

# SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 232

[Release Nos. 33-8656; 34-53186; 35-28081; 39-2441; IC-27219]

RIN 3235-AG96

### Adoption of Updated EDGAR Filer Manual

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to support the amended rules and forms adopted by the Commission requiring that certain open-end management investment companies and insurance company separate accounts identify in their EDGAR submissions information relating to their investment company type, series and classes (or contracts, in the case of separate accounts), and ticker symbols. Revisions are also being made to support the final rule requiring that Form 25-NSE be filed electronically. In addition, revisions are being made to revoke submission types based on the Public Utility Holding Company Act of 1935 which was repealed in the enactment of the Energy Policy Act of 2005. Finally, revisions are being made to complete the removal of the submission types rescinded on December 1, 2005 as a result of the adoption of securities offering reform initiatives.

The revisions to the Filer Manual reflect changes within Volumes I and II, entitled EDGAR Filer Manual, Volume I: "General Information," Version 2 (February 2006) and EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 3 (February 2006) respectively. The updated manual will be incorporated by reference into the Code of Federal Regulations.

**EFFECTIVE DATE:** February 6, 2006 The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of February 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** In the Office of Information Technology, Rick Heroux, at (202) 551-8800; for questions concerning the rescinding of Public Utility Holding Company Act of 1935 submission types, in the Division of Investment Management, Catherine A. Fisher, Assistant Director, Office of Public Utility Regulation at (202) 551-6944; for questions concerning Securities Offering Reform, in the Division of Corporation Finance, Herbert Scholl, Office Chief, EDGAR and Information Analysis at (202) 551-3615; for questions concerning the Form 25-NSE filings, in the Division of Market Regulation, Sharon Lawson, Senior Special Counsel, at (202) 551-5605; for questions concerning the inclusion of series and class (contract) data in filings for open-end management investment companies and insurance company separate accounts, in the Division of Investment Management, Ruth Armfield Sanders, Senior Special Counsel, at (202) 551-6989; and, in the Office of Filings and Information Services, Shirley Slocum, at (202) 551-8900.

**SUPPLEMENTARY INFORMATION:** Today we are adopting an updated EDGAR Filer Manual (Filer Manual). The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.<sup>1</sup> It also describes the requirements for filing using EDGARLink<sup>2</sup> and the Online Forms/XML Web site.

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<sup>1</sup> We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33-6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on November 7, 2005. See Release No. 33-8633 (November 1, 2005) [70 FR 67350].

<sup>2</sup> This is the filer assistance software we provide filers filing on the EDGAR system.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.<sup>3</sup> Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.<sup>4</sup>

The revisions are being made primarily to support the amended rules and forms adopted by the Commission requiring that certain open-end management investment companies and insurance company separate accounts identify in their EDGAR submissions information relating to their

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<sup>3</sup> See Rule 301 of Regulation S-T (17 CFR 232.301).

<sup>4</sup> See Release Nos. 33-6977 (February 23, 1993) [58 FR 14628], IC-19284 (February 23, 1993) [58 FR 14848], 35-25746 (February 23, 1993) [58 FR 14999], and 33-6980 (February 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. See also Release No. 33-7122 (December 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33-7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33-7472 (October 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998, we would not accept in paper filings that we require filers to submit electronically; Release No. 34-40934 (January 12, 1999) [64 FR 2843], in which we made mandatory the electronic filing of Form 13F; Release No. 33-7684 (May 17, 1999) [64 FR 27888], in which we adopted amendments to implement the first stage of EDGAR modernization; Release No. 33-7855 (April 24, 2000) [65 FR 24788], in which we implemented EDGAR Release 7.0; Release No. 33-7999 (August 7, 2001) [66 FR 42941], in which we implemented EDGAR Release 7.5; Release No. 33-8007 (September 24, 2001) [66 FR 49829], in which we implemented EDGAR Release 8.0; Release No. 33-8224 (April 30, 2003) [68 FR 24345], in which we implemented EDGAR Release 8.5; Release Nos. 33-8255 (July 22, 2003) [68 FR 44876] and 33-8255A (September 4, 2003) [68 FR 53289] in which we implemented EDGAR Release 8.6; Release No. 33-8409 (April 19, 2004) [69 FR 21954] in which we implemented EDGAR Release 8.7; Release No. 33-8454 (August 6, 2004) [69 FR 49803] in which we implemented EDGAR Release 8.8; Release No. 33-8528 (February 3, 2005) [70 FR 6573] in which we implemented EDGAR Release 8.10; Release No. 33-8573 (May 19, 2005) [70 FR 30899] in which we implemented EDGAR Release 9.0; Release No. 33-8612 (September 21, 2005) [70 FR 57130] in which the Commission granted the authorization to publish the release adopting the reorganized EDGAR Filer Manual; and Release No. 33-8633 (November 1, 2005) [70 FR 67350] in which we implemented EDGAR Release 9.2.

