



SEC Releases Report on Regulation S-K

The SEC staff recently issued a report to Congress, as required by the Jumpstart Our Business Startups (JOBS) Act, about its review of the disclosure requirements in Regulation S-K.¹

Key Facts

The SEC staff reviewed how Regulation S-K disclosure requirements can be updated to modernize and simplify the securities registration process and reduce costs and disclosure burdens for emerging growth companies. The SEC staff:

- Conducted a detailed study of the disclosure items in Regulation S-K, the SEC's industry guides, and related rules and forms; and
- Recommended that a plan be developed to systematically review the disclosure requirements in the SEC's rules and forms, including Regulation S-K and Regulation S-X, and related rules covering the presentation and delivery of information to investors.

Key Impact

While the SEC staff report does not immediately impact public company reporting, it sets the stage for a more detailed reconsideration of specific reporting requirements that may have a significant future impact on all public companies, not just emerging growth companies.

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¹ Report on Review of Disclosure Requirements in Regulation S-K, As Required by Section 108 of the Jumpstart Our Business Startups Act, December 2013, available at <http://www.sec.gov/news/studies/2013/reg-sk-disclosure-requirements-review.pdf>

Staff Report to Congress

The report includes a detailed history of the SEC's integrated disclosure system and Regulation S-K, and provides an overview of prior SEC initiatives to review and modernize disclosure requirements. The SEC staff performed a detailed review of each disclosure item in Regulation S-K, the industry guides, and related rules and forms. The report also summarizes input received from commentators on Section 108 of the JOBS Act.

The mandate from Congress was to focus on emerging growth companies; however, the SEC staff acknowledged that simplifications, modernizations, revisions, or eliminations may be suitable for all companies. Regulation S-K disclosures include descriptions of a company's business and legal proceedings, financial information (e.g., management's discussion and analysis, selected financial data, market risk, and internal control over financial reporting), industry guides, and specific securities offering registration information.

Recommendations

The SEC staff recommended developing a plan to systematically review the disclosure requirements in its rules and forms, including Regulation S-K and Regulation S-X, and the related rules concerning the presentation and delivery of information to investors and the marketplace. The SEC staff believes that further information gathering and review is warranted before making recommendations about disclosure requirements. The SEC staff requested input from market participants about:

- Disclosure that is material to an investment or voting decision;
- Ways to streamline and simplify disclosure requirements;
- Ways to enhance presentation and communication of information; and
- How technology can play a role in addressing these issues.

The SEC staff identified two alternative frameworks for structuring its review. The first is a comprehensive approach in which all reporting requirements and presentation and delivery issues would be addressed. The second is a targeted approach where the SEC staff would perform an in-depth analysis of each topic. The SEC staff recommended the comprehensive approach because it would achieve the dual goals of streamlining requirements for companies and identifying useful and material information for investors.

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