission in paper format. The staff no longer tallies the number of these reports submitted in paper format. However, we believe the number is minimal as issuers typically avail themselves of the 2016 staff guidance. See Proxy Rules and Schedule 14A Guidance, *supra* note 13; *see also infra* Section II.B.

We propose to amend Rule 101 of Regulation S-T to mandate the electronic filing of certain documents listed in the table above that are currently permitted electronic filings under Rule 101(b). The proposed amendments would remove the permitted electronic submissions listed in Rule 101(b)(1) through paragraph (b)(6), with the exception of current 101(b)(4) which relates to Rule 144 filings,<sup>18</sup> as well as paragraph (b)(9) and add these items to the list of

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<sup>18</sup> As noted above, Rule 144 filings under Rule 101(b)(4) are the subject of a separate proposed rulemaking by the Commission that proposes to amend Rules 101(a) and 101(b) of Regulation S-T to mandate the electronic filing of all Form 144 filings for the sale of securities of Exchange Act reporting companies. *See supra* note 15. If we adopt the amendments proposed in this release, we may consider adopting the proposed Form 144 electronic filing requirements at the same time. In calendar years 2019 and 2020, respectively, the Commission received over 31,000 and 34,000 Form 144 filings. Of these submissions, 221 filings in 2019 and 204 filings in 2020 were made electronically.

mandated electronic submissions contained in Rule 101(a)(1) of Regulation S-T. We believe that mandating the electronic filing of these documents would benefit investors and other users by making the information contained in these filings more easily accessible to the public within a short time after filing on EDGAR. The use of EDGAR would also facilitate more efficient storage, retrieval, and analysis of these documents as compared to a paper filing, improve the Commission's ability to track and process filings, and modernize the Commission's records management process. With respect to permitted electronic submissions under Rule 101(b) that are furnished for the information of the Commission, such as paper copies of the "glossy" annual report to security holders, certain information under Form 6-K, and notices of exempt solicitation, the proposed amendments would eliminate a paper option that is, as a practical matter, no longer used by the vast majority of registrants.

#### Request for Comment

- Should we mandate electronic filing or submission of the documents that are currently permissible electronic filings or submissions under Rule 101(b)(1) through(b)(6), as well as paragraph (b)(9), as proposed? If not, why? For instance, are there any technical barriers that would make it unduly burdensome to file or submit such documents electronically? Are there any documents that are currently permissible electronic filings or submissions that we should continue to permit, but not require, to be submitted electronically? If so, why?
- Is there information disclosed under Form 6-K that necessitates the continued permitted, as opposed to required, electronic submission of that form? If so, which exhibits or parts, and why?

- Should we mandate the electronic submission of the reports filed by Development Banks, as proposed? Or should we continue to permit, but not require, these documents to be submitted electronically or in paper? Are there some documents filed by these institutions that should not be mandated electronic submissions? If so, which documents and why? Do the holders of the financial products issued by the Development Banks find the format of these disclosures useful? Are there other changes that would make them more useful?
- Instead of mandating the electronic submission of notices of exempt solicitations and exempt preliminary roll-up communications that are furnished for the information of the Commission, should we eliminate the requirement to submit these notices? Are the notices under Rule 14a-6(g) and/or Rule 14a-6(n) beneficial to investors and other EDGAR users such that the notice requirement should be retained regardless of its utility to the Commission? If so, please explain the benefit that the notices provide to the public.

**B. Mandating the Electronic Submission in PDF Format of the “Glossy” Annual Report to Security Holders**

Currently, Exchange Act Rules 14a-3(c) and 14c-3(b) require registrants subject to these rules to furnish to the Commission, for its information, seven copies of their “glossy” annual report to security holders.<sup>19</sup> Form 10-K contains a similar provision that requires registrants that are required to file a Form 10-K pursuant to Section 15(d) of the Exchange Act to furnish to the

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<sup>19</sup> In 1967, we amended Exchange Act Rules 14a-3(c) and 14c-3(b) to require registrants to furnish to the Commission, solely for its information, seven copies of their “glossy” annual report to security holders. *See Proxy and Stockholder Information Rules*, Release No. 34-8029 (Jan. 24, 1967) [32 FR 1035]. Prior to these amendments, registrants were required to furnish to the Commission four copies of their “glossy” annual report to security holders.

Commission four copies of their “glossy” annual report to security holders.<sup>20</sup> In addition, foreign private issuers are often required to furnish to the Commission their “glossy” annual report to security holders in response to the requirements of Form 6-K.

Currently, Rule 101(b)(1) of Regulation S-T permits all of these registrants to satisfy the above requirements by submitting to the Commission their “glossy” annual report to security holders in either paper or electronically on EDGAR. Additionally, in 2016 the Division of Corporation Finance stated that staff would not object if registrants subject to these requirements post an electronic version of the report on their website and make it accessible for at least one year after posting in lieu of submission to the Commission.<sup>21</sup> Given these options, we received minimal paper submissions and very few electronic submissions of annual reports during the 2019 and 2020 calendar years.<sup>22</sup>

We propose to no longer permit registrants to submit their “glossy” annual report to security holders to the Commission in paper by removing Item 101(b)(1) of Regulation S-T. Instead, we propose to require registrants to submit to the Commission their “glossy” annual report to security holders via an electronic submission on EDGAR in PDF format, in accordance with the EDGAR Filer Manual. We believe the requirements to furnish these reports to the

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<sup>20</sup> See Form 10-K, Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act. Form 10-K also currently requires registrants required to file a Form 10-K pursuant to Section 15(d) of the Exchange Act to furnish to the Commission every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant’s security holders with respect to any annual or other meeting of security holders.

<sup>21</sup> See Proxy Rules and Schedule 14A Guidance, *supra* note 13.

<sup>22</sup> Prior to 2014, the staff would manually scan the paper “glossy” annual report to security holders and post the document on the Commission’s website. However, in April 2014, in an effort to reduce costs and simplify administrative processes, as well as in light of the availability of the “glossy” annual report to security holders on company websites, the staff announced that it would discontinue this practice. See SEC Announcement, “‘Glossy’ annual reports to security holders submitted to the SEC in paper will no longer be viewable on the SEC’s website” (Apr. 9, 2014), available at <https://www.sec.gov/corpfin/announcement/cfannouncement-annual-reports-security-holders-website.html>.

Commission in paper format under Exchange Act Rule 14a-3(c), Exchange Act Rule 14c-3(b) and Form 10-K are unnecessary. We also believe that, in addition to helping inform the Commission, investors would benefit from the ability to access electronic copies of the “glossy” annual reports to security holders on EDGAR. In this regard, the proposed amendments, if adopted by the Commission, would supersede the staff guidance provided in 2016 stating that the Commission would not object if registrants post their “glossy” annual reports to security holders on their corporate websites for at least one year in lieu of furnishing paper copies to the Commission. If the proposed amendments are adopted, EDGAR would serve as a repository for PDF copies of the “glossy” annual reports to security holders, whether or not registrants decide to post the reports on their corporate websites. Creating an archive of electronic PDF copies of the “glossy” annual reports to security holders would ensure long-term access to these reports in a centralized database available to the public and would avoid the burden for investors and the staff to search individual corporate websites and other resources for this information. In addition, electronic submission in PDF format of the “glossy” annual report to security holders should capture the graphics, styles of presentation, and prominence of disclosures (including text size, placement, color, and offset, as applicable) contained in the reports.<sup>23</sup>

Therefore, we propose to amend Exchange Act Rule 14a-3(c), Exchange Act Rule 14c-3(b), and Form 10-K to eliminate the option for registrants to furnish to the Commission paper copies of their “glossy” annual report to security holders. Instead, we propose to mandate the electronic submission of these reports in PDF format in accordance with the EDGAR Filer Manual. We also propose to amend Securities Act Rule 158(b)(2) to replace the reference to the

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<sup>23</sup> Under the proposed amendments, the “glossy” annual report to security holders should not be re-formatted, re-sized, or otherwise re-designed for purposes of the PDF submission on EDGAR.

furnishing of copies of the “glossy” annual report to security holders to the Commission with a reference to furnishing the report to the Commission in PDF format in accordance with the EDGAR Filer Manual.<sup>24</sup> Notwithstanding these proposed amendments, our proxy rules will continue to require certain registrants subject to the proxy rules to publish their “glossy” annual report to security holders on a website other than the Commission’s website.<sup>25</sup>

With respect to foreign private issuers, we similarly propose to amend Form 6-K to remove references to the paper submission to the Commission of a “glossy” annual report to security holders and would require foreign private issuers to satisfy their Form 6-K requirement to furnish such a report by submitting the report electronically in PDF format on EDGAR, in accordance with the EDGAR Filer Manual.

#### Request for Comment

- Should we amend Exchange Act Rule 14a-3(c), Exchange Act Rule 14c-3(b), and Form 10-K to mandate that registrants submit in electronic format the “glossy” annual report to security holders, as proposed? Would a particular format (e.g., PDF, HTML, etc.) for the electronic submission of the “glossy” annual report to security holders be most useful to investors? In lieu of the proposed requirement to submit the “glossy” annual report to security holders to the Commission in electronic format, should we permit registrants to post the reports on their websites? If so, should we require registrants to retain the reports on their corporate websites for a duration longer than the one-year period specified in the 2016 staff guidance? If so, how long should the “glossy” annual reports to security holders be retained on the corporate websites (two years, five years, etc.)?

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<sup>24</sup> See Rule 158(b)(2) of the Securities Act [17 CFR 230.158(b)(2)].

<sup>25</sup> See Exchange Act Rule 14a-16(b) [17 CFR 240.14a-16]; see also *Shareholder Choice Regarding Proxy Materials*, Exchange Act Release No. 34-56135 (July 26, 2007) [72 FR 42222].

- Should we eliminate the option for foreign private issuers to submit their “glossy” annual report to security holders in paper format and instead require them to satisfy a Form 6-K requirement to furnish such a report by submitting the report via an electronic submission in PDF format, in accordance with the EDGAR Filer Manual, as proposed?