series and classes (or contracts, in the case of separate accounts).<sup>5</sup> Specifically, we will be adding fields to certain EDGAR submission templates for use by certain open-end management investment company and insurance company separate account filers to identify their Investment Company Type and the series and classes (contracts) on behalf of which a filing is being made. Beginning February 6, 2006, filers would include information on existing series and classes (contracts) and new series and classes (contracts) on behalf of which a filing is made; they would also include information on series and classes (contracts) involved in mergers. (Filers were required to enter information on series and classes (contracts) in existence prior to February 6, 2006 via the [www.edgarfiling.sec.gov](http://www.edgarfiling.sec.gov) Web site to obtain identifiers prior to that date.)

In addition, revisions are being made to support the requirement to file Form 25-NSE electronically<sup>6</sup>.

As a result of the adoption of securities offering reform initiatives, the submission of types S-2, S-2/A, F-2, F-2/A were eliminated. Amendments to these form types filed after December 1, 2005 must comply with the requirements of Forms S-1/A, S-3/A, F-1/A or F-3/A as appropriate.

The recent enactment of the Energy Policy Act of 2005 will result in the repeal of the Public Utility Holding Company Act of 1935 (“1935 Act”) effective February 8, 2006. Therefore, the EDGAR system will no longer accept 1935 Act filings as of 5:30 PM on February 8, 2006. Submission types and references to the 1935 Act will be removed from the EDGAR Filer Manual in this release of the volume, but 1935 Act submission types will be accepted for the period ending

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<sup>5</sup> See Rulemaking for EDGAR System, Release No. 33-8590 (July 18, 2005) [70 FR 43558 (July 27, 2005)].

<sup>6</sup> In a prior release, Commission updates to the Filer Manual supporting the issuer submission type 25 were included. This version of the manual includes updates for submission type 25-NSE which will be filed by the National Securities Exchanges. Submission type 25 and form type 25-NSE will both be a required electronic form starting on April 24, 2006. See Removal From Listing and Registration of Securities Pursuant to Section 12(d) of the Securities Exchange Act of 1934, Release No. 34-52029 (July 14, 2005) [70 FR 42456].

at the close of business on February 8<sup>th</sup> following the February 6<sup>th</sup> publication of the manual. The 1935 Act submission types will be removed from EDGARLink in a future release.

For EDGAR Release 9.3, the EDGARLink software and submission templates 1, 2, and 3 will be updated to support the aforementioned submission type changes. All investment company filers should download and use the new software and submission templates to ensure that submissions will be processed successfully. Previous versions of the software and templates will not work properly for submissions that require series and class (contract) data. Notice of the update has previously been provided on the EDGAR Filing Web site and on the Commission's public Web site. The discrete updates are reflected on the EDGAR Filing Web site and in the updated Filer Manual Volumes.

Along with adoption of the Filer Manual, we are amending Rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE, Room 1580, Washington DC 20549. We will post electronic format copies on the Commission's Web site; the address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You may also obtain copies from Thomson Financial, the paper document contractor for the Commission, at (800) 638-8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA)<sup>7</sup>. It follows

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<sup>7</sup> 5 U.S.C. 553(b).

that the requirements of the Regulatory Flexibility Act<sup>8</sup> do not apply.

The effective date for the updated Filer Manual and the rule amendments is February 6, 2006. In accordance with the APA<sup>9</sup>, we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 9.3 is scheduled to become available on February 6, 2006. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade.

#### Statutory Basis

We are adopting the amendments to Regulation S-T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,<sup>10</sup> Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,<sup>11</sup> Section 319 of the Trust Indenture Act of 1939,<sup>12</sup> and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.<sup>13</sup>

#### List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

#### TEXT OF THE AMENDMENT

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

#### **PART 232 - REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS**

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<sup>8</sup> 5 U.S.C. 601- 612.

<sup>9</sup> 5 U.S.C. 553(d)(3).

<sup>10</sup> 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

<sup>11</sup> 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w, and 78ll.

<sup>12</sup> 15 U.S.C. 77sss.

<sup>13</sup> 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

1. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 et seq.; and 18 U.S.C. 1350.

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2. Section 232.301 is revised to read as follows:

**§232.301 EDGAR Filer Manual.**

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the EDGAR Filer Manual, Volume I: “General Information,” Version 2 (February 2006). The requirements for filing on EDGAR are set forth in the EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 3 (February 2006). Additional provisions applicable to Form N-SAR filers are set forth in the EDGAR Filer Manual, Volume III: “N-SAR Supplement,” Version 1 (September 2005). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE, Room 1580, Washington, DC 20549 or by calling Thomson Financial at (800) 638-8241. Electronic copies are available on the Commission’s Web site. The address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You can also photocopy the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

By the Commission.

Nancy M. Morris  
Secretary

January 27, 2006