

SEC Makes More Filings on EDGAR Mandatory, Part 2

June 29, 2022

Consistent with similar recent amendments to modernize information submission and promote more efficient storage, retrieval, and analysis of filings, on June 23, 2022, the Securities and Exchange Commission (“SEC”) adopted rules and form amendments to:

- add optional reporting of a Financial Instrument Global Identifier (“FIGI”) for any security reported on Form 13F, and implement technical amendments to the form that enhance the information reported; and
- require the electronic filing or submission of:
 - o Applications for orders under the Investment Advisers Act of 1940 (“Advisers Act”) on the Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system;
 - o Confidential Treatment Requests for Form 13F filings on EDGAR; and
 - o Form ADV-NR (through the Investment Adviser Registration Depository (“IARD”) system).¹

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¹ Securities Act [Release No. 34-95148](#) (June 23, 2022).



Changes to Form 13F Filings

Under Section 13(f) of the Exchange Act, an institutional investment manager is required to file a Form 13F if the manager exercises investment discretion over accounts holding 13(f) securities² with an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100 million. The SEC is adopting changes to streamline and remove potential room for filing errors by adopting the following Form 13F changes:

- (1) requiring additional identifying filer information;
- (2) allowing the inclusion of both a securities CUSIP number and a FIGI on the Form 13F information table;³
- (3) adopting technical amendments to modernize the information reported on Form 13F, consistent with its existing eXtensible Markup Language (“XML”) structured data language (*e.g.*, requiring rounding to the nearest dollar value, rather than the nearest ten thousand dollars); and
- (4) modifying the form’s instructions on Confidential Treatment Requests to be consistent with a recent U.S. Supreme Court decision.⁴

The SEC has also adopted the requirement to file a Form 13F Confidential Treatment Request electronically through the EDGAR system as a non-public filing separate from the Form 13F to avoid inadvertent disclosure of confidential holdings. The

² Under Rule 13f-1(c), “section 13(f) securities’ shall mean equity securities of a class described in section 13(d)(1) of the Act that are admitted to trading on a national securities exchange or quoted on the automated quotation system of a registered securities association.” Only securities of a class on this list are counted in determining whether an institutional investment manager must file a report.

³ A FIGI is an open-sourced, data standard for the identification of financial instruments across asset classes, including all 13(f) securities. FIGI allows users to link various identifiers for the same security to each other, which includes mapping the FIGI of a security to its corresponding CUSIP number. *See* FN 99, Securities Act Release No. 34-95148 (June 23, 2022).

SEC will provide its decisions regarding Form 13F Confidential Treatment Requests consistent with current practice and rules.

Changes to Advisers Act Filings

The SEC now will require Form ADV-NR for non-resident general partners and managing agents to be submitted electronically through the IARD system, rather than in paper format.

In addition, temporary hardship exemptions from electronic filing will not be available for applications for orders under the Advisers Act, but continuing hardship exemptions from electronic filing still will be available.⁵ Applicants seeking orders under the Advisers Act will no longer be required to notarize verifications and statements of fact.

Transition Periods

For most of the requirements, the rules will apply after a six-month transition period following the effective date of the amendments, which will be 60 days after publication in the Federal Register. For the Form 13F requirements, the rules will become effective on January 3, 2023.

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⁴ In June 2019, the U.S. Supreme Court overturned a decision regarding the standard for determining whether information is “confidential” under Exemption 4 of the Freedom of Information Act. *See Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356 (2019). The SEC has amended the current instructions to conform to the decision.

⁵ Under Rule 201 of Regulation S-T, if a filer experiences technical difficulties when filing electronically, the filer may file in paper format no later than one business day after the date on which the filing was to be made, but the paper filing must be followed by an electronic copy within six business days.