### **C. Requiring the Electronic Filing of Certifications of Approval of Exchange Listing**

For securities to be listed on an exchange, Exchange Act Rule 12d1-3 requires the national securities exchange to file a certification with the Commission that the security has been approved by the exchange for listing and registration pursuant to Section 12(d) of the Exchange Act.<sup>26</sup> This certification must specify (1) the approval of the exchange for listing and registration; (2) the title of the security so approved; (3) the date of filing with the exchange of the application for registration and of any amendments thereto; and (4) any conditions imposed on such certification. This certification that a security has been approved for listing and registration is not currently covered under the EDGAR filing requirements in Rule 101 of Regulation S-T.<sup>27</sup> However, recently EDGAR was modified to permit the voluntary electronic submission of the certifications on EDGAR.<sup>28</sup> During the 2020 calendar year, the Commission received 1,184 certifications from national securities exchanges. All of the certifications were

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<sup>26</sup> During the three-year period from January 1, 2015 through December 31, 2017, we received approximately 1,965 paper certifications that a security has been approved for listing and registration. In December 2017, we issued EDGAR Release 17.4 that, among other things, introduced a new submission form type for the certification by an exchange approving securities for listing and registration. *See Adoption of Updated EDGAR Filer Manual*, Release No. 33-10444 (Dec. 8, 2017) [83 FR 2369].

<sup>27</sup> Pursuant to Rule 100 of Regulation S-T, an exchange is subject to mandated electronic filing. [17 CFR 232.10]. However, Exchange Act Rule 12d1-3(c) specifies that the certification may be made by telegram but in such case must be confirmed in writing, and all certifications in writing and all amendments thereto must be filed with the Commission in duplicate. If an exchange elects to file the certification on EDGAR, it must submit it on EDGAR in PDF. *See* Volume II of the EDGAR Filer Manual, Version 44 (Dec. 2017).

<sup>28</sup> *See supra* note 26.

submitted electronically, except one. Given the overwhelming use of this option, we propose to amend Exchange Act Rule 12d1-3 and Rule 101(a) of Regulation S-T to mandate the electronic filing of these certifications.<sup>29</sup>

#### Request for Comment

- Should we mandate the electronic filing of the certification that a security has been approved by an exchange for listing? If not, why?

#### **D. Mandate the Use of Inline XBRL for the Filing of Financial Statements and Accompanying Notes to the Financial Statements Required by Form 11-K**

In 2009, the Commission adopted rules requiring operating companies to submit the information from the financial statements included in their registration statements and periodic and current reports in a structured, machine-readable format using XBRL format.<sup>30</sup> In 2018, the Commission adopted modifications to these requirements by requiring issuers to use Inline XBRL format, which is both machine-readable and human-readable, to reduce the time and effort associated with preparing XBRL filings and improve the quality and usability of XBRL data for investors.<sup>31</sup> Since then, the Commission has phased-in XBRL requirements and

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<sup>29</sup> The proposed amendment to Rule 101(a) of Regulation S-T would require the filing of the certification as a PDF document as is currently permitted.

<sup>30</sup> Interactive Data to Improve Financial Reporting, Securities Act Release No. 9002 (Jan. 30, 2009) [74 FR 6776 (Feb. 10, 2009)] (“2009 Financial Statement Information Adopting Release”) (requiring submission of an Interactive Data File to the Commission in exhibits to such reports); *see also* Securities Act Release No. 9002A (Apr. 1, 2009) [74 FR 15666 (Apr. 7, 2009)].

<sup>31</sup> Inline XBRL Filing of Tagged Data, Securities Act Release No. 10514 (June 28, 2018) [83 FR 40846, 40847 (Aug. 16, 2018)] (“Inline XBRL Adopting Release”). Inline XBRL allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit. Inline XBRL is both human-readable and machine-readable for purposes of validation, aggregation, and analysis. *Id.* at 40851.

undertaken to expand the number of Forms and disclosures that require data-tagging in Inline XBRL.<sup>32</sup>

Currently, the annual reports of employee stock purchase plans, savings plans, and similar plans filed on Form 11-K are not subject to the structured data reporting requirements for operating companies or registered investment companies. Accordingly, the financial statements required by Form 11-K are not machine-readable. These financial statements include:

- An audited statement of financial condition as of the end of the latest two fiscal years of the plan (or such lesser period as the plan has been in existence); and
- An audited statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence).<sup>33</sup>

Under Form 11-K, registrants also have the option to file with the Commission plan financial statements and schedules prepared in accordance with the financial reporting requirements of 29 U.S.C, 18 *et seq* (the “Employee Retirement Income Security Act of 1974”

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<sup>32</sup> See Filing Fee Disclosure and Payment Methods Modernization, Release No. 33-10720 (Oct. 24, 2019) [84 FR 71580 (Dec. 27, 2019)].

<sup>33</sup> See Required Information, Form 11-K. These financial statements must be prepared in accordance with the applicable provisions of Article 6A of Regulation S-X (17 CFR 210.6A).

or “ERISA”).<sup>34</sup> When filers elect this option, plan financial statements are embedded within the filing or filed as exhibits in a non-structured format.<sup>35</sup>

We are proposing to require registrants to present the financial information and the accompanying financial notes required by Form 11-K in Inline XBRL format.<sup>36</sup> Under the proposed amendments the data-tagging requirement for annual reports on Form 11-K would mirror the Inline XBRL requirements for annual reports on Forms 10-K, 20-F, and 40-F. As such, every data point in the financial statements required by Form 11-K would be tagged in Inline XBRL. Further, where there are narrative disclosures (e.g., notes to the financial statements), registrants would be required, like filers of Forms 10-K, 20-F, and 40-F, to apply block tags to the narrative disclosures and detailed tags to any numeric amounts presented in the narrative text.

Structuring this data will enable automated analytical tools to extract tagged information. As a result, plan participants, analysts, and the Commission will be better able to access, organize, and evaluate the information presented by filers. Under the proposed amendments, the use of the Inline XBRL format would be specified in the definition of “Related Official Filing” in Rule 11 of Regulation S-T, Rule 405 of Regulation S-T, Form 11-K, and in the EDGAR Filer Manual.

#### Request for Comment

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<sup>34</sup> 29 U.S.C. 18 *et seq.* Plan financial statements required under ERISA are prepared on Form 5500. *See* Form 5500, Annual Return/Report of Employee Benefit Plan, available at <https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2020-form-5500.pdf>.

<sup>35</sup> Under paragraph 4 of Required Information of Form 11-K, plans may include all or a portion of Form 5500 into the Form 11-K filing with the Commission.

<sup>36</sup> The proposed amendments will also apply to financial statements required by Form 11-K that are filed in accordance with Rule 15d-21.

- Should all filers be required to structure the data presented in the financial statements and accompanying notes to the financial statements in the Form 11-K, as proposed? Should certain filers be exempted from the proposed data-tagging requirement? If so, which ones?
- Do the proposed amendments require tagging of the appropriate information? Are there additional items in the Form 11-K that should be tagged? If so, which ones? Are there items to be tagged under the proposed amendments that should not be tagged? If so, which ones?
- Is Inline XBRL the most appropriate structuring format for information contained in Form 11-K? Is there another structuring format such as XML that would work better in these circumstances? Should we refrain from requiring a specific technology and instead provide parameters to guide selection of an appropriate structured data language?
- In addition to Form 11-K, should we require filers to provide machine-readable data for any other filings or submissions that we propose to make mandatory electronic submissions under the proposed amendments? If so, for which filings or submissions? What types of data should be structured and which structured data format(s) would be the most useful to investors? Should we limit data-tagging requirements to those filings and submissions that contain quantitative disclosures or should we also require tagging of narrative disclosures? Should certain documents be subject to different structured data requirements than others? If so, which ones and how should the requirements differ? What would be the additional cost to registrants to provide the documents currently filed or submitted under Rule 101(b) in machine-readable format?

### **E. Electronic Submission in PDF Format of Certain Foreign Language Documents**

Generally, all filings and submissions to the Commission must be in English.<sup>37</sup> Rule 306(a) of Regulation S-T prohibits the electronic filing or submission of a document that is in a foreign language.<sup>38</sup> If an electronic filing or submission requires the inclusion of a foreign language document, the document must either be translated into, or (if it is an exhibit or attachment to a filing or submission) summarized in English and submitted in electronic format.<sup>39</sup> Currently, Rules 306(b) and (c) of Regulation S-T govern the submission of a foreign language document by an electronic filer.<sup>40</sup> Rule 306(b) permits the paper submission of an unabridged foreign language document if an English translation or summary of that document has already been provided in an electronic filing or submission. Rule 306(c) requires the paper submission of a foreign language version of a foreign government or its political subdivision's latest annual budget if an English translation of the budget is unavailable and such an exhibit is required by Form 18 or Form 18-K.

In an effort both to reduce the number of paper submissions we receive and increase the public's access to these foreign language documents, we propose to amend Rule 306 to eliminate paper submission of the above two types of foreign language documents, and to instead provide for their electronic submission as PDFs.<sup>41</sup> We also propose to amend Rule 311 of Regulation S-

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<sup>37</sup> See 17 CFR 230.403; 17 CFR 240.12b-12; and Rule 306 of Regulation S-T.

<sup>38</sup> Rule 306(d) of Regulation S-T provides for one exception to Rule 306(a) and allows for the electronic filing of certain documents that contain both French and English by Canadian issuers [17 CFR 232.306(d)].

<sup>39</sup> See 17 CFR 230.403(c); 17 CFR 240.12b-12(d); 17 CFR 232.306(a).

<sup>40</sup> Currently, electronic filers may not submit these untranslated foreign language documents in electronic format. 17 CFR 232.101(c)(8) ("Rule 101(c)(8) of Regulation S-T") states that documents and symbols in a foreign language shall not be submitted in electronic format and, thus, may only be submitted in paper.

<sup>41</sup> We also propose to remove and reserve Rule 101(c)(8) of Regulation S-T. As noted above, Rule 101(c)(8) prohibits the electronic submission of documents and symbols in a foreign language. We note that even with

T and Form SE to clarify that these two types of foreign language documents may no longer be submitted in paper under the cover of Form SE.

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- Should we allow the two types of foreign language documents specified in Rules 306(b) and (c) to be submitted electronically as PDFs and remove the option to submit them in paper form? If not, why? Should electronic submission of these documents instead be optional?
- If an English translation or summary of a foreign language document has been filed electronically with the Commission, should we require rather than just permit the electronic PDF submission of the unabridged foreign language documents? If so, why?

#### **F. Transition Period**

We are proposing to provide a six-month transition period after the effective date of the proposed amendments, if adopted, to give registrants sufficient time to prepare to submit electronically their “glossy” annual reports to security holders in PDF format in accordance with the EDGAR Filer Manual and to allow paper filers who would be first-time electronic filers adequate time to apply for the necessary filer codes on EDGAR. Similarly, if the proposed amendments are adopted, we are proposing to afford Form 11-K filers a three-year transition period in which to comply with the proposed requirement to submit in XBRL format the financial statements and accompanying notes to the financial statements required by Form 11-K.

