

## LEGAL UPDATES AND NEWS

### Disclosure Update and Simplification for 2018 Form 10-K

As we enter the annual report and proxy season, public companies should be aware of certain changes the Securities and Exchange Commission (the “SEC”) has recently implemented to its rules and regulations regarding disclosure requirements for filings submitted to the SEC. The changes are intended to simplify compliance without significantly altering the total mix of information provided to investors, and to address disclosure requirements that the SEC considers redundant, outdated or superseded. These changes became effective on November 5, 2018 and will apply to both the accounting disclosure and the non-accounting disclosure provided in Annual Reports on Form 10-K filed with the SEC.

#### Changes to Non-Accounting Disclosure

The below table notes substantive changes to the non-accounting disclosure requirements applicable to an Annual Report on Form 10-K, which are found under SEC Regulation S-K.

10-K Item	Section of Regulation S-K	Description of Change
Item 1. Business	101(b) <i>(deleted as a result of the changes)</i>	No longer required to provide financial information about segments.
	101(c)(1)(ix) <i>(deleted as a result of the changes)</i>	No longer required to disclose research and development costs.
	101(d) <i>(deleted as a result of the changes)</i>	No longer required to provide financial information about geographic areas (but see change to Item 303 of Regulation S-K under 10-K Item 7, below).
	101(e) and (h)	Disclosure of the company’s internet address, if it has one, is now mandatory.  No longer required to identify the SEC’s Public Reference Room or disclose its physical address and phone number.
Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	201(a)	Must disclose the company’s trading symbol.  Companies whose common equity is traded on an established public trading market, such as the New York Stock Exchange or Nasdaq, are no longer required to state the high and low sales price for their common equity over the last two years.
	201(c)(1) <i>(deleted as a result of the changes)</i>	No longer required to provide the frequency and amount of any cash dividends.  No longer required to disclose any material restrictions on the company’s ability to pay dividends (including restrictions on subsidiaries to transfer funds).

<b>10-K Item</b>	<b>Section of Regulation S-K</b>	<b>Description of Change</b>
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations	303(a)	Discussion of the company's financial condition, changes in financial condition and results of operations must now include discussion based on geographic area if, in the company's judgment, such discussion would be appropriate to an understating of the company's business.
Item 8. Financial Statements and Supplementary Data	302(a) <i>(smaller reporting companies are not required to provide this disclosure)</i>	Accelerated and large accelerated filers must now disclose for each full quarter within the two most recent fiscal years: net sales, gross profit, income (loss) from continuing operations (including per share data), net income (loss) (including per share data) and net income (loss) attributable to the company.
Item 15. Exhibits and Financial Statement Schedules	601(b)(11) and (12) <i>(each was deleted as a result of the changes)</i>	No longer required to provide exhibits regarding the computation of per share earnings or the ratio of earnings to fixed charges.

### **Changes to Accounting Disclosure**

Certain changes implemented by the SEC pertain to the disclosure requirements applicable to the financial statements and related footnotes provided in an Annual Report on Form 10-K, which are found under SEC Regulation S-X. Among other things, the changes to Regulation S-X eliminate certain disclosure requirements that are redundant, duplicative or overlapping with other SEC disclosure requirements or disclosure requirements under U.S. generally accepted accounting principles ("GAAP"). These changes affect disclosure requirements regarding, among other topics, the consolidation of financial statements, income taxes, the value of investment securities held by bank holding companies, changes in allowance for loan losses, federal funds sold and securities purchased under resale agreements, and goodwill.

The changes to Regulation S-X will also require companies to relocate certain information from outside of the financial statements to inside and vice versa. Where applicable, this change in location will alter whether such disclosure is subject to audit review, internal control over financial reporting and XBRL tagging requirements and whether such disclosure will qualify for the safe harbor for forward-looking statements.

Companies should consult with their accountants regarding the effects of the changes to Regulation S-X and coordinate regarding any changes to the disclosure provided in a company's financial statements and related footnotes.

### **Additional Items for Consideration**

As we have noted previously, companies that have been filing with the SEC as an "accelerated filer" should confirm whether they now qualify as a "smaller reporting company" based on the SEC's expansion of that filing category in 2018. Companies that qualify for this change in their filer status will be able to take advantage of the reduced disclosure the SEC offers to smaller reporting companies, which we summarized in a prior newsletter ([available here](#)). Companies should expect future changes to the SEC's disclosure requirements as the SEC coordinates with the Financial Accounting Standards Board on changes related to GAAP, and

continues with its implementation of the Disclosure Effectiveness Initiative to clean up and modernize disclosure requirements.

\* \* \* \* \*

Luse Gorman, PC is a Washington, D.C. based law firm that specializes in representing community-based financial institutions throughout the nation. This newsletter is being provided by Luse Gorman, PC for information purposes only and is not intended and should not be construed as legal advice. Please contact any of our attorneys below if you have any questions regarding the information contained in this newsletter.

- |   |                  |   |
|---|------------------|---|
| <a href="#"><u>Eric Luse</u></a>              | ■ (202) 274-2002 | <a href="mailto:eluse@luselaw.com"><u>eluse@luselaw.com</u></a>         |
| <a href="#"><u>John J. Gorman</u></a>         | ■ (202) 274-2001 | <a href="mailto:jgorman@luselaw.com"><u>jgorman@luselaw.com</u></a>     |
| <a href="#"><u>Lawrence M.F. Spaccasi</u></a> | ■ (202) 274-2037 | <a href="mailto:lspaccasi@luselaw.com"><u>lspaccasi@luselaw.com</u></a> |
| <a href="#"><u>Kip A. Weissman</u></a>        | ■ (202) 274-2029 | <a href="mailto:kweissman@luselaw.com"><u>kweissman@luselaw.com</u></a> |
| <a href="#"><u>Kent M. Krudys</u></a>         | ■ (202) 274-2019 | <a href="mailto:kkrudys@luselaw.com"><u>kkrudys@luselaw.com</u></a>     |
| <a href="#"><u>Marc P. Levy</u></a>           | ■ (202) 274-2009 | <a href="mailto:mlevy@luselaw.com"><u>mlevy@luselaw.com</u></a>         |
| <a href="#"><u>Scott A. Brown</u></a>         | ■ (202) 274-2013 | <a href="mailto:sbrown@luselaw.com"><u>sbrown@luselaw.com</u></a>       |
| <a href="#"><u>Ned A. Quint</u></a>           | ■ (202) 274-2007 | <a href="mailto:nquint@luselaw.com"><u>nquint@luselaw.com</u></a>       |
| <a href="#"><u>Benjamin M. Azoff</u></a>      | ■ (202) 274-2010 | <a href="mailto:bazoff@luselaw.com"><u>bazoff@luselaw.com</u></a>       |