

Heads Up

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SEC Publishes Final Rule Mandating Use of “Interactive Data”

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The SEC recently published a [final rule](#)¹ that requires most registrants to provide XBRL²-tagged financial reports and schedules (an “interactive data file”)³ as an exhibit to certain periodic filings, registration statements, and transition reports that contain financial statements. The requirement is phased in over three years, with the largest registrants having to provide an interactive data file in certain filings for periods ending on or after June 15, 2009.

The SEC adopted the final rule to improve the ability of financial statement users to access and analyze financial data. The final rule indicates that “[t]hrough interactive data, what is currently static, text-based information can be dynamically searched and analyzed, facilitating the comparison of financial and business performance across companies, reporting periods and industries.”

Key provisions of the final rule are discussed below.

Timeline for the Phase-In

To give registrants more time to prepare for adoption, the final rule pushes back the phase-in dates from those originally proposed. Under the final rule, a registrant using U.S. GAAP, with a worldwide public float⁴ above \$5 billion,⁵ will first be required to submit an interactive data file with its quarterly report on Form 10-Q or annual report on Form 20-F or Form 40-F (as applicable), containing financial statements for a fiscal period ending on or after June 15, 2009. This means a calendar-year-end entity that files on domestic forms and whose float exceeds the \$5 billion threshold will first have to provide an interactive data file with its June 30, 2009, Form 10-Q filing. A domestic registrant with a June 30 fiscal year-end would have to provide an interactive data file in its September 30, 2009, Form 10-Q filing if its float exceeds the \$5 billion threshold.

¹ SEC Final Rule, “Interactive Data to Improve Financial Reporting.” As of the date of this newsletter, the final rule has not yet been published in the *Federal Register*, but it has been posted on the SEC’s Web site.

² XBRL (eXtensible Business Reporting Language) is an electronic format that makes a registrant’s financial data interactive. See Deloitte’s [June 5, 2008, Heads Up](#) for more information about XBRL.

³ The final rule defines an “interactive data file” as “the machine-readable computer code that presents information in [XBRL] electronic format pursuant to §232.405” of SEC Regulation S-T.

⁴ Float refers to the aggregate worldwide market value of the voting and nonvoting common equity held by nonaffiliates.

⁵ The final rule clarifies that the measurement date is “as of the end of the second fiscal quarter of their most recently completed fiscal year” rather than “the end of the most recently completed second fiscal quarter,” as was indicated in the proposed rule.

The following table summarizes the timing for initial submission of interactive data:

Phase-In Group	Interactive data file required to be submitted for first quarterly report on Form 10-Q or annual report on Forms 20-F or 40-F containing financial statements for a fiscal period ending on or after:
Domestic and foreign large accelerated filers using U.S. GAAP that have a worldwide public float above \$5 billion as of the end of the second fiscal quarter of their most recently completed fiscal year.	June 15, 2009.
All other domestic and foreign large accelerated filers using U.S. GAAP.	June 15, 2010.
Most other registrants, ⁶ including: <ul style="list-style-type: none"> • All remaining registrants using U.S. GAAP. • Foreign private issuers using IFRSs as issued by the IASB.⁷ 	June 15, 2011.

Information to Be Tagged

The interactive data file will include the following XBRL-tagged information (interactive data are required for all periods included in a registrant's financial statements):

- Financial statements (each amount on the face of the financial statements will be tagged).
- Notes to the financial statements:
 - Each footnote will be individually tagged as a single block of text in the first year of adoption.
 - In subsequent years, an entity also must tag:
 - Each significant accounting policy in the significant accounting policies footnote as a single block of text.
 - Each table in each footnote as a single block of text.
 - Individual amounts (e.g., monetary value, percentage, and number) in each footnote.
- Financial statement schedules (each schedule will be individually tagged as a single block of text in the first year of adoption; detailed tagging of individual amounts within each schedule also will be required in subsequent years).

In a departure from the proposed rule, the final rule permits, but does not require, registrants to tag each qualitative (narrative) disclosure.⁸ The SEC believes that "by permitting filers to choose whether and which elements to tag in the narrative disclosures of the footnotes and schedules, they are granted a degree of flexibility and relieved of the uncertainty as to which narrative elements to tag, some of which are placed into footnotes and schedules voluntarily."

The final rule also states that tagging of MD&A disclosures is "neither required nor permitted" and that the SEC will "continue to consider, however, the advisability of permissible optional or required interactive data for disclosures made outside a set of financial statements prepared in accordance with U.S. GAAP."

A registrant has a 30-day grace period for its (1) initial interactive data submission and (2) initial submission that includes detailed tagging of the notes to the financial statements and financial statement schedules (in year two).

⁶ The final rule does not apply to registered investment companies, "business development companies," or any entity that prepares financial statements in accordance with Article 6 of SEC Regulation S-X.

⁷ The final rule does not require or permit foreign private issuers that use a variation of IFRSs as issued by the IASB to furnish interactive data.

⁸ The U.S. GAAP taxonomy currently contains tags designed to capture all narrative and numerical disclosure items required by U.S. GAAP. An entity also has the ability to create new tags (extensions) for other numerical or narrative disclosures unique to that entity.