#### Request for Comment

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the proposed removal of this prohibition, Rule 306(a) of Regulation S-T will still generally require all electronic filings and submissions to be in English.

- Are the proposed six-month and three-year transition periods appropriate? Would shorter or longer transition periods be more appropriate?

### **III. ECONOMIC ANALYSIS**

#### **A. Introduction**

The Commission is proposing rule and form amendments to update filing requirements under our EDGAR system. We are mindful of the costs imposed by, and the benefits obtained from, our rules and the proposed amendments.<sup>42</sup> The discussion below addresses the potential economic effects of the proposed amendments. These effects include the likely benefits and costs of the proposed amendments and reasonable alternatives thereto, as well as any potential effects on efficiency, competition, and capital formation. We attempt to quantify these economic effects whenever possible; however, due to data limitations, we are unable to do so in many cases. For example, we are unable to quantify the value to the public of being able to more quickly access a document on EDGAR. When we cannot provide a quantitative assessment, we provide a qualitative discussion of the economic effects instead.

The Commission is making the proposed amendments to facilitate the efficient submission of documents submitted to the EDGAR system; to reduce burdens and inefficiencies associated with the filing, dissemination, storage, and retrieval of non-electronic and paper submissions; to allow for quicker public access to information; to improve the Commission's ability to track and process such filings; and to modernize the Commission's records

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<sup>42</sup> Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] and Section 3(f) of the Exchange Act [15 U.S.C. 78c(f)] require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. In addition, Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)] requires us to consider the effects on competition of any rules that the Commission adopts under the Exchange Act and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

management processes.

The proposed rule and form amendments would:

- Mandate the electronic filing of several documents that are currently permitted electronic submissions under Regulation S-T, including all filings on Form 6-K and filings made by Development Banks;
- Mandate that certain registrants electronically file their “glossy” annual report to security holders;
- Mandate the electronic filing of the certification made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration;
- Mandate the use of the Inline XBRL structured data language for filing annual reports for employee benefit plans on Form 11-K; and
- Allow for the electronic submission in PDF format of certain foreign language documents and remove the option to submit these documents in paper.

## **B. Economic Baseline**

The economic baseline, from which we measure the likely economic effects of the proposed amendments, reflects current regulatory practice as it pertains to forms and documents that currently may be submitted to the Commission via EDGAR (henceforth, electronic submissions; we refer to documents submitted through channels outside of EDGAR as non-electronic submissions). Under the current rules, filers have the option to electronically submit, among other things, the following documents: Forms 6-K, notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a-6(g), notices of exempt preliminary roll-up communications furnished for the information of the

Commission pursuant to Exchange Act Rule 14a–6(n), annual reports for employee benefit plans on Form 11–K, certain reports from Development Banks, certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration, and documents filed with the Commission pursuant to Section 33 of the Investment Company Act. Further, under current rules, certain registrants are required to send several paper copies of their “glossy” annual reports to the Commission. Current guidance from the Division of Corporation Finance states that staff will not object if these registrants post a digital copy of their “glossy” annual report to security holders on their corporate website for at least one year in lieu of sending paper copies to the Commission or submitting them to EDGAR.<sup>43</sup> In addition, under current rules, annual reports for employee benefit plans on Form 11-K are not required to be submitted using the Inline XBRL structured data language.

In 2020, the Commission received over 24,000 submissions of the following documents: Forms 6–K, notices of exempt solicitation furnished for the information of the Commission, and annual reports on Form 11–K. Of these filings, over 99.9 percent of submissions were electronic, even though filers had the option (at their discretion) to submit these documents in non-electronic format (Table 1). Likewise, filers in 2020 electronically submitted nearly all of the 1,184 certifications filed by an exchange pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3, 23 “glossy” annual reports to security holders, and all documents filed pursuant to Section 33 of the Investment Company Act, even though they had the option to submit these documents in non-electronic format. At the same time, in 2020, the Commission also received 135 reports filed by Development Banks, with only 39 percent submitted

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<sup>43</sup> See *supra* note 13.

electronically (Table 1). Thus, during this period, the non-electronic submissions of the aforementioned forms, relative to overall submissions, were largely confined to Development Banks (six unique filers). Moreover, of the over 7,400 registrants that file annual reports with the Commission,<sup>44</sup> only a minimal number of paper and very few electronic “glossy” annual reports to security holders were submitted to the Commission in 2020.

For investors, reviewing and analyzing paper documents or documents not available in a central repository like EDGAR is likely more time intensive or costly compared to electronic submissions, given these documents are accessible only in person at Commission facilities or through more diffuse sources such as corporate websites and third-party information providers. Likewise, for Commission staff, receiving and processing non-electronic submissions is often more time intensive than electronic submissions. When the Commission receives a paper submission, the document usually requires several manual steps involving staff in various offices and divisions to process, analyze, and retain the documents for recordkeeping purposes.

### **C. Economic Effects**

This section discusses the benefits and costs of the proposed amendments, as well as their potential effects on efficiency, competition, and capital formation. Some of the proposed amendments reflect current practice, so they will likely not have significant economic effects.<sup>45</sup> In addition, where certain benefits or costs of electronic filing apply to multiple proposed amendments, we discuss those benefits or costs together instead of repeating such discussion for each proposed amendment.

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<sup>44</sup> U.S. Sec. & Exch. Comm’n, *Agency Financial Report*, Fiscal Year 2020. [https://www.sec.gov/files/sec-2020-agency-financial-report\\_1.pdf](https://www.sec.gov/files/sec-2020-agency-financial-report_1.pdf).

<sup>45</sup> For example, mandating electronic filings for specific documents, like listing certifications, which, in the 2020 calendar year, were mostly submitted electronically.

**1. Benefits**

**a. Electronic Submission of Form 6-K, Notices of Exempt Solicitation, Notices of Exempt Preliminary Roll-up, Annual Reports on Form 11-K, Development Bank Reports, Certifications of Approval of Exchange Listing, and Certain Foreign Language Documents in PDF Format**

Under the current rules, filers have the option to electronically submit, among other things, documents under cover of Form 6-K, notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a-6(g), notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Exchange Act Rule 14a-6(n), annual reports for employee benefit plans on Form 11-K, periodic reports and reports with respect to distributions of primary obligations from Development Banks, certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration, and documents filed with the Commission pursuant to Section 33 of the Investment Company Act. The proposed rule mandates the electronic submission of all of these documents to the Commission. In addition, certain foreign language documents are filed in paper format under current rules, but would be filed electronically under the proposed rules.<sup>46</sup> There are several benefits of required or permitted electronic submission relative to non-electronic submission under the proposed amendments.

First, electronic submissions are posted on EDGAR faster compared to non-electronic submissions. Thus, the public may be able to find and review a filing more quickly by accessing EDGAR through the Commission's website or through third-party websites that either replicate or link to EDGAR filing information. Moreover, for investors who obtain documents filed with

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<sup>46</sup> See *supra* Section II.E.

the Commission in paper via third-party entities, electronic filing of these documents would likely reduce the costs associated with obtaining these documents. If these documents inform investors' decisions, this reduction in search costs may allow investors to incorporate more information or make quicker decisions.<sup>47</sup> Electronic filings also increase the likelihood that the Commission receives documents promptly by limiting the possibility and risk that non-electronic submissions are delayed (e.g., a document getting lost in the mail). An increase in the certainty and timeliness of submissions boosts the overall informational quality of the EDGAR system. Third, electronic submissions increase efficiencies in record management and maintenance as well as compliance with the Commission's record keeping requirements as electronic submissions are easier to store, access, search, and track. Furthermore, electronic submissions allow filers to more easily produce and submit documents during disruptive events—like COVID-19—when their physical work facilities may be inaccessible.

In addition, electronic submissions increase the speed and efficiency with which Commission staff can receive and process document submissions, in part by reducing the time, processing, and search costs relative to the manual nature of non-electronic document submissions. A reduction in these costs may improve regulatory oversight.

Overall, as most of the affected documents are already submitted electronically, the proposed amendments would likely only yield incremental benefits for investors, filers, and

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<sup>47</sup> Other than the foreign language documents and certifications that a security has been approved by an exchange for listing and registration, which would be submitted in PDF format, the format requirement for electronic filings on EDGAR under the proposed rule would be dictated by the EDGAR Filer Manual, which allows for HTML or ASCII submissions. *See* 2021 EDGAR Filer Manual, Sections 2.1 and 5.2. The benefits and costs discussed in this Section III with respect to electronic filings instead of the current paper submissions are those that we would expect to be realized from HTML, ASCII, or PDF submissions on EDGAR. These benefits and costs substantially arise to the same extent regardless of whether the filer uses the ASCII, HTML, or PDF format. All three formats are widely used, and none of them requires significant special expertise for their preparation, submission, or ingestion.

Commission staff and would likely result in small aggregate economic effects.

**b. “Glossy” Annual Reports to Security Holders**

The proposed amendments also mandate that certain registrants electronically file their “glossy” annual reports to security holders. This could result in several benefits for investors, filers, and the Commission.

First, the proposed amendments would ensure that investors have long-term access to “glossy” annual reports to security holders in a centralized location. Current rules do not require the preservation of these reports in a centralized location, and to the extent that registrants were posting these reports on their websites consistent with the 2016 Division of Corporate Finance staff guidance, these registrants could remove these reports from their firm websites after one year (e.g., at the registrant’s discretion or due to registrant failures, mergers, etc.). Further, if a registrant takes its “glossy” annual report to security holders off its website, obtaining a copy may be costly (e.g., via a third-party entity) or impossible if no third-party has a saved copy. With a central EDGAR repository, investors would incur minimal search costs for these reports.

These benefits of an EDGAR glossy report repository likely extend to and may be magnified for investors seeking to review and analyze “glossy” annual reports to security holders in bulk. For these latter investors, a unified file format for “glossy” annual reports to security holders in a centralized location (i.e., EDGAR) would further likely create opportunities for data processing relative to the current baseline.

