

SECURITIES AND EXCHANGE COMMISSION

17 CFR PARTS 232 and 249

[RELEASE NOS. 33-10486; 34-83097; IC-33077]

RIN 3235-AM37

AMENDMENTS TO FORMS AND SCHEDULES TO REMOVE PROVISION OF CERTAIN PERSONALLY IDENTIFIABLE INFORMATION

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting revisions to forms filed under the Securities Exchange Act of 1934 (“Exchange Act”) to eliminate the portion of those forms that requests filers to furnish certain personally identifiable information (“PII”) of natural persons, including Social Security numbers.

DATES: Effective May 14, 2018. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of May 14, 2018.

FOR FURTHER INFORMATION CONTACT: With regard to the amendments to Form Funding Portal and Schedule A to Form MSD, Timothy White, Senior Special Counsel, and Brice Prince, Special Counsel, at (202) 551-5550, Division of Trading and Markets, and with regard to the amendments to Form MA and Form MA-I and Instructions for the Form MA Series, Rebecca J. Olsen, Acting Director, or Ahmed A. Abonamah, Senior Counsel to the Director, at (202) 551-5680, Office of Municipal Securities, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Form Funding Portal,¹ Form MSD,² Form MA,³ Form MA-I,⁴ and Instructions for the Form MA Series⁵ under the Exchange Act.⁶ We are also adopting an updated EDGAR Filer Manual Volume II (Version 46) (“EDGAR Filer Manual”) to make conforming technical changes with regard to the instructions to filing Form Funding Portal, Form MA and Form MA-I on EDGAR.⁷

I. Discussion

Commission rules and regulations require the filing of information by natural persons, as well as by corporate and other entities. We are amending certain forms that request filers to provide certain sensitive PII of natural persons, including Social Security numbers.⁸ The amended forms will no longer include any reference to such PII and will no longer request such PII. We have determined that the Commission can achieve its regulatory objectives without the sensitive PII that will no longer be requested on these forms.

¹ 17 CFR 249.2000

² 17 CFR 249.1100

³ 17 CFR 249.1300

⁴ 17 CFR 249.1310

⁵ 78 FR 67476.

⁶ 15 U.S.C. 78a *et seq.*

⁷ The EDGAR Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. We originally adopted the EDGAR Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33-6986 (April 1, 1993) [58 FR 18638]. Filers must comply with the applicable provisions of the EDGAR Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format. *See* Rule 301 of Regulation S-T (17 CFR 232.301). Filers may consult the EDGAR Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission. We adopted the most recent update to the EDGAR Filer Manual on March 8, 2018. *See* Release No. 33-10467 (March 8, 2018) [84 FR 11637]. For additional history of EDGAR Filer Manual revisions, please see the citations therein. The updated manual will be incorporated by reference into the Code of Federal Regulations.

⁸ The forms the Commission is amending today are either not disseminated to the public or are disseminated to the public only after such PII is redacted.

Specifically, the amendments being adopted today would make the following changes to Commission forms:

- Form Funding Portal: remove references to Social Security number and date of birth from Schedule A, Schedule B and General Instruction 1.
- Form MA: remove references to Social Security number from Item 1.C.(2), Item 7.(b) of Schedule A and the chart in Schedule A-2, Item 8.(b) of Schedule B and the chart in Schedule B-2, the chart in Schedule A-2 in Item 4 of Schedule C, and the chart in Schedule B-2 of Item 5 of Schedule C; remove references to date of birth from Item 7.(b) of Schedule A and the chart in Schedule A-2, Item 8.(b) and the chart in Schedule B-2, the chart in Schedule A-2 in Item 4 of Schedule C, and the chart in Schedule B-2 of Item 5 of Schedule C; and remove references to foreign identity number from Item 7.(b) of Schedule A and the chart in Schedule A-2, Item 8.(b) of Schedule B and the chart in Schedule B-2, the chart in Schedule A-2 in Item 4 of Schedule C, and the chart in Schedule B-2 of Item 5 of Schedule C.
- Form MA-I: remove references to Social Security number from Item 1.A.
- Instructions for the Form MA Series: remove references to Social Security number from Section 1 of the Specific Instructions for Certain Items in Form MA-I.
- Form MSD: remove references to date of birth and place of birth from Item III of Schedule A.

