

**SECURITIES AND EXCHANGE COMMISSION
ADOPTS PLAIN ENGLISH REQUIREMENTS**

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The Securities and Exchange Commission (the "SEC") has adopted amendments to its rules and regulations (the "Amendments") which require registrants to use plain English principles in the writing of prospectuses. The Amendments revise current requirements for the front and back cover pages, "summary" and "risk factors" sections of prospectuses and provide issuers with more specific guidance on the clarity required in filed documents.¹ The new rules are effective October 1, 1998.

Executive Summary

- The Amendments mandate plain English and simplification of the text of the front and back cover pages and "summary" and "risk factors" sections of the prospectus.
- The Amendments limit the cover page to one page, but do not limit the length of the prospectus summary or the number of risk factors or require that risk factors be prioritized.
- Pictures, logos, charts, graphs, or other design elements may be used in the prospectus as long as they are not misleading.
- The Amendments set forth guidelines for plain English drafting of the body of the prospectus.
- Amendments to Regulation S-K eliminate certain specified formats and legend texts, change the location of required information and specify the use of plain English in a number of instances.
- The plain English requirements will apply to investment companies, but the SEC may delay the effective date applicable to investment companies in connection with the adoption of other pending rule amendments.

1. Securities Act Release No. 7497; Exchange Act Release No. 34-39593; Investment Company Act Release No. 23011 (January 28, 1998) (the "Release").

- The SEC staff will take compliance with the plain English requirements into consideration in connection with requests for acceleration of the effectiveness of a registration statement.
- The SEC will publish a handbook with practical tips on how to prepare plain English documents.

PROSPECTUS FRONT AND BACK COVER PAGE, SUMMARY AND RISK FACTORS

Rule 421(b) under the Securities Act of 1933 (the “Securities Act”) has been amended to require the use of plain English principles in the organization, language and design of the front and back cover pages and the summary and risk factors sections of prospectuses. These portions of the prospectus must comply with six basic drafting principles:

- Short sentences;
- Definite, concrete, everyday words;
- Active voice;
- Tabular presentation or bullet lists for complex material, whenever possible;
- No legal jargon or highly technical business terms; and
- No multiple negatives.

Pictures, logos, charts, graphs, or other design elements may be used in the prospectus so long as the design is not misleading and the required information is clear. The SEC also encourages tables, schedules, charts and graphic illustrations of financial information.

Comments on the cover page which were given to participants in the SEC's Plain English Pilot Program included requests to (i) delete all defined terms from the cover page, (ii) limit the cover page to key information and eliminate such disclosures as the par value of Common Stock, (iii) use the name of the company rather than a defined term such as the “Company” and (iv) avoid right hand justification of the margins which causes uneven spacing between words and a blocklike impenetrable appearance to the text.

BODY OF THE PROSPECTUS

Paragraph (b) of Rule 421 sets forth guidelines for the preparation of the body of the prospectus. The amended rule sets forth the following drafting guidelines:

- Present information in clear, concise sections, paragraphs, and sentences. Whenever possible, use short explanatory sentences and bullet lists;

- Use descriptive headings and subheadings;
- Avoid frequent reliance on glossaries or defined terms as the primary means of explaining information in the prospectus. Define terms in a glossary or other section of the document only if the meaning is unclear from the context. Use a glossary only if it facilitates understanding of the disclosure; and
- Avoid legal and highly technical business terminology.

A note to Rule 421(b) lists the following drafting conventions to avoid:

- Legalistic or overly complex presentations that make the substance of the disclosure difficult to understand;
- Complex information copied directly from legal documents without any clear and concise explanation of the provision(s); and
- Repetitive disclosure that increases the size of the document, but does not enhance the quality of the information.

Technical terms should be used only when necessary given the nature of the business being described and such terms should be explained to the lay reader.

REVISIONS TO REGULATION S-K AND REGULATION S-B

The Release adopts amendments to Items 101, 501, 502, 503 and 508 of Regulations S-K and S-B that change long-standing requirements of rules and regulations by either revising the requirement using plain English principles, deleting the requirement or moving the placement of the required information to another section of the prospectus.