Further, we expect that this amendment would yield benefits similar to those discussed above under section III.C.1.a for electronic submissions. For example, some registrants will save on print and delivery costs. Such cost savings are likely small, but any such benefits may accrue to investors to the extent that these registrants allocate the savings to increase firm efficiency or

return capital to investors. In addition, the amended rule would ensure that investors and Commission staff are able to easily access the “glossy” annual reports to security holders, including when navigating disruptive events, such as COVID-19, when physical offices may be less accessible. The Commission may also save on time and manual processing costs relative to its pre-2014 practice of scanning paper submissions.

**c. Inline XBRL Requirement for Form 11-K**

The proposed rule also requires filers to submit annual reports for employee benefit plans on Form 11-K using the Inline XBRL structured data language. Currently, reports on Form 11-K that are filed electronically must be filed in HTML or ASCII.<sup>48</sup>

Requiring Form 11-K disclosures to be submitted in Inline XBRL could benefit those participating in employee benefit plans by facilitating analysis of the plan’s annual financial disclosures over time and relative to other plans.<sup>49</sup> Investors in the plans’ sponsoring companies may also benefit from structured 11-Ks, as structured data may reduce processing and search costs incurred by investors assessing the employee benefit plans’ underlying assets and liabilities. In addition, requiring Form 11-K disclosures to be submitted in Inline XBRL could

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<sup>48</sup> See Rules 101(b)(3) [17 CF 232.101(b)(3)] and 301 of Regulation S-T [17 CFR 232.301]; see also 2021 EDGAR Filer Manual, Sections 2.1 and 5.2.

<sup>49</sup> Currently, operating company financial disclosures in certain periodic reports and registration statements are required to be structured in XBRL or Inline XBRL, depending on the filing date. Research analyzing XBRL and Inline XBRL disclosures have found informational benefits relative to unstructured disclosures. See, e.g, Steven Cahan, et. al., “The roles of XBRL and processed XBRL in 10-K readability,” *J of Bus. Fin. & Acct.* (2021); Nerissa C. Brown, Brian Gale, Stephanie M. Grant, “How Do Disclosure Repetition and Interactivity Influence Investors’ Judgments?,” *SSRN Elec J* (2020); Jacqueline L. Birt, Kala Muthusamy, and Poonam Bir, “XBRL and the qualitative characteristics of useful financial information”, *Acct. Res. J.* (2017), <https://www.emerald.com/insight/publication/issn/1030-9616>.

enable the development of additional structured data sets and tools to facilitate market analysis and better inform future policy decisions.<sup>50</sup>

## 2. Costs

Requiring electronic submissions may result in costs to filers, including those associated with filing a Form ID for the first time to obtain the access codes needed to submit an application on the Commission's EDGAR system.

With respect to the documents that are mostly submitted electronically under current rules (e.g., Forms 6-K, Notices of Exempt Solicitation, Certifications of Approval of Exchange Listing (Table 1)), these costs likely would be minimal. For documents that are not generally submitted electronically under current rules but would be newly required to be electronically submitted under the proposed amendments (e.g., "glossy" annual reports to security holders), registrants would incur additional costs to upload such documents to EDGAR.<sup>51</sup> As noted in section III.B, there are over 7,400 registrants who would be required to electronically file their "glossy" annual reports to security holders under the proposed amendments. We expect that these costs would be mitigated because these registrants are already electronically filing documents on EDGAR. For filers submitting documents electronically to EDGAR for the first time, any initial setup costs would likely be offset by lower ongoing, marginal costs over time.

Requiring Inline XBRL structuring of annual reports on Form 11-K would result in additional compliance costs for filers relative to the current baseline, as filers would be required

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<sup>50</sup> The Commission currently makes XBRL datasets for operating company financial statements and footnotes and mutual fund risk/return summaries available on its website. *See* DERA Data Library, U.S. Sec. & Exch. Comm'n, at <https://www.sec.gov/dera/data> (last modified Oct. 4, 2021).

<sup>51</sup> For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden to submit an electronic copy of the "glossy" annual report would be 2 internal hours per year. *See* Section IV, *infra*.

to tag and review the required Form 11-K disclosures before filing them with the Commission.<sup>52</sup> Various XBRL and Inline XBRL preparation solutions have been developed and used by operating companies and open-end fund filers to fulfill their structuring requirements, and some evidence suggests that, for operating companies, XBRL compliance costs have decreased over time.<sup>53</sup> Furthermore, while Form 11-Ks are filed by employee stock plans, which are not currently subject to other Inline XBRL filing requirements, the plans' sponsoring companies (i.e., the employers) are subject to Inline XBRL requirements for publicly filed annual and interim financial statements, among other disclosures.<sup>54</sup> To the extent that a plan shares compliance systems with the sponsoring company, the Inline XBRL compliance costs incurred maybe somewhat mitigated.

### **3. Efficiency, Competition, and Capital Formation**

Since we expect the proposed amendments to lead to minimal changes in costs and have only incremental benefits, we expect the proposed amendments to only marginally affect efficiency, competition, or capital formation.

As previously noted, electronic filings will increase the timeliness or ease with which the public can access the affected documents. Insofar as investors incorporate these documents into

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<sup>52</sup> An AICPA survey of 1,032 reporting companies with \$75 million or less in market capitalization in 2018 found an average cost of \$5,850 per year, a median cost of \$2,500 per year, and a maximum cost of \$51,500 per year for fully outsourced XBRL creation and filing, representing a 45% decline in average cost and a 69% decline in median cost since 2014. *See* Michael Cohn, *AICPA sees 45% drop in XBRL costs for small companies*, Acct. Today, August 15, 2018, <https://www.accountingtoday.com/news/aicpa-sees-45-drop-in-xbrl-costs-for-small-reporting-companies>. A NASDAQ survey of 151 listed issuers in 2018 found an average XBRL compliance cost of \$20,000 per quarter, a median XBRL compliance cost of \$7,500 per quarter, and a maximum XBRL compliance cost of \$350,000 per quarter. *See* letter from Nasdaq, Inc. dated March 21, 2019 to the Request for Comment on Earnings Releases and Quarterly Reports, Release No. 33-10588 (Dec. 18, 2018) [83 FR 65601 (Dec. 21, 2018)]. For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden on 11-K filers to submit financial information in Inline XBRL format would be approximately 65 hours of internal time and cost \$7,500 for outside services per year. *See* Section IV, *infra*.

<sup>53</sup> *See id.*

<sup>54</sup> *See* 17 CFR 232.405; 17 CFR 232.406; and Items 601(b)(101) and 601(b)(104) of Regulation S-K.

their information sets, easier or quicker access could result in lower search costs or more efficient decision making. These benefits, while likely small, are potentially magnified during disruptive events, such as COVID-19, which can make it difficult for registrants to make submissions in non-electronic form and thus impede timely access to information. Moreover, as electronic filings often lead to lower ongoing, marginal costs for filers, compared to, for example, paper filings, the filing process may become more efficient, especially over the medium and longer term. We do not expect the amendments to have meaningful effects on competition or capital formation.

#### **D. Reasonable Alternatives**

In formulating the proposed amendments, we considered requiring some, but not all, of the affected documents to be filed electronically. This alternative would reduce the benefits, compared to the proposed amendments, but also would reduce the initial transition burden for filers that do not have other electronic disclosure obligations. However, as discussed above, many of the affected documents under the proposed amendments are already filed electronically, and to the extent affected documents (e.g., “glossy” annual reports to security holders) are not already filed electronically, the filers of affected documents electronically file other documents. Further, any setup costs for first time filers are at least partially offset by lower marginal costs.

We also considered permitting registrants to post their “glossy” annual reports to security holders on their websites in lieu of electronic submission consistent with the 2016 staff guidance. While this alternative may reduce costs for some registrants who currently post “glossy” annual reports to security holders on their websites, we do not anticipate that the costs of submitting these reports on EDGAR would be unduly burdensome for most filers. Further, this alternative

would also reduce the benefits compared to the proposed amendment, because it would not offer market participants access to “glossy” annual reports to security holders in a centralized location.

#### **E. Request for Comment**

The Commission requests feedback on any aspect of the above economic analysis, including our description of the current economic baseline, the potential costs and benefits of the proposed amendments, their effect on efficiency, competition, and capital formation, and any reasonable alternatives we should consider. In addition, we request comment on the following aspect of the proposal:

Would filers, investors, and other interested parties realize any benefits if we required the affected documents (other than annual reports on Form 11-K) to be submitted in a structured data language, such as a custom XML-based data language, rather than in ASCII or HTML (or, for the foreign language documents and exchange certifications, in PDF)? Please explain why or why not. If so, are there certain documents in particular that would provide such benefits to filers, investors, and other interested parties if submitted in a structured data language? What costs would these parties incur if we required such documents to be submitted using a structured data language?

Further, would filers respond to the proposed mandate to file “glossy” annual reports to security holders on EDGAR by changing how they present the information in those reports? If so, please explain how, including whether or not investors or other market participants would realize costs or benefits as a result of any such changes.

## IV. PAPERWORK REDUCTION ACT

### A. Background

Certain provisions of our rules and forms that would be affected by the proposed amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).<sup>55</sup> The Commission is submitting the proposal to the Office of Management and Budget (“OMB”) for review in accordance with the PRA.<sup>56</sup> An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collection are not kept confidential and there is no mandatory retention period for the information disclosed. The title for the collection of information is:

- Schedule 14A (OMB Control Number 3235-0059)<sup>57</sup>
- Schedule 14C (OMB Control Number 3235-0057)<sup>58</sup>
- Form 20-F (OMB Control Number 3232-0288)
- Form 40-F (OMB Control Number 3235-0381)
- Form 11-K (OMB Control Number 3235-0082)
- Form ID (OMB Control Number 3235-0328)

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<sup>55</sup> 44 U.S.C. 3501 *et seq.*

<sup>56</sup> 44 U.S.C. 3507(d); 5 CFR 1320.11.

<sup>57</sup> As described below, our estimates for Schedule 14A and Schedule 14C take into account the burden that would be incurred by the proposed amendments to require electronic submission of the “glossy” annual report to security holders. *See also infra* note 61.

<sup>58</sup> *See id.*

Schedule 14A, Schedule 14C, Form 20-F, Form 40-F, and Form 11-K were adopted under the Securities Act and the Exchange Act. The schedules and forms set forth the disclosure requirements for periodic and current reports, proxy statements, and information statements filed to help investors make informed investment and voting decisions. Form ID is used by registrants, individuals, third party filers or their agents to request access codes that permit the filing of documents on EDGAR in accordance with Rule 10 of Regulation S-T.<sup>59</sup>

### **B. Summary of the Proposed Amendments**

As described in more detail above, we are proposing amendments to mandate the electronic filing or submission of most of the documents that are currently permissible electronic submissions under Rule 101(b) of Regulation S-T; mandate the electronic submission in PDF format of the “glossy” annual report to security holders; mandate the electronic filing of the certification made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration; mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial statements required by Form 11-K; and allow for the electronic submission in PDF format of certain foreign language documents.

