

July 2007 / Issue 23

A legal update from Dechert's Financial Services Group

SEC Extends Interactive Data Voluntary Reporting Program on EDGAR System to Mutual Fund Risk/Return Summary Information

On July 11, 2007, the Securities and Exchange Commission ("SEC") published a Release adopting amendments to Rules 401 and 402 of Regulation S-T, Rule 8b-33 under the Investment Company Act of 1940 ("1940 Act"), and Form N-1A under the 1940 Act and the Securities Act of 1933 ("Securities Act").¹

The amendments extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit exhibits to their Form N-1A registration statements containing tagged risk/return summary information from their prospectuses.² Any mutual fund may participate in the program merely by submitting the risk/return summary information in the required manner. The effective date of the rule is August 20, 2007.

For the past several years, the SEC has been evaluating the use of interactive data tagging based on the belief that through interactive data, static text-based information can be readily searched and analyzed, facilitating comparison across companies, reporting periods, and industries.

eXtensible Business Reporting Language ("XBRL"), developed and supported by XBRL International, describes a standard format for tagging financial and other information to facilitate the preparation, publication, and analysis of that information by software applications. Currently, XBRL data furnished under the voluntary program must consist of at least one item from a list of certain mandatory content items, which include financial statements and earnings information. The rule amendments add the risk/return summary information required by Items 2 and 3 of Form N-1A as a new item that may be submitted as part of the program.

The submissions of tagged exhibits containing risk/return summary information will not replace the required HTML or ASCII version of the information required in Form N-1A. Submissions of tagged exhibits are required to contain the same information contained in risk/return summary section of the prospectus N-1A filing. The exhibits may also be filed as a part of a post-effective amendment filed pursuant to Rule 485(b) under the Securities Act.

The rule amendments permit multi-series mutual funds to submit tagged risk/return summary information for one or more series in an official N-1A filing; however, mutual funds must submit risk/return summary information for all classes of any mutual fund or series selected.

The exhibit index of any Form N-1A filing that includes a tagged exhibit must disclose that the purpose of submitting the tagged exhibit is to test the related format and technology, and as

¹ Release No. IC – 27884 (July 11, 2007). For a detailed discussion on the proposed rule amendments, see *DechertOnPoint* (Dechert LLP), March 2007, Issue 10, "SEC Proposes Extension of Interactive Data Voluntary Reporting Program on EDGAR System."

² The amendments also permit mutual funds to file tagged financial highlights and condensed financial information as exhibits to their registration statements on Form N-1A, in addition to filing them as exhibits to Form N-CSR.

a result, investors should not rely on the exhibit in making investment decisions. This information also must be included in the exhibit itself.

The rule amendments also extend the existing liability protection under the voluntary program to include Section 11 of the Securities Act. Specifically, the amendment provides that tagged exhibits are not deemed filed for purposes of Section 11 and are not part of any registration statement to which they relate.

We believe that the rule amendments will provide investors and the mutual fund industry with valuable analytical tools to compare the suitability of different

mutual funds for a variety of investment programs and goals. They will also enhance the SEC's ability to review filings on a more timely and efficient basis and to use tagged data for risk assessment and surveillance.



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