

XBRL Interactive Data for Financial Reporting

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Client Advisory

October 6, 2010 by Steven J. Glusband, Guy P. Lander and Sharon Rosen

The Securities and Exchange Commission (the "SEC") adopted rules that require companies to provide their financial statements in interactive (i.e. computer-readable) data format using eXtensible Business Reporting Language ("XBRL"). The interactive data requirements do not change disclosure requirements under the federal securities laws and regulations, but rather add a requirement to include financial statements in a new interactive data format as an exhibit. The disclosure in interactive data format is in addition to, rather than instead of, disclosure in the traditional electronic format of ASCII or HTML. Financial statements will continue to be required to be submitted in traditional format under existing requirements.

The primary purpose of the XBRL rules is to make financial information easier for investors and analysts to compare and analyze, and to assist companies in automating regulatory filings and business information processing.

Companies reporting under generally accepted accounting principles in the United States ("U.S. GAAP") that are large accelerated filers are already subject to the requirement to file XBRL data. All remaining U.S. and non-U.S. filers using U.S. GAAP and foreign private issuers that prepare their financial statements in accordance with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board ("IASB") must file XBRL data along with their first quarterly report (or annual report, for foreign private issuers) for a fiscal period ending on or after June 15, 2011.

What is XBRL?

XBRL is a computer language that enables financial and other data contained in reports filed with the SEC and delivered over the Internet to be processed by certain software applications. XBRL consists of a standard set of identifiers, or "tags," which are embedded within the financial statements and can be read by specialized software. XBRL includes numerous sets (or "taxonomies") of standard tags for different industry groups, each designed for use in connection with a particular accounting regime. XBRL enables analysts and investors to pull information out of SEC filings and compare and analyze information from numerous companies.

Filers using U.S. GAAP are required to tag their financial statements using the most recent list of tags of U.S. financial statement reporting, as released by XBRL U.S. Inc. and required by the EDGAR Filer Manual. Similarly, filers using IFRS as issued by the IASB are required to tag their financial statements using the most recent list of tags for international reporting standards, as released by International Accounting Standards Committee Foundation and required by the EDGAR Filer Manual.

In its first year of interactive data reporting, a company is required to tag the face of its financial statements. A company is also required to tag its financial statement footnotes and schedules in its first year, but only as blocks of text. After the first year of such tagging, a company is also required to tag, as a separate block of text, each significant accounting policy and table within a footnote, and to separately tag each amount

(monetary value, percentage and number) within the footnotes and schedules, and will be permitted, but not required, to the extent it chooses, to tag each narrative disclosure.

A filer required to provide XBRL data must “map” each element of its financial statements to the appropriate XBRL standard tags using a commercially available XBRL software package. Companies must generally use the standard XBRL tag having a definition that matches the financial concept represented by the relevant line item. If a standard XBRL tag is not available for a particular financial statement element, a company can create a customized tag, called an “extension.” When the standard tag’s definition is appropriate for a financial statement element but the company’s label for that line item is different from the standard tag, the company must change the label of the tag instead of creating a new tag. For example, a company might use the term “operating revenues” in its financial statements for an element that has “net revenues” for the standard tag; when preparing its XBRL exhibit, the company will need to change, or extend, the standard label to become “operating revenues.”

Phase-In Dates

The obligation to provide XBRL data is being phased in over several years, as follows:

- The first affected filers were U.S. and non-U.S. companies reporting under U.S. GAAP that are large accelerated filers with a public float over \$5 billion, which were required to file XBRL data along with their first quarterly report (or annual report, for foreign private issuers) for a fiscal period ending on or after June 15, 2009.
- Other U.S. and non-US. large accelerated filers using U.S. GAAP are required to file XBRL data along with their first quarterly report (or annual report, for foreign private issuers) for a fiscal period ending on or after June 15, 2010.
- All remaining U.S. and non-U.S. filers using U.S. GAAP are required to file XBRL data along with their first quarterly report (or annual report, for foreign private issuers) for a fiscal period ending on or after June 15, 2011.
- Foreign private issuers that prepare their financial statements in accordance with IFRS as issued by the IASB are required to file XBRL data along with their first annual report for a fiscal period ending on or after June 15, 2011.

Financial Statements for which XBRL Data is Required

Subject to the applicable phase -in period, public companies will be required to include an exhibit that includes XBRL-tagged financial statements in the following filings:

- annual reports on Form 10-K, Form 20-F and Form 40-F;
- quarterly reports on Form 10-Q;
- current reports on Form 8-K and Form 6-K that include updated or revised financial statements;
- transition reports on Form 10-Q, Form 10-K and Form 20-F; and
- registration statements filed under the Securities Act of 1933 (the “Securities Act”) that include financial statements (other than financial statements incorporated by reference), but only after a price or price range has been determined and any later time when the financial statements are changed.

A registrant's first filing to be subject to the interactive data requirement would be a quarterly report, or, for a foreign private issuer not required to file quarterly reports, an annual report. A registrant is required to submit its first XBRL-format exhibit for a registration statement only after it has filed its first quarterly or annual report that is required to include interactive data. Accordingly, interactive data exhibits will not be required for initial public offerings.

