

# SEC Reporting & 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.

**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, 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. Exchange Act 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 materials,” 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.

**Furnish a copy of the annual report to shareholders to the SEC.** 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. If a company elects to have its Form 10-K serve as its annual report, there are no other filing requirements. Companies that compile an annual report other than the Form 10-K typically 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 an annual report received by mail and post it with

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the company's other EDGAR filings. In 2014, 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](#).

**Furnish a copy of the proxy materials to the NYSE.** Companies with securities listed on the New York Stock Exchange are required to submit three copies of all definitive proxy materials, including the proxy card, to Market Watch & Proxy Compliance,

New York Stock Exchange, 11 Wall Street – 5th Floor Mailroom, New York, NY 10005. For companies with securities listed on Nasdaq, filing the definitive proxy statement on EDGAR fulfills the Nasdaq notification requirement.

**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.

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If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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