September 9, 2020

# SEC Amends Disclosures of Human Capital Resources Under Regulation S-K

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On August 26, 2020, the Securities and Exchange Commission (SEC) announced the adoption of several amendments to take effect 30 days after publication in the Federal Register, including an amendment to Item 101(c) of Regulation S-K that will require, as a disclosure topic, "a description of the registrant's human capital resources to the extent such disclosures would be material to an understanding of the registrant's business." The SEC press release announcing the amendments is available here and the final rule is available here. The SEC chose not to define "human capital resources" because, as noted in the final rule release, the term may evolve over time and may be defined by different companies in ways that are industry specific.

The human capital resources disclosures are required only to the extent the information is material to an understanding of the registrant's business taken as a whole, including any human capital measures or objectives that the registrant focuses on in managing the business. As Chairman Clayton noted, he does "expect to see meaningful qualitative and quantitative disclosure, including, as appropriate, disclosure of metrics that companies actually use in managing their affairs."

The final rule lists a few human capital measures and objectives that may be material, depending on the nature of the registrant's business and workforce, such as measures or objectives to address the attraction, development, and retention of personnel. However, the SEC emphasized in the final rule release that these were only non-exclusive examples and not mandates. The SEC indicated that each registrant's disclosure must be tailored to its own business, workforce, and facts and circumstances. This principles-based approach reflects an expectation that disclosure will vary based on a registrant's industry, and may evolve over time.

The final rule will continue to retain the requirement that a registrant disclose the number of persons employed, to the extent material to an understanding of the registrant's business, since, according to the SEC, such disclosure can help investors assess the size and scale of a registrant's operations as well as changes over time. Although the SEC declined to expand this disclosure requirement to include additional metrics, such as the number of part-time employees, full-time employees, independent contractors, contingent workers or employment turnover, the registrant nevertheless must disclose this information to the extent such measures are material to an understanding of the registrant's business.

This increased focus on human capital issues comes after increasing pressure from institutional investor groups

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for the SEC to mandate additional disclosure in the area. It also follows recent SEC COVID-19 disclosure guidance that focused in part on the impacts of COVID-19 on human capital resources. In that guidance, the SEC encouraged each registrant to contemplate disclosing whether it has materially reduced or increased its human capital resource expenditures, whether those measures are temporary in nature, how long the registrant expects to maintain them, any factors the registrant considers in deciding to extend or curtail these measures, and the short- and long-term impact of these reductions on the registrant's ability to generate revenues and meet existing and future financial obligations.

We discussed the other amendments to Regulation S-K that were adopted on August 26, 2020 in a prior blog post available here.

We invite you to contact us directly if you have any questions regarding the description of human capital resources disclosures under Regulation S-K.