### **C. Burden and Cost Estimates Related to the Proposed Amendments**

The proposed amendments do not change the nature or extent of the information that is currently collected under Rules 101(b)(2), (5), (6), or (9) or foreign language documents submitted under Rule 306. Accordingly, we believe that the information collection burden of associated forms, schedules, reports, and applications would remain the same.

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<sup>59</sup> 17 CFR 232.10(b).

With respect to the electronic submission in PDF format of the “glossy” annual report to security holders, we estimate the number of registrants potentially affected by the proposed rule to be over 7,400. Of these registrants, only twenty-three filed their “glossy” annual reports to security holders on EDGAR during 2020 and none of the submissions were made on EDGAR in PDF format.<sup>60</sup> The affected registrants are all EDGAR filers who would not need to secure new credentials in order to submit the reports. However, the proposed amendments nonetheless impose a new burden that would be borne by all of the 7,400 registrants required to submit “glossy” annual reports to security holders to the Commission. We estimate that the proposed amendments would cause a registrant to incur an increase of 2 hours in the reporting burden for the annual report to security holders. We anticipate that this time would be required to prepare, convert into PDF format (if PDF format is not already used for the report to security holders), and review the “glossy” annual reports to security holders to be submitted electronically in accordance with the EDGAR Filer Manual.

With respect to Schedules 14A and 14C,<sup>61</sup> we estimate that the number and proportion of filings will remain approximately the same as the currently approved collection under the Office of Management & Collection guidelines. Accordingly, we estimate that the proposed amendment to require the electronic submission in PDF format of “glossy” annual reports to

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<sup>60</sup> All EDGAR submission of the “glossy” annual report to security holders in 2020 were made in HTML format.

<sup>61</sup> Schedules 14A and 14C require disclosure under Subpart 400 of Regulation S-K. This disclosure is often incorporated, in relevant part, into Part III of a registrant’s Form 10-K and is provided as part of the “glossy” annual report to security holders. Therefore, we have not separately calculated burden requirements for Form 10-K.

security holders would impose aggregate additional burdens on filers of Schedule 14A and 14C of 10,407 hours<sup>62</sup> and \$1,387,600,<sup>63</sup> respectively.

With respect to Forms 20-F and 40-F,<sup>64</sup> we also estimate that the number and proportion of filings will remain approximately the same as the currently approved collection burden. These filers would be subject to the proposed requirement to make an electronic submission in PDF format of the “glossy” annual report to security holders. Accordingly, we estimate that the proposed amendment to require the electronic submission in PDF format of “glossy” annual reports to security holders would impose aggregate additional burdens on filers of 430 hours<sup>65</sup> and \$516,600,<sup>66</sup> respectively.

With respect to the proposed amendment to require the submission of the financial statements in the Form 11-K in Inline XBRL format, we estimate that the number of affected registrants would be 1,066.<sup>67</sup> The Commission previously estimated that, per response,

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<sup>62</sup> Under OMB guidelines, the paperwork burden is apportioned 75% to the registrant and 25% to outside professional services. Accordingly, this estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.75), by the number of responses under Schedule 14A and 14C in the currently approved collection (6,938), or  $2 \times .75 \times 6,938$ .

<sup>63</sup> This estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.25), by the number of responses under Schedules 14A and 14C in the currently approved collection (6,938), by an estimated \$400 hourly rate for outside professional services, or  $2 \times .25 \times 6,938 \times \$400$ .

<sup>64</sup> Forms 20-F and 40-F provide the disclosure requirements for the annual reports of foreign private issuers, which are included in the “glossy” annual reports to security holders. Therefore, we have not separately calculated burden requirements for Form 6-K.

<sup>65</sup> Under OMB guidelines, the paperwork burden is apportioned 25% to the registrant and 75% to professional services. Accordingly, this estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.25), by the number of responses under Forms 20-F and 40-F in the currently approved collection (861), or  $2 \times .25 \times 861$ .

<sup>66</sup> This estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.75), by the number of responses under Forms 20-F and 40-F in the currently approved collection (861), by an estimated \$400 hourly rate for professional services, or  $2 \times .75 \times 861 \times \$400$ .

<sup>67</sup> In aggregate, there were 1,066 Forms 11-K submitted in paper and electronic format in 2020 and none of these filings contained Inline XBRL data-tagging. We do not expect the increased burdens on filers to structure the

operating companies submitting financial information in Inline XBRL format required 54 burden hours of internal time to prepare the tagged data and incurred a cost \$6,175 for outside services.<sup>68</sup> The proposed amendments would subject employee purchase plans, savings plans, and similar plans to the same Inline XBRL reporting requirements. Therefore, we assume that these plans would experience similar burden hours and costs as do operating companies.

We have also further adjusted our burden estimates to account for the particular circumstances applicable to Form 11-K filers. We increased our estimate of the initial burden hours and costs of the proposed amendments to reflect one-time compliance costs. As new XBRL filers, we anticipate that Form 11-K filers would experience additional burdens related to the one-time costs associated with becoming familiar with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, and the training of staff.<sup>69</sup> We also assumed that these one-time costs would decline in the second and third year of compliance with the proposed amendments, as Form 11-K filers become more efficient at preparing submissions using Inline XBRL format.<sup>70</sup> We assumed that the one-time cost would result in a 50% incremental increase in the internal burdens and external costs of structuring the data in the financial statements and accompanying footnotes of the financial

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financial data as required under the proposed amendments would affect the number of annual responses submitted to the Commission.

<sup>68</sup> Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019). *See also* Inline XBRL Adopting Release, *supra* note 31.

<sup>69</sup> According to the OMB approved collection for Form 11-K, the burden associated with the preparation of this Form has previously been borne entirely by filers. In other words, registrants have not needed to retain outside professional services to prepare the submission. With the imposition of XBRL tagging requirements under the proposed amendments, we note that registrants will now be required to retain outside professional services in order to properly tag the financial statements and accompanying notes to the financial statements.

<sup>70</sup> We also expect filers to benefit from access to an established vendor community experienced in applying Inline XBRL data-tagging to Commission filings.

statements to Form 11-K.<sup>71</sup> These incremental costs would subsequently decline in the second and third years by 75% from the immediately preceding year.<sup>72</sup> Accordingly, we estimate that the proposed amendment to require Form 11-K filers to submit the financial information in Inline XBRL format would, for each filer, result in incremental PRA burdens of 11.81 hours of internal time and \$1,350.78 in costs for outside professional services (above those burdens borne by operating companies submitting financial information in Inline XBRL).<sup>73</sup> In aggregate, we estimate these burdens to be 70,153<sup>74</sup> and \$8,021,650,<sup>75</sup> respectively.

Lastly, the small number of filers that have not previously made an electronic filing on EDGAR would be required as a result of the proposed amendments to file a Form ID to obtain the access codes that are required to file or submit a document on EDGAR.<sup>76</sup> There are currently two Development Banks that fall into this category. We anticipate that each respondent would require 0.15 hours to complete the Form ID, and for purposes of the PRA, that 100% of the burden of preparation for Form ID will be carried by each respondent internally. Therefore, we

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<sup>71</sup> We estimate, for the proposed Form 11-K financial information XBRL requirement, that in the first year the one-time cost would be an additional 27 hours ( $54 \times 0.5$ ) and \$3,087.5 in external costs ( $\$6,175 \times 0.5$ ).

<sup>72</sup> We estimate that for the second year the one-time hour burden and cost of the proposed Form 11-K financial information XBRL requirement would be 6.75 hours (27 hours -  $(27 \times 0.75 = 20.25$  hours)) and \$771.87 ( $\$3,087.5 - (\$3,087.5 \times 0.75 = \$2,315.63)$ ). For the third year, we estimate that these hour burdens and costs would be 1.69 hours ( $6.75$  hours -  $(6.75 \times 0.75 = 5.06$  hours)) and \$192.97 ( $\$771.87 - (\$771.87 \times 0.75 = \$578.90)$ ). Average yearly change in the initial one-time cost of the proposed Form 11-K financial information XBRL requirement would be  $(27 + 6.75 + 1.69)/3 = 11.81$  hours of internal in-house time, and  $(\$3,087.5 + \$771.87 + \$192.97)/3 = \$1,350.78$  in external costs.

<sup>73</sup> See *supra* note 68.

<sup>74</sup> This estimate was calculated by adding the estimated XBRL hour burden for operating companies (54 hrs) plus the average additional incremental hour burden for Form 11-K filers (11.81), then multiplying the sum by the estimated number of Form 11-K filers (1,066), or  $(54 + 11.81) \times 1,066$ .

<sup>75</sup> This estimate was calculated by adding the estimated XBRL cost burden for operating companies (\$6,175) plus the average additional incremental cost burden for Form 11-K filers (\$1,350), then multiplying the sum by the estimated number of Form 11-K filers (1,066), or  $(\$6,175 + \$1,350) \times 1,066$ .

<sup>76</sup> Based on an internal review by the staff, we have determined that all filers under Rule 101(b), except for two filers under Rule 101(b)(5), have previously filed a Form ID in connection with other EDGAR filing obligations.

anticipate that proposed amendments would result in a nominal increase of .30 annual burden hours for Form ID, which would not meaningfully add to, and would effectively be encompassed by, the existing burden estimates associated with these forms.<sup>77</sup>

The tables below illustrate the estimated incremental changes to the total annual compliance burden of the affected forms, discussed above, in hours and in costs, as a result of the proposed amendments.

**Table 2. Incremental Paperwork Burden under the Proposed Amendments<sup>2</sup>**

	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Proposed Change in Annual Responses (D)	Proposed Change in Burden Hours (E)	Proposed Change in Professional Costs (F)	Proposed Annual Affected Responses (G)= (A) + (D)	Proposed Burden Hours for Affected Response (H) = (B)+(E)	Proposed Cost Burden for Affected Responses (I)= (C)+(F)
Schedule 14A	6,369	777,590	103,678,712	0	9,574	\$1,276,592	6,369	787,164	\$104,465,376
Schedule 14C	569	56,356	7,514,944	0	832	\$111,008	569	57,188	\$7,625,952
Form 20-F	729	479,261	576,824,025	0	364	\$437,400	729	479,625	\$577,261,425
Form 40-F	132	14,237	17,084,560	0	66	\$79,200	132	14,303	\$17,163,760
Form 11-K	1,302	39,060	0	(236)	70,153	\$8,021,650	1,066	109,213	\$8,021,650
Form ID	57,681	8,652	0	2	.3	0	57,683	8,652	0

1. We note that the proposed decrease in responses on Form 11-K reflects the actual number of Forms received in 2020. This decrease is not the result of the proposed amendments which we do not expect to affect the number of responses submitted on Form 11-K.

