
LEGAL UPDATES AND NEWS

SEC Adopts Rules Requiring EDGAR Submission of “Glossy” Annual Reports

On June 3, 2022, the Securities and Exchange Commission (the “SEC”) adopted amendments to its EDGAR filing rules to require, among other things, the electronic submission of “glossy” annual reports. The amendments are effective July 11, 2022 and provide for a six-month transition period after the effective date for when issuers must comply.

The SEC proxy solicitation rules require that an annual report must precede or accompany the distribution of a proxy statement for a meeting of stockholders (or written consent in lieu of a meeting) at which directors are to be elected. Many companies simply distribute a copy of their Annual Report on Form 10-K with their proxy statement because it contains the information required to be included in an annual report under the SEC proxy solicitation rules. For those companies, no additional filing is required by this new rule. However, other companies provide more marketing-type information in addition to the required information, which may include graphics, photographs or charts. This type of document is colloquially called a “glossy” annual report.

Before the recent amendments, an issuer was required to furnish an informational copy of its “glossy” annual report to the SEC either by submitting paper copies, by filing it electronically on EDGAR, or by posting it on the issuer’s corporate website for at least one year in accordance with guidance issued by the SEC’s Division of Corporate Finance in 2016. The new rules now require the electronic submission of the “glossy” annual report in portable data format (“PDF”), the only format that EDGAR currently supports. If the SEC upgrades EDGAR to accommodate other formats appropriate for electronic filing of “glossy” annual reports, the SEC will publicize the upgrade by publishing an updated EDGAR Filer Manual that supports any such upgrade. According to the SEC, the PDF electronic submission should capture the graphics, styles of presentation, and prominence of all disclosures (including text size, placement, color, and offset, as applicable) contained in the “glossy” annual report and should not be re-formatted, re-sized, or otherwise re-designated for submission on EDGAR.

With the new rules, going forward, EDGAR will be a repository for electronic copies of “glossy” annual reports, whether or not issuers decide to post their reports on their corporate websites. According to the SEC, an EDGAR archive of “glossy” annual reports will ensure long-term access to these reports in a centralized database available to the public and will avoid the burden for investors of having to search individual corporate websites and other resources for this information.

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