

Securities Regulation and Compliance Alert

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Annual Meeting Proxy Statement Filing Reminders

Following are a few points to consider when preparing proxy statement materials for filing with the U.S. Securities and Exchange Commission (SEC) in connection with annual shareholder meetings.

Ensure required graphic information is in searchable form. Companies that choose to present required information in proxy materials in graphic form, such as in charts or graphs, need to ensure that the information is included in the filing in searchable text or in a searchable table. Based on recently issued SEC staff guidance, the searchable information can be included together with the related graphic information in the filing itself or in an appendix to the filing. Any additional information that a company chooses to include in the filing and that is not required to be disclosed may be presented graphically without a separate text-searchable presentation.

The SEC staff issued this new guidance, a copy of which is available [here](#), to encourage companies to use graphics or images to make information in SEC filings more accessible to readers and is a product of the SEC Division of Corporation Finance's overall effort to improve the effectiveness of the disclosure provided by companies.

Furnish a copy of the annual report to shareholders to the SEC. Exchange Act Rule 14a-3(c) requires that companies mail seven copies of their annual reports to shareholders to the SEC no later than the date on which such report is first sent or given to security holders. Regulation S-T permits companies to satisfy the Rule 14a-3(c) requirement by furnishing the annual report to the SEC in electronic format via EDGAR or in paper form. In addition, if a company elects to have its Form 10-K serve as its annual report, then there are no other mailing or filing requirements. Most companies that compile an annual report other than the Form 10-K choose to mail the seven paper copies of the report to the SEC.

Companies should confirm that the annual report has been either mailed to the SEC or furnished via EDGAR. If the annual report is mailed to the SEC, confirmation of the mailing should be retained in the company's records. Companies should note that if the annual report is mailed to the SEC, the report will not be available on EDGAR. In the past, the SEC would scan a copy of annual report received by mail and post it with the company's other EDGAR filings. Last year, however, the SEC staff announced that "[i]n an effort to reduce costs and simplify administrative processes, and in light of the availability of these annual reports on other web sites, the staff has determined to discontinue this practice." A copy of the staff's announcement is available [here](#).

File the proxy card, Notice of Internet Availability of Proxy Materials and other proxy soliciting materials with the SEC. In addition to filing the proxy statement and furnishing the annual report to shareholders, companies should confirm that a copy of the proxy card, the required Notice of Internet Availability of Proxy Materials and any other written communication materials used in connection with the annual meeting solicitation are filed with the SEC. Information included with the annual report, such as a letter to shareholders, is not considered soliciting materials or required to be filed with the SEC. Rule 14a-3(c) specifically notes that the annual report to the SEC, unless a registrant specifically chooses otherwise, is not deemed to be “soliciting material” or to be “filed” with the SEC or subject to Regulation 14A or the liabilities of Exchange Act Section 18.

Post the proxy materials and annual report on a publicly available website. All proxy soliciting materials, including the proxy statement, proxy card and the annual report to shareholders, must be made publicly available and free of charge on the Internet on a site other than the SEC’s EDGAR website. Those materials must be posted on or before the time that the notice is sent to the security holders and must remain available online until the conclusion of the annual meeting of security holders.

File Form 8-K to announce voting results. Companies are obligated to announce the matters that were voted on at the annual meeting and the number of votes cast for, against or withheld for each matter, as required by Item 5.07 of Form 8-K. This Form 8-K filing is required within four business days from the date the annual meeting ended.