

INSIGHTS

Complying with the SEC's New Requirements for InLine XBRL Tagging of Cover Page Information: Clarification Regarding Exhibit 104

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In March 2019, the Securities and Exchange Commission adopted [final rules](#) amending Regulation S-K and related rules and forms to modernize and simplify disclosure requirements for registrants. These amendments follow from the Fixing America's Surface Transportation (FAST) Act, enacted in 2015, and, among other matters, effect key changes to the cover pages of Forms 10-K, 10-Q and 8-K. For example, the revised rules and forms require that registrants include on the cover page of their Forms 10-K, 10-Q and 8-K the title of each class of security registered pursuant to Section 12(b) of the Exchange Act, the trading symbol(s) of such securities and the name of each exchange on which such securities are registered.

The revised rules also require that registrants tag certain cover page information on their Forms 10-K, 10-Q and 8-K in InLine XBRL (iXBRL), which is a form of machine-readable computer code, and amend Item 601(b) of Regulation S-K to add a new Exhibit 104 (Cover Page Interactive Data File) to capture any cover page information that is not embedded in a filing's cover page.

Although the new iXBRL tagging requirements are applicable to large accelerated filers for fiscal periods ending on or after June 15, 2019 (as noted below), the EDGAR system's software has not been updated to allow for the filing of a separate Exhibit 104 in filings subject to the tagging requirements. This alert provides guidance on how registrants should comply with the cover page iXBRL tagging requirements in the absence of the ability to file a separate Exhibit 104. Our prior summary of other significant FAST Act-related disclosure changes is available [here](#).

Phase-In of Updated iXBRL Tagging Requirements

For large accelerated filers preparing their financial statements in accordance with U.S. GAAP, the iXBRL tagging requirement is effective for fiscal periods ending on or after June 15, 2019. Accelerated filers preparing financials in accordance with U.S. GAAP must comply with the new iXBRL tagging requirements for fiscal periods ending on or after June 15, 2020. All other filers must comply with the new iXBRL tagging requirements for fiscal periods ending on or after June 15, 2021.

Registrants must comply with the new tagging requirements beginning with their first Form 10-Q for a period ending on or after the applicable phase-in date noted above. Registrants are not required to tag cover page information in iXBRL on Form 8-K or Form 10-K until after they have filed their first Form 10-Q covering a fiscal period ending on or after the applicable compliance

date. For example, a large accelerated filer with a calendar fiscal year will be required to tag cover page information in iXBRL in its Form 10-Q for the period ended June 30, 2019 but will not be required to tag cover page information in iXBRL on a Form 8-K filed prior to the filing of the Form 10-Q. A large accelerated filer with a fiscal year ending on June 30, 2019 would be required to comply with the iXBRL tagging requirements beginning with its Form 10-Q for the quarter ended September 30, 2019 but not on its Form 10-K for the year ended June 30, 2019.

iXBRL Tagging Amendments and Exhibit 104

The FAST Act final rule indicates that a new Exhibit 104 “Cover Page Interactive Data File” should be included with submissions for the iXBRL cover tagging. The Exhibit Table in Regulation S-K Item 601 was amended to reflect Exhibit 104’s inclusion on Forms 10-K, 10-Q and 8-K.

Rule 406 of Regulation S-T, referencing the instructions in the EDGAR Filer Manual, requires that every data point on the cover pages of Forms 10-K, 10-Q and 8-K be tagged in iXBRL. Some of such iXBRL tags, including “document and entity identifier elements,” can be embedded, but there may be information on the cover page that cannot be tagged, such as the exchange on which the registrant’s securities are listed and the registrant’s jurisdiction of incorporation. Item 601(b) of Regulation S-K now contemplates that such information is to be included in Exhibit 104 to the relevant filing. However, the EDGAR system’s software has not been updated to allow for the filing of a separate Exhibit 104.

Acknowledging the current absence of the ability for registrants to file a separate Exhibit 104, the staff of the SEC has updated the EDGAR Filer Manual to contemplate that filers should satisfy the Exhibit 104 requirement by using a standard file set with Exhibit 101. Specifically, Section 6.3.2 of the [EDGAR Filer Manual](#) includes the following note:

To minimize the need for preparing multiple data files, filers subject to [Rule 406 of Regulation S-T] should satisfy its requirement for providing a Cover Page Interactive Data File (Exhibit 104) using an Inline XBRL Document Set (see 5.2.5 [of the EDGAR Filer Manual]) with EX-101 attachments others than EX101.INS.*

Accordingly, registrants required to file a Cover Page Interactive Data File on Exhibit 104 should submit the standard EX-101 file set including iXBRL cover tagging elements.

Please contact a member of your Bracewell team or any of the authors of this alert with any questions regarding the SEC’s updates to the iXBRL tagging requirements.