We are also revising the EDGAR Filer Manual to provide instructions to filers for submitting Form Funding Portal, Form MA and Form MA-I without the information that we are

removing from the forms in a manner that will permit the EDGAR system to accept the submission.⁹

II. Economic Analysis

Under the final amendments, the Commission will no longer request or reference certain sensitive PII in Forms Funding Portal, MA, MA-I, MSD, and Instructions for the Form MA Series. Under the amendments being adopted, filers will not be required to obtain or provide information in lieu of providing a Social Security number, foreign identity number, or date or place of birth.

We are mindful of the costs and benefits of the final amendments. Currently, filers may provide certain sensitive PII, such as Social Security numbers and dates of birth, in Forms Funding Portal, MA, MA-I, and MSD submitted to the Commission. Based on staff analysis of EDGAR filings made during the 2017 calendar year, we estimate that, in total, there were approximately 634 filings by 391 filers of Form MA and amendments to it; 2,695 filings by 435 filers of Form MA-I and amendments to it; 20 filings by 9 filers of Form MSD; and 52 filings by 29 filers of Form Funding Portal and amendments to it (including filings that were filed but not publicly disseminated, there were approximately 106 filings by 71 filers of Form Funding Portal and amendments to it).¹⁰

The collection of sensitive PII, such as Social Security numbers, can result in costs to filers. For example, in the event of unauthorized access or release of certain sensitive PII, filers may face costs related to ongoing identity protection and monitoring, as well as reputational

⁹ As EDGAR programming is changed in subsequent EDGAR Releases to reflect the removal of this information from the forms, we will make additional conforming changes to the EDGAR Filer Manual.

¹⁰ These estimates exclude filings of registration withdrawal forms.

costs, operational costs, and losses from theft in the event misappropriated PII is used by bad actors.

At the same time, the collection and storage of PII may facilitate regulatory oversight of filers, including certain Commission enforcement and examination functions, as well as the unique identification of natural person filers and their associated persons.¹¹ The Commission is cognizant of both the risks and benefits of collecting sensitive PII in the forms being amended, and it has determined that other information in these forms is sufficient to achieve its regulatory objectives, including its enforcement and examination functions, without the sensitive PII that filers may provide on these forms.

We do not believe that the final amendments will substantially impact efficiency, competition, or capital formation. Since the forms being amended are either not publicly disseminated, or are disseminated to the public in redacted form, the amendments do not affect the information made available to the public. As such, we do not expect the final amendments to impact informational efficiency. To the extent that potential registrants may be concerned about the risks of unauthorized access to the PII that is the subject of the amendments, the amendments eliminate such risks and may reduce the anticipated cost of Commission filing requirements. To the extent these changes could incentivize additional participants to register as crowdfunding

¹¹ We note that Form MSD is also filed with certain federal bank regulatory agencies, which also receive Form MSD-4 filings containing information about natural persons who are, or who seek to be, associated with a bank municipal securities dealer as a municipal securities principal or municipal securities representative. The federal bank regulatory agencies jointly adopted Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) to collect information on natural persons associated with bank municipal securities dealers as required by Rule G-7 (Information Concerning Associated Persons) of the Municipal Securities Rulemaking Board (“MSRB”) in 1977. *See* 42 FR 45289 (Sept. 9, 1977).

portals, municipal advisors, and municipal securities dealers, we believe the likely effects on competition, allocative efficiency, and capital formation to be marginal.

III. Procedural and Other Matters

The Administrative Procedure Act (“APA”) generally requires an agency to publish notice of a rulemaking in the Federal Register and provide an opportunity for public comment. This requirement does not apply, however, if the agency “for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.”¹² Since the amendments to the forms to delete the provision of certain PII do not impact the information available to the public or otherwise meaningfully impact the Commission’s regulatory functions, we find that it is unnecessary to publish notice of the amendments in the Federal Register and solicit public comment thereon.¹³

For similar reasons, although the APA generally requires publication of a rule at least 30 days before its effective date, we find there is good cause for the amendments to take effect on [insert date of publication in the Federal Register].¹⁴

If any of the provisions of these amendments, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

¹² 5 U.S.C. 553(b)(3)(B).

¹³ This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are impractical, unnecessary or contrary to the public interest, a rule shall take effect at such time as the federal agency promulgating the rule determines). The amendments also do not require analysis under the Regulatory Flexibility Act. *See* 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment).

¹⁴ *See* 5 U.S.C. 553(d)(3).

