

Snapshot

SEC proposes to modernize Regulation S-K disclosures

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The SEC issued a [Proposed Rule, Modernization of Regulation S-K Items 101, 103, and 105](#), which would update the description of business, legal proceedings, and risk factor disclosures. The proposed amendments to Item 101, *Description of business*, and Item 105, *Risk factors*, emphasize a principles-based approach, whereas the proposed amendments to Item 103, *Legal proceedings*, remain more prescriptive.

The proposal, which is part of the SEC's disclosure effectiveness initiative, is intended to update outdated requirements to improve disclosures for investors and to simplify compliance for registrants.

Description of business

S-K Item 101(a) currently requires disclosure of general developments of the business during the past five years and includes certain prescriptive disclosure items. The proposed amendments would eliminate the existing timeframe and provide a nonexclusive list of the types of items a registrant might need to disclose. Such disclosure would be required only to the extent that an item is material to an understanding of the general development of the registrant's business.

For filings after a registrant's initial registration statement, the proposal would allow a registrant to provide only an update on material developments in the current reporting period, with a hyperlink to the registrant's prior filings for additional historical context.

S-K Item 101(c) currently requires a narrative description of a registrant's business organized by reportable segment and includes 12 specific disclosure topics. The proposed revisions would allow a registrant

the flexibility to tailor disclosures to its specific circumstances.

Legal proceedings

S-K Item 103 currently requires disclosure of any material pending legal proceedings. To reduce duplicative disclosures, the proposed amendments would allow a registrant to use hyperlinks or cross-references to legal proceeding disclosures located elsewhere in the document. The proposed amendments would also increase the threshold to \$300,000 for the disclosure of environmental proceedings to which the government is a party.

Risk factors

S-K Item 105 currently requires disclosure of significant factors that make an investment in a registrant or offering risky. The proposed changes are intended to address the perceived lengthy and generic nature of risk factor disclosures by (1) requiring a summary risk factor disclosure if the section exceeds 15 pages, and (2) replacing the requirement to disclose the "most significant" factors with "material" factors. Further, the proposal would require the risk factors to be organized under relevant headings and would require any risk factor that may generally apply to an investment in securities to be disclosed at the end of the section under a separate caption.

Comment due date

The comment period ends 60 days after the Proposed Rule is published in the *Federal Register*.

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