

# SEC Makes More Filings on EDGAR Mandatory

June 15, 2022

On June 2, 2022, the SEC adopted rules and form amendments to no longer allow paper submissions<sup>1</sup> of certain reports, and instead will require the electronic submissions on the SEC's EDGAR electronic filing system. Additionally, the SEC will now require use of Inline eXtensible Business Reporting Language (Inline XBRL) for all Form 11-K financial statements so that they are machine readable, and allow for the electronic submission of certain foreign language documents.

Currently, the SEC requires electronic submissions of over 400 types of documents under Rule 101(a) of Regulation S-T. However, there are a number of documents that the SEC permits to be filed in either paper or electronic form today, and the amendments will require them to be filed electronically:

- So-called “glossy” annual reports.<sup>2, 3</sup>
- Reports submitted by foreign private issuers on Form 6-K.
- Notices of exempt solicitation and notices of exempt preliminary roll-up communications.
- Annual reports for employee benefit plans on Form 11-K.
- Notices of proposed sales of securities on Form 144 where the issuer is an Exchange Act reporting issuer.

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<sup>1</sup> Securities Act [Release Nos. 33-11070; 34-95025 \(June 2, 2022\)](#).

<sup>2</sup> The SEC also removed the requirement to forward the filer's Form 144 to the principal exchange on which the securities are admitted to trading.

<sup>3</sup> As well as deleting Rule 101(b)(1) of Regulation S-T, the amendments remove the requirement for filers to mail seven copies of the annual report sent to security holders to the SEC “solely for its information.”



- Reports filed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the European Bank for Reconstruction and Development.

### Form 144 Filing Issues

Under Rule 144, Form 144 must be “transmitted for filing concurrently” with either placing the sale order with a broker or executing the sale directly with a market maker. In the context of paper Form 144 filings, the SEC staff has interpreted concurrently as mailing the Form on the same day as the placing of a sale order or the execution of the sale.<sup>4</sup> Although the SEC has moved that time to 10 p.m. for Forms 3, 4, and 5 filed under Section 16 of the Exchange Act, and proposed to do so for Schedules 13D and 13G, the SEC has not established a specific cutoff time for Form 144. Without additional guidance, existing SEC rules on cutoff times for filings would require Form 144 to be filed no later than 5:30 p.m. on the due date. The SEC has also not outlined how these changes will be implemented in practice with regard to the “concurrent” filing requirement, but it is possible this requirement will be discussed in the upcoming EDGAR Manual version update.

Historically, Forms 144 filed in paper form have been accessible to the public, but the delay in accessibility caused by mailing and their absence from EDGAR has limited attention to these filings. Electronic submission of all Form 144 filings may bring increased, and more immediate, attention.

<sup>4</sup> See SEC Staff, Division of Corporation Finance, Compliance and Disclosure Interpretations: Securities Act Rules, Question 136.09, <https://www.sec.gov/corpfin/securities-act-rules> (last updated Mar. 4, 2011).

<sup>5</sup> The SEC currently requires paper submission of foreign documents where English translations are not available. The amendments will eliminate this requirement and replace it with a requirement to submit the documents in electronic

### Changes to Foreign Language Documents

Generally, all documents filed with the SEC must be in English. Current rules allow the paper submission of an unabridged foreign language document if an English translation or summary of that document has already been provided in an electronic filing or submission, and require the paper submission of a foreign language version of a foreign government or its political subdivision’s latest annual budget if an English translation of the budget is unavailable and such an exhibit is required by Form 18 or 18-K. Under the new rules, these documents would be required to be submitted electronically in an appropriate format that EDGAR supports, currently as PDFs.<sup>5, 6</sup>

### Transition Periods

The amendments will become effective on July 11, 2022. For most of the requirements, the rules will apply after a six-month transition period following the effective date of the amendments, on January 11, 2023. For the Form 144 and Form 11-K Inline XBRL requirements, longer transition periods are proposed:

- **Form 144:** Six months after the publication by the SEC of a revised EDGAR Filer Manual reflecting the update to electronic filing of Form 144. This is expected to occur in September, meaning that the rules would become effective in March 2023.
- **Form 11-K Inline XBRL:** Three years after the final rules are published in the Federal Register, on July 11, 2025.

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form on EDGAR. To further ease the burden of electronic submissions, the SEC has modified its EDGAR system to allow foreign characters to be accepted.

<sup>6</sup> With the elimination of paper filing for foreign language documents, Rule 306(a) of Regulation S-T will still generally require all electronic submissions to be in English, unless an English translation of the document has been previously submitted electronically.