IV. Paperwork Reduction Act

We do not believe the amendments appreciably alter any existing collection of information requirements or impose any new substantive recordkeeping or information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).¹⁵ Accordingly, we are not revising any burden and cost estimates in connection with these amendments.

V. Statutory Authority

The amendments contained in this release are being adopted under the authority set forth in Sections 15, 15B(a), 17(a), and 23(a) of the Exchange Act.

List of Subjects

17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

TEXT OF THE FINAL AMENDMENTS

For the reasons set out in the preamble, the Commission is amending Title 17, Chapter II of the Code of Federal Regulations as follows:

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

1. The authority citation for Part 232 continues to read in part as follows:

¹⁵ 44 U.S.C. 3501 *et seq.*

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, and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

2. Section 232.301 is revised to read as follows:

§232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: “General Information,” Version 30 (March 2018). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 46 (April 2018). Additional provisions applicable to Form N-SAR filers are set forth in the EDGAR Filer Manual, Volume III: “N-SAR Supplement,” Version 6 (January 2017). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for website viewing and printing; the address for the Filer Manual is <https://www.sec.gov/info/edgar/edmanuals.htm>. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. You can also

inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

<https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

PART 249 — FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 249 continues to read 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), unless otherwise noted.

4 Amend Form Funding Portal (referenced in Section 249.2000) by:

a. Removing from Schedule A and Schedule B “(If None: S.S. No. and Date of Birth, IRS Tax No., or IRS Employer ID No.)” and replacing it with “(If None: IRS Tax No. or IRS Employer ID No., if applicable, or if none, enter 0000000)”; and

b. Removing references to “social security number” and “date of birth” from the first sentence of Form Funding Portal Instructions, General Instructions 1.

Note: The text of Form Funding Portal does not, and the amendments will not, appear in the Code of Federal Regulations.

5. Amend Form MSD (referenced in § 249.1100) by deleting the text, “(b) Date of Birth (c) City of Birth: (d) State or Province: (e) Country:” and the surrounding text boxes from Item III of Schedule A of Form MSD.

Note: The text of Form MSD does not, and the amendments will not, appear in the Code of Federal Regulations.

6. Amend Form MA (referenced in Section 249.1300)

by:

- a. Removing Item 1.(c)(2);
- b. Revising the second sentence in Item 7.(b) of Schedule A and Item 8.(b) of Schedule B, “If not registered with the CRD, then enter the Social Security Number (“SSN”) or Foreign Identity Number; and enter the Date of Birth (“DOB”). Social security numbers, foreign identity numbers, and dates of birth will not be publicly disseminated.” to read, “If not registered with the CRD, enter 0000000.”;
- c. Revising “(If None: SSN and DOB, or Foreign ID No. and DOB)” in the “Individual CRD No.” column in Schedule A-2, Schedule B-2, Schedule A-2 of Item 4 in Schedule C, and Schedule B-2 in Item 5 of Schedule C to read, “(If none: enter 0000000)”;
- d. Removing the second, third, and fourth sub-columns entitled “SSN,” “DOB,” and “Foreign ID No.,” respectively, under the “Individual CRD No.” column in Schedule A-2, Schedule B-2, Schedule A-2 in Item 4 of Schedule C, and Schedule B-2 in Item 5 of Schedule C.
- e. Note: The text of Form MA does not, and the amendments will not, appear in the Code of Federal Regulations.

7. Amend Form MA-I (referenced in Section 249.1310)

by:

- a. Removing “Social Security No.: _____ The Social Security Number will not be included in publicly available versions of this form.” from Item 1.A .
- b. Note: The text of Form MA-I does not, and the amendments will not, appear in the Code of Federal Regulations.

8. Amend the Instructions for the Form MA Series by:
 - c. Removing “**Social Security Number**. A social security number is needed for regulatory purposes. However, the version of completed Form MA-I that will be available for viewing by the public will not show a social security number.” from Section 1 of the Specific Instructions for Certain Items in Form MA-I and replacing with “Until EDGAR has been updated to remove the field, enter 000-00-0000 in the in the Social Security Number Field when preparing for MA-I for transmission to EDGAR.”
 - d. Note: The text of Form MA Series does not, and the amendments will not, appear in the Code of Federal Regulations.

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By the Commission.

April 24, 2018

Brent J. Fields
Secretary