

# SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 232

[Release Nos. 33-9246; 34-64996; 39-2477; IC-29740]

### Adoption of Updated EDGAR Filer Manual

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to retire the offline EDGARLink tool and the associated templates; to support the electronic filing of submission form types 13H, 13H-A, 13H-Q, 13H-I, 13H-T, 13H-R, for large trader registration, and N-PX-CR, N-PX-FM, N-PX-NT, N-PX-VR and their amendments; to update submission form types N-PX and N-PX/A; to update the OMB information on Forms 3, 4, 5, and 25-NSE; to support minor validation updates for Form N-MFP submissions; and to add four new applicant types to the Form ID. The EDGAR system is scheduled to be upgraded to support this functionality on August 1, 2011.

The filer manual is also being revised to address changes previously made in EDGAR.

The revisions to the Filer Manual reflect changes within Volume I entitled EDGAR Filer Manual, Volume I: "General Information," Version 10 (August 2011), Volume II entitled EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 17 (August 2011), and Volume III entitled EDGAR Filer Manual Volume III: "N-SAR Supplement" Version 2 (August 2011). The updated manual will be incorporated by reference into the Code of Federal Regulations.

**EFFECTIVE DATE:** August 5, 2011. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of August 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** In the Division of Corporation Finance, for questions concerning Form 8-K Item 1.04, Exhibit 95, and Forms 3, 4, 5 contact Cecile Peters, Chief, Office of Information Technology, at (202) 551-3600; in the Division of Investment Management for questions regarding submission form types N-PX, N-PX/A, N-PX-CR, N-PX-FM, N-PX-NT, N-PX-VR, and Form N-MFP contact Ruth Armfield Sanders, Senior Special Counsel, Office of Legal and Disclosure, at (202) 551-6989; in the Division of Trading and Markets for questions concerning Form 13H contact Richard R. Holley III, Senior Special Counsel, at (202) 551-5614, for questions concerning addition of new applicant types contact Catherine Moore, at (202) 551-5718, and for questions concerning Submission form type 25-NSE contact Steven Kuan, at (202) 551-5624 ; in the Office of Interactive Disclosure for questions concerning US GAAP 2011 Taxonomy contact Jeffrey Naumann, Assistant Director of the Office of Interactive Disclosure, at (202) 551-5352 and in the Office of Information Technology, contact Rick Heroux, at (202) 551-8800.

**SUPPLEMENTARY INFORMATION:** We are adopting an updated EDGAR Filer Manual, Volume I, Volume II, and Volume III. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.<sup>1</sup> It also describes the requirements for filing using EDGARLink Online<sup>2</sup>, and the Online Forms/XML website.

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<sup>1</sup> We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33-6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on January 11, 2011. See Release No. 33-9169 (January 5, 2011) [76 FR 1514].

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.<sup>3</sup> Filers may consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.<sup>4</sup>

The EDGAR system will be upgraded to Release 11.2 on August 1, 2011 and will retire the offline EDGARLink tool and the associated templates. As communicated in a notice posted on April 26, 2011 on the Information for EDGAR Filers web page (<http://www.sec.gov/info/edgar.shtml>), starting August 1, 2011, filings created by the offline tool EDGARLink client or those constructed by filers according to the EDGAR XFDL Technical Specification will no longer be accepted by EDGAR. The EDGARLink Online Application, available from the EDGAR Filing Website (<https://www.edgarfiling.sec.gov/>), must be used to file all submissions previously supported by the offline EDGARLink tool. Those filers that use the EDGAR XFDL Technical Specification to create filer-constructed submissions without the use of the EDGARLink tool, and wish to do the same outside of the EDGARLink Online Application, can do so by following the EDGARLink Online XML Technical Specification, available from the Information for EDGAR Filers web page.

New submission form types 13H, 13H-A, 13H-Q, 13H-I, 13H-T, and 13H-R will be added to the EDGAR Filing Website and will be available for use if the Commission adopts a final rule associated with Proposing Release No.34-61908. If adopted by the Commission, the submission

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<sup>2</sup> This is the filer assistance software we provide filers filing on the EDGAR system.

<sup>3</sup> See Rule 301 of Regulation S-T (17 CFR 232.301).

<sup>4</sup> See Release No. 33-9169 (January 5, 2011) [76 FR 1514] in which we implemented EDGAR Release 10.4. For additional history of Filer Manual rules, please see the cites therein.

form types will be accessible by selecting a “File 13H” link on the EDGAR Filing Website. These non-public submissions will not be disseminated by EDGAR.

The Commission has proposed rulemaking that would amend Form N-PX so that institutional investment managers would be able to use Form N-PX to report their proxy votes on certain executive compensation matters. For institutional investment managers, new submission form types N-PX-CR, N-PX-NT, N-PX-VR and their amendments will be added on EDGARLink Online for use if the proposed amendments are adopted.

