



## SEC Proposes to Eliminate Outdated and Duplicative Disclosure Requirements

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On July 13, 2016, the SEC issued a [proposed rule](#)<sup>1</sup> that would amend certain of its disclosure requirements that may be redundant, duplicative, or outdated, or may overlap with other SEC, U.S. GAAP, or IFRS disclosure requirements. The proposal also seeks comment on whether certain of the SEC's disclosure requirements that overlap with U.S. GAAP requirements should be retained, modified, eliminated, or referred to the FASB for potential incorporation into U.S. GAAP. See the [table](#) below for a summary of some of the proposed changes.

The proposed amendments are the next step in the SEC's ongoing [disclosure effectiveness](#) initiative, which is a broad-based review of the Commission's disclosure, presentation, and delivery requirements for public companies. As part of the initiative, the SEC also issued a [concept release](#)<sup>2</sup> in April of this year that sought feedback on modernizing certain business

<sup>1</sup> SEC Proposed Rule Release No. 33-10110, *Disclosure Update and Simplification*. The proposal is also in response to a mandate under the Fixing America's Surface Transportation Act.

<sup>2</sup> See Deloitte's April 18, 2016, [Heads Up](#) for more information about the concept release.

and financial disclosure requirements of Regulation S-K as well as a [request for comment](#)<sup>3</sup> last September on the effectiveness of certain financial disclosure requirements in Regulation S-X.<sup>4</sup>

The proposed amendments to the disclosure requirements would affect U.S. issuers, foreign private issuers (FPIs), investment advisers, investment companies, broker-dealers, and nationally recognized statistical rating organizations. The effect on each type of issuer varies depending on the amendment proposed. The SEC intends to improve the disclosure requirements and simplify registrants' compliance efforts without significantly altering the total mix of information that is ultimately provided to investors.



### Editor's Note

The implications of the proposal are likely to vary depending on the category of change (e.g., duplicate, overlapping, superseded). The effect of some changes may not be significant if their purpose is only to eliminate a duplicated or superseded requirement. Changes to address overlapping requirements could have a more significant effect since they can result in what the SEC describes as (1) disclosure location considerations and (2) bright-line threshold considerations (see discussion below).

The proposal's request for comment on overlapping requirements notes that "proposals related to some topics would result in the relocation of disclosures from outside to inside the financial statements, subjecting this information to annual audit and/or interim review, internal control over financial reporting, and XBRL tagging requirements." For example, the requirements in Regulation S-K, Item 103,<sup>5</sup> to disclose certain legal proceedings can in certain cases be more expansive than those in U.S. GAAP, under which loss contingencies must be disclosed. The Commission is seeking input on whether incorporation of Item 103, among other requirements, into U.S. GAAP may impose greater burdens on issuers and auditors related to the development and auditing of additional estimates and disclosures. The SEC also notes that the location of some disclosures in a filing could change as a result of the proposal to address overlapping requirements, which might affect users by changing the prominence of the disclosures.

The proposal may result in the removal or addition of a bright-line disclosure threshold (i.e., a threshold below which no disclosure is required), which may change the disclosure burden on issuers and the amount of information disclosed to investors. For example, unlike U.S. GAAP, Regulation S-K<sup>6</sup> requires disclosure of the amount of revenue from any class of similar products and services that account for 10 percent or more of revenue.

Comments on the proposed rule are due 60 days after its publication in the *Federal Register*. Constituent feedback will be critical to the success of the SEC's disclosure update and simplification initiative. The SEC has indicated that comments on the proposal and on the Regulation S-K concept release will further inform the Commission's actions related to enhanced disclosure.

<sup>3</sup> See Deloitte's October 6, 2015, [Heads Up](#) for more information about the request for comment.

<sup>4</sup> The SEC's disclosure rules are primarily contained in Regulation S-X, which addresses financial statement disclosure requirements, and Regulation S-K, which is the central repository for nonfinancial statement disclosures (e.g., risk factors and MD&A) for public companies.

<sup>5</sup> Regulation S-K, Item 103, "Legal Proceedings."

<sup>6</sup> See Item 101(c)(1)(i) of Regulation S-K.