#### **D. Request for Comment**

- Would the proposed amendments to mandate the electronic submission in PDF format of the “glossy” annual report to security holders impose additional PRA burden on existing

<sup>77</sup> The proposed amendments would not affect the paperwork burden incurred by filers that have previously submitted a Form ID because filers are required to submit the form only once in order to enroll in the EDGAR filing system.

EDGAR filers not encompassed by existing burden estimates? If so, please explain what additional burden would be imposed

We request comments in order to evaluate: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information; (3) whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.<sup>78</sup>

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, with reference to File No. S7-16-21. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7-16-21 and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, a comment to the OMB is best assured of having its full effect if the OMB receives it within 30 days of publication.

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<sup>78</sup> We request comment pursuant to 44 U.S.C. 3506(c)(2)(B).

## **V. INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS**

This Initial Regulatory Flexibility Analysis (IRFA) has been prepared in accordance with the Regulatory Flexibility Act.<sup>79</sup> It relates to proposed amendments that would (1) mandate the electronic filing or submission of most of the documents that are currently permissible electronic submissions under Rule 101(b) of Regulation S-T; (2) mandate the electronic submission in PDF format of the “glossy” annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of financial statements and accompanying notes to the financial statements required by Form 11-K; and (5) allow for the electronic submission in PDF format of certain foreign language documents.

### **A. Reasons for, and Objectives of, the Proposed Action**

The main purpose of the proposed amendments is to facilitate more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper. In addition, the proposed amendments are intended to improve investors’ and other EDGAR users’ access to the information in these documents.

### **B. Legal Basis**

We are proposing the amendments under Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 14, 15(d), 16, 23(a), and 35A of the Exchange Act.

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<sup>79</sup> 5 U.S.C. 601 *et seq.*

### C. Small Entities Subject to the Proposed Rules

The proposed amendments would affect some registrants that are small entities. The Regulatory Flexibility Act defines “small entity” to mean “small business,” “small organization,” or “small governmental jurisdiction.”<sup>80</sup> For purposes of the Regulatory Flexibility Act, under our rules, a registrant, other than an investment company, is a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed \$5 million.<sup>81</sup> An investment company, including a business development company,<sup>82</sup> is considered to be a “small business” if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.<sup>83</sup> We believe that the proposal may affect some small entities that are investment companies. We estimate that there are 979 issuers that file with the Commission, other than investment companies, that may be considered small entities.<sup>84</sup> In addition, we estimate that, as of June 2021, there are approximately 70 investment companies, including 9 business development companies, that would be subject to the proposed amendments that may be considered small entities.<sup>85</sup>

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<sup>80</sup> 5 U.S.C. 601(6).

<sup>81</sup> *See* 17 CFR 240.0-10(a).

<sup>82</sup> Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a-2(a)(48) and 80a-53-64].

<sup>83</sup> 17 CFR 270.0-10(a).

<sup>84</sup> This estimate is based on staff analysis of issuers, excluding co-registrants, subsidiaries, or ABS issuers, with EDGAR filings of Forms 10-K, 20-F, and 40-F, or amendments to these forms, filed during the calendar year of January 1, 2020, to December 31, 2020 or filed by September 1, 2021 that, if timely filed by the applicable deadline, would have been filed between January 1 and December 31, 2020. Analysis is based on data from XBRL filings, Compustat, and Ives Group Audit Analytics and manual review of filings submitted to the Commission.

<sup>85</sup> *See* 17 CFR 240.0-10.

#### **D. Proposed Reporting, Recordkeeping, and other Compliance Requirements**

As noted in Section IV, the proposed amendments would not substantively affect the filings currently made under Rules 101(b)(2), (5), (6), or (9) or the foreign language documents submitted under Rule 306. Therefore, the reporting or compliance burdens associated with associated forms, schedules, reports, and applications for small entities would remain unchanged under these proposed amendments.

However, the proposed amendments would impose new submission obligations on certain registrants. In particular, the proposed amendments mandate the electronic submission in PDF format of the “glossy” annual report to security holders and the electronic submission in Inline XBRL format of the financial statements and accompanying notes required by Form 11-K. In addition, to the extent that a filer has not previously filed documents electronically, registrants who previously filed or submitted in paper format under Rule 101(b) would need to complete and send to the Commission a Form ID to obtain electronic filing credentials.

Section II discusses the proposed amendments in detail. Sections III and IV discuss the economic impact, including the estimated costs and benefits, of the proposed amendments to all affected entities.

#### **E. Duplicative, Overlapping, or Conflicting Federal Rules**

The proposed amendments would not duplicate, overlap, or conflict with other Federal rules.

#### **F. Significant Alternatives**

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed amendments, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

Partially or completely exempting small entities from the proposed electronic filing requirements would undermine our stated objective of facilitating more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper, and we expect any increased burden associated with most of the proposed amendments to be small. With respect to the proposed amendments to mandate the electronic submission in PDF format of “glossy” annual reports to security holders and the proposed amendments to mandate the use of Inline XBRL for the filing of financial statements and accompanying notes to the financial statements required by Form 11-K, we are proposing a six-month and three-year transition periods, respectively, for all registrants, including small entities. We believe these transition periods would provide adequate time for all filers to prepare for and manage the burdens associated with these new obligations. Moreover, to the extent that the proposed amendments increase the ease and efficiency with which certain documents can be submitted to the Commission, they should benefit all filers, including small entities. In this regard, it appears that few filers currently take advantage of paper filing options under our current rules. For these reasons, we do not believe that it is necessary to establish different compliance timetables or reporting requirements for small entities or to clarify, consolidate or simply the proposed amendments requirements.

The proposed amendments use design rather than performance standards in order to promote uniform filing requirements for all registrants.

### **G. Request for Comment**

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding:

- The number of small entity issuers that may be affected by the proposed amendments;
- The existence or nature of the potential impact of the proposed amendments on small entity issuers discussed in the analysis; and
- How to quantify the impact of the proposed amendments.

Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

## **VI. SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT**

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”),<sup>86</sup> a rule is “major” if it has resulted, or is likely to result, in:

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on whether the proposed amendments would be a “major rule” for purposes of SBREFA. We solicit comment and empirical data on: (a) the potential annual effect

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<sup>86</sup> Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

on the economy; (b) any potential increase in costs or prices for consumers or individual industries; and (c) any potential effect on competition, investment or innovation.

## **VII. STATUTORY AUTHORITY**

The amendments contained in this release are being proposed under the authority set forth in Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 14, 15(d), 16, 23(a) and 35A of the Exchange Act.

### **List of Subjects in 17 CFR Parts 230, 232, 239, 240 and 249**

Reporting and recordkeeping requirements, Securities.

## **TEXT OF THE PROPOSED AMENDMENTS**

For the reasons set out in the preamble, the Commission propose to amend title 17, chapter II of the Code of Federal Regulations as follows:

### **PART 230 — GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933**

1. The general authority citation for part 230 continues to read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o-7 note, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, and Pub. L. 112-106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

\* \* \* \* \*

2. Amend §230.158 by revising paragraph (b)(2) to read as follows:

#### **§230.158 Definitions of certain terms in the last paragraph of section 11(a)**

\* \* \* \* \*

(b) \* \* \*

(2) Has filed its report or reports on Form 10-K, Form 10-Q, Form 8-K, Form 20-F, Form 40-F, or Form 6-K, or has submitted to the Commission in electronic format, in accordance with the EDGAR Filer Manual, its annual report sent to security holders pursuant to (§ 240.14a-3(c) of this chapter (Rule 14a-3(c)) containing such information. A registrant may use other methods to make an earning statement “generally available to its security holders” for purposes of the last paragraph of section 11(a).

\* \* \* \* \*

**PART 232 — REGULATION S-T — GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS**

3. The general authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

4. Amend §232.11 by revising the definition of “Related Official Filing” to read as follows:

\* \* \* \* \*

***Related Official Filing.*** The term Related Official Filing means the ASCII or HTML format part of the official filing with which an Interactive Data File appears as an exhibit or, in the case of a filing on Form N-1A (§§239.15A and 94 274.11A of this chapter) or Form 11-K (§249.311), if applicable, the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

\* \* \* \* \*

5. Amend §232.101 by:

- a. Revising paragraphs (a)(1)(i) and (a)(1)(iii);
- b. Removing the word “and” at the end of paragraph (a)(1)(xix);
- c. Adding and reserving paragraphs (a)(1)(xxii) and (xxiii);
- d. Adding paragraphs (a)(1)(xxiv) through (a)(1)(xxviii);
- e. Removing and reserving paragraphs (b)(1), (2), (3), (5), (6), and (9), (c)(6), and (c)(8); and
- f. Revising the title and introductory text of paragraph (c).

The revisions and additions to read as follows:

**§232.101 Mandated electronic submissions and exceptions.**

(a) \* \* \*

(1) \* \* \*

(i) Registration statements and prospectuses filed pursuant to the Securities Act (15 U.S.C. 77a, *et seq.*), registration statements filed pursuant to Sections 12(b) or 12(g) of the Exchange Act (15 U.S.C. 78l(b) or (g)), and certifications that a security has been approved by an exchange for listing and registration filed pursuant to Section 12(d) of the Exchange Act (15 U.S.C. 78l(d)) and §240.12d1-3 of this chapter (Rule 12d1-3) under the Exchange Act. The certification that a security has been approved by an exchange for listing and registration must be made on EDGAR in the electronic format required by the EDGAR Filer Manual, as defined in §232.11 of this chapter (Rule 11 of Regulation S-T). Notwithstanding §232.104 of this chapter (Rule 104 of Regulation S-T), the certification filed under this paragraph will be considered as officially filed with the Commission;

\* \* \* \* \*

(iii) Statements, reports and schedules filed with the Commission pursuant to sections 13, 14, 15(d) or 16(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d), 78p(a)), and proxy materials required to be furnished for the information of the Commission pursuant to Rules 14a-3 and 14c-3 or in connection with annual reports on Form 10-K (§ 249.310 of this chapter) pursuant to section 15(d) of the Exchange Act;

NOTE 1. Electronic filers filing Schedules 13D and 13G with respect to foreign private issuers should include in the submission header all zeroes (*i.e.*, 00-0000000) for the IRS tax identification number because the EDGAR system requires an IRS number tag to be inserted for the subject company as a prerequisite to acceptance of the filing.

