

SEC to require electronic filing of Form 144 and glossy annual reports

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New rules will require electronic filing of forms on EDGAR that are currently permitted to be filed in a paper format.

New [rule changes](#) will require companies, including foreign private issuers, to submit certain documents on EDGAR, including Forms 144, “glossy” annual reports, and Forms 6-K. The changes will become effective 30 days after publication in the Federal Register, but will be subject to the transition periods detailed below.

Glossy annual reports

For domestic companies, annual reports must precede or accompany proxy statements and constitute soliciting materials. Current SEC staff guidance allows a company to post an electronic version of its annual report to its corporate website. The new rules will require companies to furnish their annual reports electronically on EDGAR in a PDF format not later than the date on which the report is first sent or given to shareholders. The PDF format cannot be reformatted, resized, or otherwise redesigned from the original format. The submission is not deemed “filed” unless the company explicitly incorporates the report by reference.

Form 144

Affiliates of a company who sell their stock into the U.S. public markets typically rely on Rule 144, which imposes a number of requirements including the filing of a Form 144. All Forms 144 for the sale of securities of reporting companies will be required to be filed electronically, rather than through a paper filing. Form 144 will be an online fillable document, similar to other fillable forms that are currently available to file other forms on EDGAR, such as Forms D, 3, 4, and 5, and will delete certain personally identifiable information in the form. The rules will also eliminate the requirement that an affiliate send one copy of the Form 144 notice to the principal exchange on which the restricted securities are admitted to trading. The new rules do not apply to Form 144 filings relating to the sale of non-reporting companies; as a result, affiliates of non-reporting companies relying on Rule 144 will continue to be required to report their sales of those securities on a paper form of Form 144.

For foreign private issuers who are not subject to Section 16 reporting, insider sales have typically not been reported on EDGAR, as insiders need not file Forms 3, 4 and 5. Going forward, Forms 144 for insiders will be filed on EDGAR and will likely achieve more immediate public coverage.

Foreign language documents

As a general matter, all SEC filings must be in English; any foreign language document required to be filed must be translated or summarized in English and submitted electronically. The current rules permit the paper submission of an unabridged foreign language document if an English translation or summary of that document has already been provided electronically, and require the paper submission of a foreign language version of a foreign government's latest annual

budget if an English translation is unavailable. The new rules will require that both of these foreign language documents be submitted electronically as PDFs.

Other documents

The new rules will also require the electronic submission of Forms 6-K; notices of exempt solicitations and exempt preliminary roll-up communications; annual reports for employee benefit plans on Form 11-K; periodic reports filed by development banks; filings made pursuant to Section 33 of the Investment Company Act of 1940; and certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1-3 that a security has been approved by an exchange for listing and registration. The new rules will also mandate the use of Inline eXtensible Business Reporting Language (“Inline XBRL”) for the filing of the financial statements and accompanying schedules to the financial statements required by Form 11-K.

Transition periods

The rule changes will become effective 30 days after publication in the Federal Register, and are subject to the following transition periods:

- **Six months after the effective date:** for glossy annual reports; notices of exempt solicitations and exempt preliminary roll-up communications; filings on Form 6-K; annual reports for employee benefit plans on Form 11-K; and periodic reports filed by development banks.
- **Six months after the date of publication in the Federal Register of the updates to Form 144** (expected to be in Fall 2022): for Form 144 filings.
- **Three years after the effective date:** to submit the financial statements and accompanying notes to the financial statements required by Form 11-K in Inline XBRL.

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