In a departure from the proposed rule, the final rule permits, but does not require, registrants to tag each qualitative (narrative) disclosure.

Interactive data submitted to the SEC must also be posted on a registrant's Web site.

Web Site Requirement

Interactive data submitted to the SEC must also be posted on a registrant's Web site, if it maintains a Web site, no later than the end of the calendar day that the information is filed or required to be filed with the SEC (whichever is earlier), and must remain posted for at least 12 months. The SEC believes that making this information available on registrants' Web sites will encourage widespread dissemination of interactive data to the public.

Affected Filings

Once a registrant becomes subject to the final rule (i.e., after submission of its initial filing that contains an interactive data file), it is required to provide an interactive data file as an exhibit to the following filings:

- Periodic reports on Forms 10-Q, 10-K, or 20-F.
- Annual reports on Form 40-F.⁹
- A Form 8-K or Form 6-K containing audited annual financial statements that are a revised version of financial statements that were previously filed with the SEC and reflect certain subsequent events (e.g., a discontinued operation, a change in reportable segment, or a change in accounting principle), or a Form 6-K containing current interim financial statements included pursuant to the nine-month updating requirement.
- A registration statement under the Securities Act of 1933 ("Securities Act") that contains a price or price range and that contains financial statements.¹⁰ (Note that an interactive data file would not be required for an initial public offering.)

The final rule will not, however, require an interactive data submission for other financial statements that may be provided pursuant to SEC Regulation S-X, Rules 3.05,¹¹ 3.09,¹² 3.14,¹³ and 3-16.¹⁴

What Doesn't Change?

The final rule notes that the interactive data file should not contain more or less information than that included in the noninteractive sections of the filing — the new interactive data rules are meant to be disclosure-neutral. An entity will continue to file its financial statements in the traditional format (i.e., ASCII or HTML) and use the EDGAR system to submit its filings.

Other Key Considerations

Liability Considerations

The final rule provides for reduced registrant liability associated with any interactive data file submitted within 24 months (exclusive of any grace period) after the registrant first was required to submit interactive data, but no later than October 31, 2014. After the 24-month period, an interactive data file will be subject to the same liability provisions as the rest of the filing.

During the 24-month period, the interactive data file will be:

- Deemed to be furnished, not filed, for purposes of the liability provisions of the Securities Act and the Securities Exchange Act of 1934 ("Exchange Act").

⁹ Form 40-F may be filed by a Canadian company. Like Form 20-F, it may be used as an annual report or an Exchange Act registration statement.

¹⁰ Interactive data is not required to be furnished in registration statements that incorporate financial statements only by reference, such as Form S-3.

¹¹ SEC Regulation S-X, Rule 3.05, "Financial Statements of Businesses Acquired or to Be Acquired."

¹² SEC Regulation S-X, Rule 3.09, "Separate Financial Statements of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons."

¹³ SEC Regulation S-X, Rule 3.14, "Special Instructions for Real Estate Operations to Be Acquired."

¹⁴ SEC Regulation S-X, Rule 3.16, "Financial Statements of Affiliates Whose Securities Collateralize an Issue Registered or Being Registered."

- Subject to specified anti-fraud provisions, unless a failure to satisfy the tagging requirements occurred despite “good faith” efforts by the registrant, and the failure was corrected promptly¹⁵ after being discovered.

The interactive data file furnished with a registrant’s filings is also excluded from the officer certification requirements under the Exchange Act.

No Audit or Assurance Requirement

The final rule does not include any type of audit or assurance requirement for an interactive data file provided as an exhibit to a registrant’s periodic reports or registration statements. An entity, however, is not prohibited from voluntarily obtaining some form of auditor assurance on the interactive data file.

Potential Impact on a Registrant’s Timely Filer Status

Under the final rule, a registrant that fails to submit its interactive data file on the required due date will be deemed not current with its Exchange Act reports and, consequently, lose eligibility to use short Forms S-3, F-3, or S-8 to access the markets. The rule also clarifies that such a registrant will be deemed to not have “adequate current public information” for purposes of Rule 144. However, the registrant would be deemed current again as soon as it furnished the required interactive data.

Voluntary Submissions

A registrant may opt to submit an interactive data file before being formally phased in under the final rule. Such a registrant must comply with the provisions of the final rule; only investment companies will be permitted to continue to participate in the voluntary filer program that existed before the final rule. The final rule states, however, that “[s]uch a company may also tag footnotes individually as a block of text until required to tag the detailed quantitative disclosures within the footnotes and schedules, but otherwise must follow the same requirements as those mandated and can only use a grace period for its initial submission and the initial detail-tagged-footnote submission, whether submitted voluntarily or as required by the amendments.” Registrants may cease voluntary submissions at any time.

Mutual Fund Rule

The SEC voted on December 17, 2008, to issue a final rule that will require mutual funds to provide interactive data for risk/return summary information in a fund’s Form N-1A filing containing (1) an initial registration statement or (2) a posteffective amendment that is an annual update to a registration statement that becomes effective on January 1, 2011. The final rule has not yet been published.

A registrant may opt to submit an interactive data file before being formally phased in under the rule.

¹⁵ The final rule defines “promptly” as being “as soon as reasonably practicable under the facts and circumstances at the time.”

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