NOTE 2. Foreign private issuers must file or submit their Form 6-K reports (§249.306 of this chapter) in electronic format.

\* \* \* \* \*

(xxii) [Reserved]

(xxiii) [Reserved]

(xxiv) Annual reports to security holders furnished for the information of the Commission under § 240.14a-3(c) of this chapter or § 240.14c-3(b) of this chapter, under the requirements of Form 10-K (§ 249.310 of this chapter) filed by registrants under Exchange Act Section 15(d) (15 U.S.C. 78o(d)), or by foreign private issuers filed on Form 6-K (§ 249.306 of this chapter) under § 240.13a-16 of this chapter or § 240.15d-16 of this chapter;

(xxv) Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a-6(g) (§240.14a-6(g) of this chapter) and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to §240.14a-6(n) of this chapter (Rule 14a-6(n));

(xxvi) Form 11-K (§249.311 of this chapter);

(xxvii) Periodic reports and reports with respect to distributions of primary obligations filed by:

(A) The International Bank for Reconstruction and Development under Section 15(a) of the Bretton Woods Agreements Act (22 U.S.C. 286k-1(a)) and part 285 of this chapter;

(B) The Inter-American Development Bank under Section 11(a) of the Inter-American Development Bank Act (22 U.S.C. 283h(a)) and part 286 of this chapter;

(C) The Asian Development Bank under Section 11(a) of the Asian Development Bank Act (22 U.S.C. 285h(a)) and part 287 of this chapter;

(D) The African Development Bank under Section 9(a) of the African Development Bank Act (22 U.S.C. 290i-9(a)) and part 288 of this chapter;

(E) The International Finance Corporation under Section 13(a) of the International Finance Corporation Act (22 U.S.C. 282k(a)) and part 289 of this chapter; and

(F) The European Bank for Reconstruction and Development under Section 9(a) of the European Bank for Reconstruction and Development Act (22 U.S.C. 290l-7(a)) and part 290 of this chapter;

(xxviii) A report or other document submitted by a foreign private issuer under cover of Form 6-K (§249.306 of this chapter) that the issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's "home country"), or under the rules of the home country exchange on which the issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a

material event, has not already been the subject of a Form 6-K or other Commission filing or submission on EDGAR; and

(xxix) Documents filed with the Commission pursuant to section 33 of the Investment Company Act (15 U.S.C. 80a-32).

\* \* \* \* \*

(c) **Documents that shall not be submitted in electronic format on EDGAR.** Except as otherwise specified in paragraph (d) of this section, the following shall not be submitted in electronic format on EDGAR:

\* \* \* \* \*

6. Amend §232.306 by revising the first sentence of paragraph (a) and paragraphs (b) and (c) to read as follows:

**§232.306 Foreign language documents and symbols.**

(a) All electronic filings and submissions must be in the English language, except as otherwise provided by paragraphs (b) through (d) of this section. \* \* \*

(b) When including an English summary or English translation of a foreign language document in an electronic filing or submission, a party may also submit a copy of the unabridged foreign language document with the filing in the electronic format required by the EDGAR Filer Manual. A filer must provide a copy of any foreign language document upon the request of Commission staff.

(c) A foreign government or its political subdivision must electronically file a fair and accurate English translation, if available, of its latest annual budget as presented to its legislative body, as Exhibit B to Form 18 (§249.218 of this chapter) or Exhibit (c) to Form 18-K (§249.318 of this chapter). If no English translation is available, a foreign government or

political subdivision must submit a copy of the foreign language version of its latest annual budget with the filing in the electronic format required by the EDGAR Filer Manual.

\* \* \* \* \*

7. Amend §232.311 by:
  - a. Revising paragraphs (b) and (c); and
  - b. Removing and reserving paragraphs (d), (e), and (f).

The revisions to read as follows:

**§232.311 Documents submitted in paper under cover of Form SE.**

\* \* \* \* \*

- (b) The Form SE shall be submitted in the following manner:
  - (1) If the subject of a temporary hardship exemption is an exhibit only, the filer must file the exhibit and a Form TH (§§239.65, 249.447, 269.1, and 274.404 of this chapter) under cover of Form SE (§§239.64, 249.444, 269.8, and 274.403 of this chapter) no later than one business day after the date the exhibit was to be filed electronically.
  - (2) An exhibit filed pursuant to a continuing hardship exemption may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied.
  - (c) Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this section.

\* \* \* \* \*

8. Amend §232.405 by:

- a. Revising the introductory text, paragraphs (a)(2), (a)(4), and (e);
- b. Adding paragraph (b)(4); and
- c. Revising Note 1 to §232.405.

The revisions and additions to read as follows:

**§232.405 Interactive Data File submissions.**

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), Required Information of Form 11-K (§249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F-10 (§239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40-F (§249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§249.306 of this chapter), and General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), specify when electronic filers are required or permitted to submit an Interactive Data File (§232.11), as further described in the note to this section. This section imposes content, format and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§232.11).

(a) \* \* \*

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), Required Information of Form 11-K (§249.311), paragraph (101) of Part II - Information Not Required to be Delivered to Offerees or Purchasers of Form F-10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§ 249.220f of this

chapter), paragraph B.(15) of the General Instructions to Form 40-F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N-1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§ 239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§ 239.17c and 274.11d of this chapter), or General Instruction C.4 of Form N-CSR (§ 274.128 of this chapter), as applicable;

\* \* \* \* \*

(4) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by §229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), Required Information of Form 11-K (§249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F-10 (§239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of 119 this chapter), paragraph B.(15) of the General Instructions to Form 40-F (§249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§249.306 of this chapter), or General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), as applicable;

\* \* \* \* \*

**(b)** \* \* \*

(4) If the electronic filer is an employee purchase plan, savings plans, or similar plan pursuant to Section 15(d) of the Securities Act, an Interactive Data File must consist of

only a complete set of information for all corresponding data in the Related Official Filing, no more and no less, as follows:

(i) The complete set of the electronic filer's financial statements (which includes the face of the financial statements and all footnotes) as required in paragraphs 1., 2., and 3. of Required Information of Form 11-K; and

(ii) All plan financial statements and schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11-K.

\* \* \* \* \*

(e) ***Format - Schedules - Generally.*** The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of financial statement schedules as set forth in §§ 210.12-01 through 210.12-29 of this chapter (Article 12 of Regulation S-X), or schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11-K, must comply with the requirements of paragraphs (c)(1) and (2) of this section, as modified by this paragraph (e). Financial statement schedules as set forth in Article 12 of Regulation S-X, or schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11-K must be tagged as follows:

- (1) Each complete financial statement schedule must be block-text tagged; and
- (2) Within each financial statement schedule,
  - (i) Each amount (*i.e.*, monetary value, percentage and number) must be tagged separately; and

(ii) Each narrative disclosure may be tagged separately to the extent the electronic filer chooses.

\* \* \* \* \*

Note 1 to § 232.405: Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 239.11 of this chapter (Form S-1), § 239.13 of this chapter (Form S-3), § 239.25 of this chapter (Form S-4), § 239.18 of this chapter (Form S-11), § 239.31 of this chapter (Form F-1), § 239.33 of this chapter (Form F-3), § 239.34 of this chapter (Form F-4), § 249.310 of this chapter (Form 10-K), § 249.308a of this chapter (Form 10-Q), and § 249.308 of this chapter (Form 8-K). Paragraph (101) of Part II - Information not Required to be Delivered to Offerees or Purchasers of § 239.40 of this chapter (Form F-10) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F-10. Paragraph 101 of the Instructions as to Exhibits of § 249.220f of this chapter (Form 20-F) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20-F. Paragraph B.(15) of the General Instructions to § 249.240f of this chapter (Form 40-F) and Paragraph C.(6) of the General Instructions to § 249.306 of this chapter (Form 6-K) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 249.240f of this chapter (Form 40-F) and § 249.306 of this chapter (Form 6-K). Section 229.601(b)(101) (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II - Information not Required to be Delivered to Offerees or Purchasers of Form F-10, paragraph 101 of the Instructions as to

Exhibits of Form 20-F, paragraph B.(15) of the General Instructions to Form 40-F, Required Information of Form 11-K, and paragraph C.(6) of the General Instructions to Form 6-K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with 17 CFR 210.6-01 through 210.6-10 (Article 6 of Regulation S-X). For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), General Instruction C.3.(g) of Form N-1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§ 239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§ 239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N-CSR (§ 274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

## **PART 239 — FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

9. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o-7 note, 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37; and sec. 107, Pub. L. 112-106, 126 Stat. 312, unless otherwise noted.

\* \* \* \* \*

Sections 239.63 and 239.64 are also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 80a-8, 80a-24, 80a-29, and 80a-37.

10. Amend Form F-10 (referenced in §239.40) by revising General Instruction II.L to read as follows:

**Note: The text of Form F-10 does not, and this amendment will not, appear in the Code of Federal Regulations.**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM F-10**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

\* \* \* \* \*

**GENERAL INSTRUCTIONS**

\* \* \* \* \*

**II. \* \* \***

L. Where the offering registered on this Form is being made pursuant to the home jurisdiction's shelf prospectus offering procedures or procedures for pricing offerings after the final receipt has been issued, each supplement to, or supplemented version of, the home jurisdiction disclosure document(s) prepared under such procedures shall be filed with the Commission in electronic format via the EDGAR system within one business day after such supplement or supplemented version is filed with the principal jurisdiction. Such filings shall be deemed not to constitute amendments to this registration statement. Each such filing shall contain in the upper right hand corner of the cover page the following legend, which may be set forth in longhand if legible: "Filed pursuant to General Instruction II.L. of Form F-10; File No. 33-[insert number of the registration statement]."

*Note:* Offerings registered on this Form, whether or not made contemporaneously in Canada, may be made pursuant to National Policy Statement No. 44 shelf prospectus offering procedures and procedures for pricing offerings after the final receipt has been issued. Rules 415 and 430A under the Securities Act are not available for offerings registered on this Form.