The Commission has also proposed rulemaking that would amend Form N-PX to add a new submission form type N-PX-FM for use by registered management investment companies that include proxy votes of institutional investment managers. New submission form type N-PX-FM will be added to EDGARLink Online for use if the proposed amendments are adopted. Additionally, existing EDGARLink Online submission form types N-PX and N-PX/A, will no longer support co-registrants and can only be filed by registered management investment companies. These submission types will be available to filers on November 1, 2011, or later, pending additional Commission rulemaking related to the amendments to Form N-PX.

The validation rules for submission form type N-MFP and its variants have been updated to require “Item 5” (Name of Administrator) and “Item 6” (Name of Transfer Agent) and to allow “Report Date” to be the last business day of the month or any calendar day of the month after the last business day of the month. Previously, the “Report Date” had to be the last business day of the month. In addition, Form N-MFP submissions will be disseminated 60 calendar days after the last calendar day of the Report Date month. Previously, they were disseminated 60 calendar days after the Report Date listed in the submission.

The OMB expiration date on Forms 3, 4, 5, and 25-NSE will be updated. Forms 3 and 4 will be updated to November 30, 2011; Form 5 will be updated to January 31, 2014; and Form 25-NSE will be updated to January 31, 2012.

The Point-to-Point Protocol transmission method, used to connect to the EDGAR Filing Website using direct dial lines via modem in case internet is not available, will be terminated. Filers will use the EDGAR Filing Website, via the internet, to submit filings in EDGAR.

Four additional applicant types will be available for the filers to select when completing the Form ID to apply for EDGAR access codes. These additional applicant types are Institutional Investment Manager (Form 13F Filer), Investment Company (or insurance product separate account) or Business Development Company, Large Trader, and Non-Investment Company Applicant under the 1940 Act.

The filer manual is also being revised to address software changes made previously in EDGAR. The updates include addition of new 8-K Item 1.04 (Mine Safety – Reporting of Shutdowns and Patterns of Violations) and addition of new Exhibit 95 (Mine Safety Disclosure Exhibit) for submission form types 10-K, 10-K/A, 10-KT, 10-KT/A, 10-Q, 10-Q/A, 10-QT, 10-QT/A, 20-F, 20-F/A, 40-F, and 40-F/A5. The 8-K Item and the Exhibit 95 will be available for use if the Commission adopts a final rule associated with Proposing Release No.34-63548.

Filers may upload the required notarized authentication document in PDF when completing the process to “Convert Paper Only Filer to Electronic Filer” from the EDGAR Filer Management Website (<https://www.filer management.edgarfiling.sec.gov>).

Because the Commission establishes a company record on EDGAR for approved Broker-Dealer Registration Applications and creates a central index key (CIK) for that company, Broker-dealers, who may be required to file certain forms electronically on EDGAR, should complete the

process to “Convert Paper Only Filer to Electronic Filer “, from the EDGAR Filer Management website, instead of completing the Form ID (see EDGAR Filer Manual, Volume I, General Information for details). This is because the Form ID should be completed by those for which a CIK has not already been established on EDGAR. Once a Broker-Dealer has completed this process and received the necessary access codes, they will be able to file electronically on EDGAR.

In addition, EDGAR was previously updated to support the US GAAP 2011 Taxonomy. And, Appendix G has been revised to give clearer guidance to Form 13F filers to facilitate the correct preparation, assembling, and submission of these filings.

Along with adoption of the Filer Manual, we are amending Rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of today’s revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE, Room 1543, Washington DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. We will post electronic format copies on the Commission’s website; the address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).<sup>6</sup> It follows that the requirements of the Regulatory Flexibility Act<sup>7</sup> do not apply.

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<sup>6</sup> 5 U.S.C. 553(b).

<sup>7</sup> 5 U.S.C. 601- 612.

The effective date for the updated Filer Manual and the rule amendments is [Insert date of publication in the Federal Register]. In accordance with the APA,<sup>8</sup> we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 11.2 is scheduled to become available on August 1, 2011. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the system upgrade.

#### Statutory Basis

We are adopting the amendments to Regulation S-T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,<sup>9</sup> Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,<sup>10</sup> Section 319 of the Trust Indenture Act of 1939,<sup>11</sup> and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.<sup>12</sup>

#### List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

#### TEXT OF THE AMENDMENT

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

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<sup>8</sup> 5 U.S.C. 553(d)(3).

<sup>9</sup> 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

<sup>10</sup> 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w, and 78ll.

<sup>11</sup> 15 U.S.C. 77sss.

<sup>12</sup> 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

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

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

Authority: 15 U.S.C. 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.

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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 out 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 10 (August 2011). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 17 (August 2011). Additional provisions applicable to Form N-SAR filers are set forth in the EDGAR Filer Manual, Volume III: “N-SAR Supplement,” Version 2 (August 2011). 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. 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, Room 1543, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Electronic copies are available on the Commission’s website. The address for the Filer Manual is

<http://www.sec.gov/info/edgar.shtml>. 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:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

By the Commission.

Elizabeth M. Murphy  
Secretary

August 01, 2011