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# SEC Filings Must Include Hyperlinks to Exhibits and Be in HTML Format

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New rules of the U.S. Securities and Exchange Commission (SEC) that require exhibits to be hyperlinked in most SEC filings became effective on September 1, 2017. Under the new rules, registrants that are filing a registration statement or current report that is subject to the exhibit requirements under section 601 of Regulation S-K or that are filing a Form F-10 or 20-F must insert a hyperlink to each exhibit listed in the exhibit index of such filing (whether the exhibit is filed with the same registration statement or current report or incorporated therein by reference to a previous filing). The final rules do not require Canadian issuers to include hyperlinks to exhibits in any multijurisdictional disclosure system (MJDS) form filed with the SEC or any Form 6-K furnished to the SEC. The final rules also require all filings covered by the rules to be in the HTML format to support hyperlinks.

## Background

When filing a registration statement or current report, an SEC registrant may incorporate by reference a document that is listed in the exhibit index of such registration statement or current report by referring to a previously filed registration statement or current report that includes the document incorporated by reference. This eliminates the need for SEC filers to refile the same exhibit again in a subsequently filed registration statement or current report. However, without a hyperlink, the process of seeking and retrieving an exhibit that is incorporated by reference to a previous filing is both time-consuming and cumbersome because the user needs to review the exhibit index to determine which previous filing included the exhibit and then locate that filing to access the exhibit. EDGAR users should be able to access exhibits in SEC filings quickly with hyperlinks.

## Scope of the Final Rules

The final rules apply to nearly all forms that are required to include exhibits under item 601 of Regulation S-K,<sup>1</sup> specifically Forms S-1, S-3, S-4, S-8, S-11, F-1, F-3, F-4, SF-1 and SF-3 under the *Securities Act of 1933*, as amended, and Forms 10, 10-K, 10-Q, 8-K and 10-D under the *Exchange Act of 1934*, as amended, and make corresponding revisions to Form F-10 and Form 20-F. In a change from the proposed rules, an active hyperlink to each exhibit is required to be inserted in an initial registration statement filed with the SEC as well as each subsequent pre-effective amendment filed with the SEC (whereas the proposed rules only required the final, effective amendment to include hyperlinks). The final rules do not apply to Form 6-K, Form 40-F or to other MJDS forms (such as Forms F-7, F-8 and F-80). Additionally, because proxy statements are not required to include exhibits, the new rules do not apply to them.

Prior to the final rules, filers were required to submit electronic filings to the SEC using the EDGAR system in either ASCII format or HTML format. HTML has features that allow hyperlinks that link to another place in the same document or to a separate document. ASCII cannot support functional hyperlinks. As a result, the final rules also require all filings covered by the rules to be in HTML format.

## Effective Dates

As mentioned, the final rules became effective on September 1, 2017, which was also the compliance date for most SEC registrants. However, non-accelerated filers and smaller reporting companies that submit filings in ASCII format have until September 1, 2018 to begin to comply with the rules (until then these filers may continue to file registration statements and reports in ASCII format without hyperlinks to the exhibits).

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<sup>1</sup>Exhibits that are excluded from the rules include XBRL exhibits, exhibits filed on paper under temporary or continuing hardship exemptions and exhibits incorporated by reference that were filed on paper prior to the time that electronic filing on EDGAR became mandatory.

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