\* \* \* \* \*

11. Amend Form F-X (referenced in §239.42) by:

- a. Revising the introductory text to General Instruction II;
- b. Removing General Instruction II.B.(2) and the corresponding Note on the cover page; and
- c. Redesignating General Instruction II.B.(3) as General Instruction II.B.(2).

The revisions to read as follows:

**Note: The text of Form F-X does not, and this amendment will not, appear in the Code of Federal Regulations.**

## UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

### FORM F-X

#### APPOINTMENT OF AGENT FOR SERVICE OF PROCESS AND UNDERTAKING

\* \* \* \* \*

#### GENERAL INSTRUCTIONS

\* \* \* \* \*

**II.** A filer must file the Form F-X in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the

EDGAR rules set forth in Regulation S-T (17 CFR Part 232). For assistance with technical questions about EDGAR, to request an access code or problems with filing call the EDGAR Filer Support Office at (202) 551-8900. For assistance with the EDGAR rules, call the Division of Corporation Finance at (202) 551-3600.

\* \* \* \* \*

12. Amend Form SE (referenced in §§239.64, 249.444, 269.8, and 274.403) by:
  - a. On the cover page removing the text “\_\_\_ Rule 311 (Permitted Paper Exhibit)”;
  - b. Revising paragraph 1.A of the General Instructions; and
  - c. Revising the first sentence of paragraph 3.B of the General Instructions.

The revisions to read as follows:

**Note: The text of Form SE does not, and this amendment will not, appear in the Code of Federal Regulations.**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM SE**

**FORM FOR SUBMISSION OF PAPER FORMAT EXHIBITS  
BY EDGAR ELECTRONIC FILERS**

\* \* \* \* \*

**FORM SE GENERAL INSTRUCTIONS**

**1.** \* \* \*

A. Electronic filers must use this form to submit any paper format exhibit under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, or

the Investment Company Act of 1940, provided that the submission of such exhibit in paper is permitted under Rule 201 or 202 of Regulation S-T (§§232.201 or 232.202 of this chapter).

\* \* \* \* \*

3. \* \* \*

B. If you are filing the exhibit under a continuing hardship exemption under Rule 202 of Regulation S-T (§232.202 of this chapter), you may file the exhibit in paper under cover of Form SE up to six business days before or on the date of filing of the electronic format document to which it relates; you may not file the exhibit after the filing date of the electronic document to which it relates. \* \* \*

\* \* \* \* \*

**PART 240 – GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

13. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78c-5, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78n-1, 78o, 78o-4, 78o-10, 78p, 78q, 78q-1, 78s, 78u-5, 78w, 78x, 78dd, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 *et seq.*, and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111-203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112-106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

\* \* \* \* \*

Sections 240.14a-3, 240.14a-13, 240.14b-1 and 240.14c-7 also issued under secs. 12, 14 and 17, 15 U.S.C. 781, 78n and 78g;

Sections 240.14c-1 to 240.14c-101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n;

\* \* \* \* \*

14. Amend §240.12d1-3 by revising paragraph (c) to read as follows:

**§240.12d1-3 Requirements as to certification.**

\* \* \* \* \*

(c) The certification must be filed in electronic format via the Commission’s Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in §232 of this chapter (Regulation S-T).

15. Amend §240.14a-3 by revising paragraph (c) to read as follows:

**§ 240.14a-3 Information to be furnished to security holders.**

\* \* \* \* \*

(c) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of solicitation material are filed with the Commission pursuant to §240.14a-6, whichever date is later. The report is not deemed to be “soliciting material” or to be “filed” with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

\* \* \* \* \*

16. Amend §240.14c-3 by revising paragraph (b) to read as follows:

**§ 240.14c-3 Annual report to be furnished security holders.**

\* \* \* \* \*

(b) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of the information statement are filed with the Commission pursuant to §240.14c-5, whichever date is later. The report is not deemed to be “filed” with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

\* \* \* \* \*

#### **PART 249 — FORMS, SECURITIES EXCHANGE ACT OF 1934**

17. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a et seq. and 7201 et seq.; 12 U.S.C. 5461 et seq.; 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111-203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112-106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001 Pub. L. 114-94, 129 Stat. 1312 (2015), and secs. 2 and 3 Pub. L. 116-222, 134 Stat. 1063 (2020), unless otherwise noted.

Section 249.220f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 401(b), 406 and 407, Pub. L. 107-204, 116 Stat. 745, and secs. 2 and 3, Pub. L. 116-222, 134 Stat. 1063.

Section 249.240f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 406 and 407, Pub. L. 107-204, 116 Stat. 745.

\* \* \* \* \*

Section 249.310 is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Pub. L. 107-204, 116 Stat. 745.

\* \* \* \* \*

18. Amend Form 20-F (referenced in §249.220f) by adding Item 10.J to read as follows:

**Note: The text of Form 20-F does not, and this amendment will not, appear in the Code of Federal Regulations.**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 20-F**

\* \* \* \* \*

**PART I**

\* \* \* \* \*

**Item 10. \* \* \***

**J. Annual Report to Security Holders.** If a registrant is required to provide an annual report to security holders in response to the requirements of Form 6-K (§249.306 of this chapter), the registrant must submit the annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

\* \* \* \* \*

19. Amend Form 40-F (referenced in §249.240f) by revising General Instruction B.(3) to read as follows:

**Note: The text of Form 40-F does not, and this amendment will not, appear in the Code of Federal Regulations.**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 40-F

\* \* \* \* \*

GENERAL INSTRUCTIONS

\* \* \* \* \*

**B.** \* \* \*

(3) Registrants reporting pursuant to Section 13(a) or 15(d) of the Exchange Act should file under cover of this form the annual information form required under Canadian law and the Registrant's audited annual financial statements and accompanying management's discussion and analysis. Registrants shall furnish under the cover of Form 6-K all other information material to an investment decision that a Registrant:

- (i) makes or is required to make public pursuant to the law of the jurisdiction of its domicile,
- (ii) filed or is required to file with a stock exchange on which its securities are traded, or
- (iii) distributes or is required to distribute to its security holders.

**Note to paragraphs (1) and (3) of General Instruction B:**

If General Instructions B.(1) or (3) of this Form require a registrant to furnish an annual report to security holders, the registrant shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

\* \* \* \* \*

20. Amend Form 6-K (referenced in §249.306) by:

a. On the cover page removing the text “Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1): \_\_\_\_\_

**Note:** Regulation S-T Rule 101(b)(1) only permits the submission in paper of a Form 6-K if submitted solely to provide an attached annual report to security holders.

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7): \_\_\_\_\_

**Note:** Regulation S-T Rule 101(b)(7) only permits the submission in paper of a Form 6-K if submitted to furnish a report or other document that the registrant foreign private issuer must furnish and make public under the laws of the jurisdiction in which the registrant is incorporated, domiciled or legally organized (the registrant’s “home country”), or under the rules of the home country exchange on which the registrant’s securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the registrant’s security holders, and, if discussing a material event, has already been the subject of a Form 6-K submission or other Commission filing on EDGAR.”; and

- b. Revising paragraph C(2) of the General Instructions;
- c. Revising paragraph C(3) of the General Instructions; and
- d. Adding paragraph C(7) of the General Instructions.

The revisions and additions to read as follows:

**Note: The text of Form 6-K does not, and this amendment will not, appear in the Code of Federal Regulations.**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 6-K**

**REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULES 13a-16 OR 15d-16  
UNDER THE SECURITIES EXCHANGE ACT OF 1934**

\* \* \* \* \*

**GENERAL INSTRUCTIONS**

\* \* \* \* \*

**C.** \* \* \*

(2) An issuer may submit a Form 6-K in paper under a hardship exemption provided by Rules 201 or 202 of Regulation S-T (17 CFR 232.201 or 232.202).

**Note to paragraph (2):** An issuer that is or will be incorporating by reference all or part of an annual or other report to security holders, or of any part of a paper Form 6-K, into an electronic filing must file the incorporated portion in electronic format as an exhibit to the filing in accordance with Rule 303(b) of Regulation S-T (17 CFR 232.303(b)).

(3) When submitting a Form 6-K in paper under a hardship exemption, an issuer must provide the appropriate legend required by either Rule 201(a)(2) or Rule 202(c) of Regulation S-T (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form 6-K.

\* \* \* \* \*

(7) *Annual Report to Security Holders.* If General Instruction B of this form requires an issuer to furnish an annual report to security holders, the issuer shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

\* \* \* \* \*

21. Amend Form 10-K (referenced in §249.310) by revising paragraph (a) that follows the text “**Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act**”.

**Note: The text of Form 10-K does not, and this amendment will not, appear in the Code of Federal Regulations.;**

The revisions and additions to read as follows:

(a) Except to the extent that the materials enumerated in (1) and/or (2) below are specifically incorporated into this Form by reference, every registrant which files an annual report on this Form pursuant to Section 15(d) of the Act must furnish to the Commission for its information at the time of filing its report on this form, an electronic submission in accordance with the EDGAR Filer Manual, of the following:

\* \* \* \* \*

22. Amend Form 11-K (referenced in §249.311) by:

- a. Revising General Instruction E; and
- b. Adding paragraph 5 of Required Instructions.

The revisions and additions to read as follows:

**Note: The text of Form 6-K does not, and this amendment will not, appear in the Code of Federal Regulations.**

INSERT THE FORM HEADER HERE

\* \* \* \* \*

**E. Electronic Filers**

Reports on this Form must be filed in electronic format. See Rule 101(a)(xxvi) of Regulation S-T (§232.101(a)(xxvi) of this chapter).

\* \* \* \* \*

### **REQUIRED INFORMATION**

5. Where a plan prepares its financial statements in accordance with these Items section, an Interactive Data File (§232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T (§232.405 of this chapter).

Instruction to paragraph 5: When an Interactive Data File is submitted as provided by Rule 405(a)(4) of Regulation S-T (§232.405(a)(4) of this chapter), the exhibit index must include the word “Inline” within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

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23. Amend Form CB (referenced in §239.800 and §249.480) by:

- a. Removing the line “Filed or submitted in paper if permitted by Regulation S-T Rule 101(b)(8) [ ]” and the corresponding Note on the cover page; and
- b. Removing General Instruction II.A.(2) and redesignating General Instruction II.A.(3) and (4) as General Instruction II.A.(2) and (3).

By the Commission.

Dated: November 4, 2021.

Vanessa A. Countryman,  
Secretary.