A foreign private issuer that files interim financial statements in accordance with the nine-month updating requirement of Item 8.A.5. of Form 20-F would be required to submit an interactive data file with that filing.

Interactive data requirements do not apply to:

- Management's Discussion and Analysis (MD&A), executive compensation, or other statistical or narrative disclosure.
- financial statements for (i) acquired companies or business to be acquired (Rule 3-05 of Regulation S-X), (ii) unconsolidated subsidiaries and 50% or less owned persons (Rule 3-09 of Regulation S-X), (iii) certain real estate operations to be acquired (Rule 3-14 of Regulation S-X), and (iv) affiliates whose securities constitute a substantial portion of the collateral for a class of securities being registered (Rule 3-16 of Regulation S-X);
- pro forma financial statements prepared under Article 11 of Regulation S-X;
- financial statements in Form 10, Form 20-F and Form 40-F registration statements under the Securities Exchange Act of 1934 (the "Exchange Act");
- foreign private issuers that prepare their financial statements using accounting standards other than U.S. GAAP or IFRS as issued by IASB; and
- investment companies registered under the Investment Company Act and business development companies as defined in Section 2(a)(48) of the Exchange Act.

Initial Filing Grace Period

Interactive data is required to be submitted to the SEC at the same times as the rest of the filing to which it relates, except that:

- A company's initial interactive data submission will have a 30 day grace period and may be filed as an amendment to the report or registration statement within 30 days after the earlier of the respective due date or filing date.
- In year two, a filer will have a similar 30 day grace period for its first interactive data exhibit that is required to include detailed tagging of its footnotes and schedules.

Web Site Posting of Interactive Data

A company required to provide financial statements in interactive data format to the SEC is also required to post the financial statements in interactive data on its corporate website not later than the calendar day it filed or was required to file the related report or registration statement, whichever is earlier. The interactive data must be posted for at least 12 months. Companies are not allowed to comply with the web posting requirement by including a hyperlink to the SEC's website.

Consequences of Non-Compliance

Filers that do not provide or post the required interactive data by the required due date will be not deemed current with their Exchange Act filings and as a result, will be not be eligible to use short form registration statements on Form S-3, Form F-3 and Form S-8, or elect under Form S-4 or Form F-4 to provide information at a level prescribed by Form F-3 or Form F-3. Such filers will also be deemed not to have available adequate current public information for purposes of the resale exemption safe harbor provided by Rule 144. This disqualification will last until the interactive data is provided. Once a filer complies with the interactive submission and posting requirements – provided it previously filed its financial statement information in traditional format on a timely basis – it will be deemed to be timely and current in its periodic reports.

Hardship Exemptions

The SEC adopted hardship exemptions for the inability to submit interactive data. Rule 201 of Regulation S-T provides a temporary hardship exemption from submitting or posting interactive data, without Staff or SEC action, when a filer “experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing.” The temporary hardship exemption will cause the filer to be deemed current for purposes of incorporation by reference, short form registration and Rule 144, for a period of up to six business days from the date the interactive data was required to be submitted and posted.

Rule 202 of Regulation S-T permits a filer to apply in writing for a continuing hardship exemption from submitting or posting interactive data if information otherwise required to be submitted or posted in electronic format cannot be so filed without undue burden or expense. If the exemption is granted, the filer will be deemed current until the end of the period for which the exemption is granted.

Limited Securities Law Liability for First Two Years

An interactive data file generally will be subject to federal securities laws in a modified manner if the filer submits the interactive data within 24 month of the time the filer is required to submit interactive data files but no later than October 31, 2014. During the time a filer’s interactive data files are treated in this modified manner, they will be:

- subject to anti-fraud provisions, except in connection with a failure to comply with the tagging requirements that occurs despite a good faith attempt to comply and is corrected promptly after the filer becomes aware of the failure;
- deemed not “filed” or part of a registration statement or prospectus for purposes of Section 11 or 12 of the Securities Act and not otherwise subject to liability under these sections;
- deemed not “filed” for purposes of Section 18 of the Exchange Act or Section 34(b) of the Investment Company Act and not otherwise subject to liability under these sections; and
- deemed “filed” for purposes of Rule 103 under Regulation S-T (and, as a result, will not be subject to liability for electronic transmission errors beyond its control if the registrant corrects the problem through an amendment as soon as reasonably practicable after becoming aware of the problem).

Auditor Liability

Auditor assurance on interactive data submissions is not required. Filers are not required to involve third parties, such as auditors or consultants, in creating their interactive data filings.

Officer Certifications

Interactive data is excluded from the officer certification requirements of Rules 13a-14 and 15d-14 under the Exchange Act. However, interactive data is not excluded from the definition of “disclosure controls and procedures” and as a result, a registrant is required to evaluate its interactive

data procedures for purposes of disclosure controls and procedures compliance, but the outcome of the evaluation does not require management to assess or an auditor to attest to the registrant's XBRL format exhibit.

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