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## **The SEC's New Exhibit Hyperlinking Requirement Comes into Effect Sept. 1, 2017**

On Sept. 1, 2017, most registrants who publicly file forms and reports with the Securities and Exchange Commission (the SEC) through its Electronic Data Gathering, Analysis and Retrieval (EDGAR) system will be required to include a hyperlink for all exhibits listed in the exhibit index. The rule and form amendments requiring the inclusion of hyperlinks in a registrant's exhibit index were adopted by the SEC on March 1, 2017, and the full text of the adopting release can be found [online](#). The amendments are intended to facilitate the ability of investors and other market participants to locate and access exhibits in registration statements and periodic reports that were originally provided in previous filings. Upon effectiveness, the rules require that hyperlinks be included for all exhibits that are "filed herewith" or "incorporated by reference" in the filing.

Currently, persons seeking to retrieve and access an exhibit filed on EDGAR that has been incorporated by reference must review the exhibit index to determine the original filing in which the exhibit was included, and then must search through the registrant's filings on the EDGAR database to locate the relevant filing. The amendments require registrants that file registration statements or periodic reports on EDGAR to include a hyperlink next to each exhibit in the filing's exhibit index using the Hypertext Markup Language (HTML) format. The new requirements are welcome changes for the broader investment community and should not cause undue burden on reporting companies.

### ***SEC Filings Subject to Hyperlinking Requirement***

The rule and form amendments apply to those forms for which exhibits are required under Item 601 of Regulation S-K as well as Forms F-10 and 20-F, but will exclude exhibits filed with Form ABS-EE and exhibits filed in the eXtensive Business Reporting Language, otherwise known as XBRL. Specifically, the forms triggering this requirement include Forms S-1, S-3, S-4, S-8, S-11, SF-1, SF-3, F-1, F-3, and F-4

under the Securities Act of 1933, as amended, and Forms 10, 10-K, 10-Q, 8-K, and 10-D under the Securities Exchange Act of 1934, as amended. The hyperlink requirement does not apply to Form 6-K used by foreign private issuers or to other forms under the multi-jurisdictional disclosure system (MJDS) used by certain Canadian issuers.

Registrants will not be required to include a hyperlink for any exhibit that is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S-T, or pursuant to Rule 311 of Regulation S-T.

### ***Effective Period Delayed for Non-Accelerated Filers and Smaller Reporting Companies***

Large accelerated filers and accelerated filers must comply with the hyperlinking requirements for filings submitted on or after Sept. 1, 2017. Non-accelerated filers and smaller reporting companies that submit filings in the text-based American Standard Code for Information Interchange are not required to comply with the amended rules until Sept. 1, 2018, although the SEC's adopting release explicitly encourages early compliance.

### ***Coordination and Planning***

A registrant's EDGAR filing agent or software provider can assist the registrant in determining the mechanics to implement the hyperlinks in an exhibit index in a format acceptable under the SEC rules. It is important for a registrant to coordinate and review with their EDGAR service agents the costs and fees associated with hyperlinking the exhibits. Registrants should consult with their service providers, including their legal counsel, for assistance in reviewing the registrant's prior exhibit indexes in order to identify the referenced exhibits that will require the hyperlink. Advance planning with legal counsel and internal compliance teams well ahead of filing dates can help to avoid last-minute delays.

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