Outside Front Cover Page of Prospectus

The SEC has revised the requirements for the outside front cover page of the prospectus to eliminate the former stylized format of the cover page and require that legal warnings be phrased in plain English. The Amendments allow pictures, graphs, charts and other designs on the cover that depict an issuer, its business, products or financial condition, so long as the information is not misleading. Because the current requirement for printing the SEC legend in all capital letters makes the information difficult to read, no print type or size is mandated. Issuers are required to use plain English for the legend.

Amended Item 501 sets forth two plain English revisions of the legend one of which is set forth below opposite the existing text.

Before

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Plain English

The Securities and Exchange Commission has not approved or disapproved these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Similarly, the “red herring” legend would be in plain English format. The current SEC legend and an example in plain English are as follows:

Before

Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sales of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any State.

Plain English

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

The following table shows the current requirements of Item 501 of Regulations S-K and the changes:

<i>Current</i>	<i>Amended</i>
<input type="checkbox"/> Information in highly formatted design	<input type="checkbox"/> Information formatted in clear, inviting design
<input type="checkbox"/> Company name	<input type="checkbox"/> Same
<input type="checkbox"/> Title, amount and description of securities offered	<input type="checkbox"/> Same
<input type="checkbox"/> Selling security holders	<input type="checkbox"/> Same

<i>Current</i>	<i>Amended</i>
<input type="checkbox"/> Cross reference to risk factors	<input type="checkbox"/> Same
<input type="checkbox"/> Formatted distribution table showing price, underwriting commission, and proceeds of offering	<input type="checkbox"/> Bullet list or other design that highlights the price, underwriting commission, and proceeds of offering
<input type="checkbox"/> Instruction on showing bona fide estimate of range of maximum offering price and showing how price determined	<input type="checkbox"/> Bullet list or other design that highlights the information
<input type="checkbox"/> If price not set, show how price will be determined	<input type="checkbox"/> Same
<input type="checkbox"/> Formatted best efforts disclosure and distribution table	<input type="checkbox"/> Delete distribution table. Use bullet list or other design that highlights the information
<input type="checkbox"/> Commission legend	<input type="checkbox"/> Retain in plain English. Include reference to State securities commissions. No print type specified
<input type="checkbox"/> State-required legends	<input type="checkbox"/> Same
<input type="checkbox"/> Underwriters' over-allotment option, expenses of offering, commissions paid by others, and other non-cash consideration and finders' fees	<input type="checkbox"/> Identify existence of the option and the number of shares. Move all other information to the plan of distribution section
<input type="checkbox"/> No requirement to identify market for securities, trading symbol, underwriters, or type of underwriting arrangements	<input type="checkbox"/> Identify market for securities, trading symbol, underwriters, and type of underwriting arrangements
<input type="checkbox"/> Date of prospectus	<input type="checkbox"/> Same
<input type="checkbox"/> Prospectus "Subject to Completion" legend	<input type="checkbox"/> Retain in plain English
<input type="checkbox"/> No page limit	<input type="checkbox"/> Must limit cover to one page

Inside Front and Outside Back Cover Pages of the Prospectus

Item 502 of Regulation 5-K has been amended so that most of the information now required on the inside front and outside back cover pages of the prospectus is moved to the body of the prospectus as shown in the following table:

