

SEC to Propose Rules to Eliminate Duplicative and Redundant Disclosure

July 13, 2016 | Client Update | 2-minute read

At an SEC open meeting today, the Staff of the SEC recommended to the Commission what Chair White characterized as part of its “modest but important work” toward the disclosure effectiveness project.

This post is based solely on the remarks made at the open meeting. The SEC has not yet issued a press release or the proposal. Commissioner Stein agreed with the objective of the proposal but criticized the Staff for the proposal’s 500-page length and “hyper-technical nature,” noting her concern that this means the proposal is not accessible to the ordinary public and would therefore limit the nature and type of comments. In her view, the proposal is not written in plain English for the most part. She made clear that her “yes” vote is made “begrudgingly.”

The proposal will target redundant, duplicative, overlapping or simply outdated or superseded requirements. Redundant or duplicative disclosure are those that require substantially the same information as US GAAP, IFRS or other SEC disclosure requirements. Generally, the Staff will recommend deleting those requirements.

The Staff characterized overlapping requirements as those that are not necessarily the same as other requirements. The recommendation for overlapping requirements will be any of the following: (a) delete those that convey reasonably similar information or that encompass the same information, or require only incremental additional information; (b) integrate the multiple requirements; or (c) solicit comment to decide whether to retain, modify, or eliminate overlapping requirements or refer the disclosure to FASB for consideration.

The Staff noted that in some cases streamlining overlapping requirements would relocate disclosure and could affect internal audit, the safe harbor notations and SOX audit procedures. Some overlapping requirements have bright-line thresholds and others do not.

Outdated requirements are also targeted, meaning those requirements that have become obsolete over time or due to changes in business, regulatory or technology environments. The Staff will propose to amend those requirements, such as proposing to add a company ticker and not having the historical market price.

Finally, superseded requirements are those that are inconsistent with recently updated SEC or US GAAP requirements or legislation. The Staff will propose to conform to update those requirements.

Chair White indicated that the proposal required intensive Staff work to comprehensively review the SEC disclosure requirements. While the recent SEC concept release on Regulation S-K is a key foundation to the disclosure effectiveness project, the Staff has continued to identify and address discrete areas where disclosure can continue to be modified, including the recent proposal regarding mining disclosure requirements and the Regulation S-X release.

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

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.