The proposal would affect a diverse group of SEC disclosure requirements. The following table summarizes some of the proposed changes:

Types of Requirements Affected	Goal of Proposed Changes	Examples of Affected Disclosure Topics	Example
<b>Redundant or duplicative requirements</b>	Eliminate requirements that result in disclosure of substantially the same information as that required under other Commission rules, U.S. GAAP, or IFRSs.	<ul style="list-style-type: none"> <li>• Foreign currency.</li> <li>• Consolidation.</li> <li>• Debt obligations.</li> <li>• Income tax disclosures.</li> <li>• Warrants, rights, and convertible instruments.</li> <li>• Related parties.</li> <li>• Contingencies.</li> <li>• Earnings per share.</li> <li>• Changes in accounting principles.</li> <li>• Interim financial statements (common-control transactions and dispositions).</li> </ul>	<i>Debt obligations:</i> Under Regulation S-X, <sup>7</sup> registrants must disclose significant changes in issued amounts of debt after the latest balance sheet date. Because the guidance in U.S. GAAP on subsequent events (ASC 855, <i>Subsequent Events</i> ) requires similar disclosures, the SEC proposed to eliminate the S-X related disclosure.
<b>Overlapping requirements</b>	Eliminate requirements that convey reasonably similar information, or information that is not materially incremental to that required under other SEC requirements, U.S. GAAP, or IFRSs and that may no longer be useful to investors.	<ul style="list-style-type: none"> <li>• Consolidation.</li> <li>• Derivative accounting policies.</li> <li>• Segments.</li> <li>• Research and development activities.</li> <li>• Real estate investment trusts (REITs).</li> <li>• Dividends.</li> <li>• Ratio of earnings to fixed charges.</li> </ul>	<i>Segments:</i> The requirement in Regulation S-K <sup>8</sup> to disclose segment financial information and restatement of prior periods when reportable segments change would be deleted because similar disclosures are required by U.S. GAAP and other requirements in Regulation S-K. <sup>9</sup>
	Integrate certain disclosure requirements with other related Commission disclosure requirements.	<ul style="list-style-type: none"> <li>• Foreign currency restrictions.</li> <li>• Restrictions on dividends and related items.</li> <li>• Geographic areas.</li> </ul>	<i>Restrictions on dividends and related items:</i> A number of Commission requirements mandate disclosure about restrictions on the payment of dividends and related items. <sup>10</sup> The SEC proposes to streamline these disclosure requirements into a single requirement to disclose material restrictions on dividends.

<sup>7</sup> Regulation S-X, Rule 4-08(f), "Significant Changes in Bonds, Mortgages and Similar Debt."

<sup>8</sup> Regulation S-K, Item 101(b), "Financial Information About Segments."

<sup>9</sup> Regulation S-K, Item 303(b), "Interim Periods."

<sup>10</sup> For example, Regulation S-K, Item 201(c)(1), "Dividends," and Regulation S-X, Rules 4-08(d)(2), "Preferred Shares," and 4-08(e), "Restrictions Which Limit the Payment of Dividends by the Registrant."

Types of Requirements Affected	Goal of Proposed Changes	Examples of Affected Disclosure Topics	Example
<b>Overlapping requirements (continued)</b>	Modify or eliminate overlapping disclosures or refer them to the FASB for potential incorporation into U.S. GAAP.	<ul style="list-style-type: none"> <li>• REITs.</li> <li>• Consolidation.</li> <li>• Discount on shares.</li> <li>• Assets subject to lien.</li> <li>• Obligations.</li> <li>• Preferred shares.</li> <li>• Income taxes.</li> <li>• Related parties.</li> <li>• Repurchase and reverse repurchase agreements.</li> <li>• Interim financial statements.</li> <li>• Products and services.</li> <li>• Major customers.</li> <li>• Legal proceedings.</li> <li>• Oil and gas producing activities.</li> </ul>	<i>Income taxes:</i> Both Regulation S-X and U.S. GAAP require disclosures about income taxes. However, Regulation S-X requires additional disclosures, such as the amount of domestic and foreign pretax income and income tax expense. The SEC is seeking comment on these disclosure differences to help it decide whether to refer them to the FASB for potential incorporation into U.S. GAAP.
<b>Outdated requirements</b>	Amend requirements that have become obsolete as a result of the passage of time or changes in the regulatory, business, or technological environment.	<ul style="list-style-type: none"> <li>• Stale transition dates.</li> <li>• Income tax disclosures.</li> <li>• Available information (e.g., to require issuers to disclose their internet address).</li> <li>• Market price disclosure.</li> <li>• Exchange rate data.</li> <li>• FPI initial public offering<sup>11</sup> — age of financial statements.</li> </ul>	<i>Market price disclosure:</i> The proposal would substitute disclosure of historical market price information with disclosure of the issuer's ticker symbol, which investors can use to obtain information on stock price from various Web sites.
<b>Superseded requirements</b>	Amend requirements that are inconsistent with new accounting, auditing, disclosure requirements, and more recently updated Commission disclosure requirements.	<ul style="list-style-type: none"> <li>• Auditing standards.</li> <li>• Consolidation.</li> <li>• Extraordinary items.</li> </ul>	<i>Extraordinary items:</i> References to extraordinary items would be eliminated from the SEC's rules and forms since the FASB eliminated extraordinary items from U.S. GAAP in January 2015.

<sup>11</sup> If adopted, the proposal would enable FPIs in an initial public offering to use, in Form F-1, audited financial statements that are older than 12 months (but not more than 15 months old) without obtaining a waiver from the SEC.

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