<i>Current</i>	<i>Amended</i>
<input type="checkbox"/> Availability of Exchange Act reports generally	<input type="checkbox"/> Move to “description of business” section or, for short-form registration statements, to the incorporation by reference disclosure
<input type="checkbox"/> Identify market for securities	<input type="checkbox"/> Move to cover page
<input type="checkbox"/> Availability of annual reports to shareholders with financial statements for foreign issuers and others not subject to proxy rules	<input type="checkbox"/> Move to “description of business” section
<input type="checkbox"/> Availability of Exchange Act reports incorporated by reference in short-form registration statements	<input type="checkbox"/> Move to incorporation by reference disclosure
<input type="checkbox"/> Stabilization legend	<input type="checkbox"/> Move to “plan of distribution” section
<input type="checkbox"/> Passive market marking activities legend	<input type="checkbox"/> Delete; disclosure remains in “plan of distribution” section
<input type="checkbox"/> Dealer prospectus delivery	<input type="checkbox"/> Retain on outside back cover page
<input type="checkbox"/> Enforceability of civil liability provisions of federal securities laws against foreign persons	<input type="checkbox"/> Move to “description of business” section
<input type="checkbox"/> Table of contents	<input type="checkbox"/> Same, although the SEC prefers that it immediately follow cover page. If prospectus delivered electronically, must immediately follow cover page

The Amendments do not adopt originally proposed requirements that would have limited the length of the prospectus summary, limited the number of risk factors or required that risk factors be prioritized.

Summary Information, Risk Factors, and Ratio of Earnings to Fixed Charges

A prospectus summary is not mandated by the new rules. However, if a summary is included, amended Item 503 of Regulation 5-K requires that it be brief and in plain English. If the prospectus includes a summary description of the registrant's business operations or financial condition, the information must be in plain English even if it is not captioned "summary".

The rules do not limit the length of the summary; however, this section should highlight the most important features of the offering.

In addition, the rules do not specify disclosure items for the summary. However, because the financial statements are an important part of the disclosures made by public companies, financial information should be set forth in the summary.

Risk Factors

If the prospectus includes a "risk factors" section, it must be written in plain English to avoid "boilerplate" risk factors. In practice, the SEC has required captions for individual risk factors that convey the substance of the risk and has requested deletion of statements that mitigate the risk.

The Release states that a discussion of risk in purely generic terms does not tell investors how the risk may affect their investment in a specific company.

Ratio of Earnings to Fixed Charges

A prospectus relating to an offering of debt or preferred equity must include a ratio of earnings to fixed charges. Where a prospectus summary is included, amended Item 503 requires the summary to show the ratio of earnings to fixed charges as part of the summarized financial data.

APPLICATION OF PLAIN ENGLISH RULES TO INVESTMENT COMPANIES

The plain English rules apply to prospectuses of investment companies. Amendments to Rule 481 under the Securities Act require investment companies to write and design the front parts of their prospectuses in plain English.

The SEC is currently considering amendments to the mutual fund prospectus requirements and the adoptions of new summary disclosure documents called "profiles."

The Release states that investment companies must comply with the plain English rules and the revised disclosure requirements for new registration statements filed on or after October 1, 1998. However, the SEC may change this date in connection with adoption of changes to mutual fund disclosure requirements.

CONSIDERATION OF PLAIN ENGLISH COMPLIANCE IN GRANTING ACCELERATION REQUESTS

The SEC Staff will now consider whether a bona fide effort was made to comply with the provisions of Rule 421(b) applicable to the cover pages, summary and risk factors section of the prospectus before granting acceleration requests.

PHASE-IN OF THE PLAIN ENGLISH RULE AND OTHER REQUIREMENTS FOR ISSUERS OTHER THAN INVESTMENT COMPANIES

- Registration Statements filed on or after October 1, 1998 must comply with the new requirements. A registration statement filed before October 1, 1998, which is not yet effective on that date, will not have to be amended to comply with the new requirement before it is effective.
- On or after October 1, 1998, any supplement filed to a prospectus in an effective registration statement that relies on Rule 415(a)(1)(x) under the Securities Act must comply with the new requirements.
- A post-effective amendment filed on or after October 1, 1998, either to include the company's latest audited financial statements in the registration statement or to update the prospectus under Section 10(a)(3), must comply with the new requirements.
- Registrants electing to comply immediately with any of the plain English requirements should comply with all of them to make the document more readable.

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For additional information regarding the matters discussed in this memorandum, please contact Raymond W. Wagner (212 455-2568), Glenn M. Reiter (212 455-3358) or James S. Lanigan (212 455-2665)

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