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Ten Things to Know About the SEC's Rules on the Form 10-K Summary

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1. New Item 16 in the Form 10-K would expressly allow issuers to do something that is already permissible – provide a summary in the Form 10-K.
2. Each summary topic must be hyperlinked (a footnote or cross-reference is not sufficient) to the related detailed disclosure in the Form 10-K.
3. The only specific requirements are that the summary must be brief and must present the information fairly and accurately.
4. There is no prescribed length to the summary, no requirement as to what should be covered (issuers can decide which 10-K items to include) or even where the summary must appear in the Form 10-K.
5. The detailed disclosure that is hyperlinked in the summary can be in the Form 10-K itself or from an exhibit, so long as the disclosure is in the Form 10-K at the time of filing.
6. If the hyperlink refers to an exhibit, the link must be to the discussion in the exhibit.
7. The rule was promulgated in response to a specific requirement under the FAST Act.
8. The rule is effective as of yesterday, when it was published in the *Federal Register*.
9. The SEC is accepting comments on the rule for the next 30 days, including whether a summary should be mandatory and whether there should be specific requirements.
10. The SEC indicates that since few issuers currently provide a summary, this rule is unlikely to have much of an impact. The economic analysis is based on an assumption that 10% of issuers will provide a summary.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu
+1 212 450 4908
ning.chiu@davispolk.com