

SEC Revises Rules for Financial Statements Required for Acquisitions and Dispositions of Businesses and Real Estate

In May 2020, the Securities and Exchange Commission approved amendments to the requirements for financial statements relating to acquisitions and dispositions of businesses, including real estate operations, in Regulation S-X Rule 3-05, *Financial statements of businesses acquired or to be acquired*; Rule 3-14, *Special instructions for real estate operations to be acquired*; Article 11, *Pro Forma Financial Information*; and other related rules and forms. Companies are not required to apply the final amendments until the beginning of their fiscal year following December 31, 2020. However, voluntary compliance is permitted now as long as the amendments are complied with in their entirety.

Under Rule 3-05, a registrant that acquires a business¹ other than a real estate operation is generally required to provide separate audited annual and unaudited interim pre-acquisition financial statements of the business if the acquired business is “significant” to the registrant. Rule 3-05 addresses the reporting requirements for businesses acquired or to be acquired based on the “significant subsidiary” definition in Rule 1-02(w) of Regulation S-X using a sliding scale approach. Similarly, under Rule 3-14, a registrant that has acquired, or proposes to acquire, a significant real estate operation similarly must file separate audited annual and unaudited interim abbreviated income statements with respect to such operations. Additionally, registrants required to file financial statements under Rules 3-05 or 3-14 are required to file unaudited pro forma financial information as prescribed by Article 11. The pro forma financial information is based on the historical financial statements of the registrant and the acquired or disposed business, and generally includes adjustments intended to show how the acquisition or disposition might have affected those financial statements had the transaction occurred at an earlier time.

Form 8-K generally requires registrants to file Rule 3-05 financial statements, Rule 3-14 financial statements, and related pro forma financial information within 71 days after the date that the initial Form 8-K reporting the consummation of the acquisition must be filed. A similar filing period, discussed further below, applies to registration statements and proxy statements for acquired or to be acquired businesses requiring Rule 3-05 financial statements, but not for acquired or to be acquired businesses requiring Rule 3-14 financial statements.

In addition, certain registration statements and proxy statements require audited financial statements and unaudited pro forma financial information for the substantial majority of individually insignificant consummated and probable acquisitions since the date of the most recent audited balance sheet if a significance test exceeds 50% for any combination of acquisitions subject to Rule 3-05.

¹ Rule 3-05 requires disclosure if a business combination has occurred or is probable. Whether an acquisition is “probable” is a fact-specific question that depends on a variety of factors.

I. Amendments to the Definition of “Significant Subsidiary” and Generally Applicable Financial Statement Requirements for Acquired Businesses

A. Significance Tests

1. Current

The “significant subsidiary” definition in Rule 1-02(w) includes the Investment Test, the Asset Test and the Income Test that are applied when determining if a subsidiary is deemed significant for the purposes of certain Regulation S-X and Regulation S-K requirements, as well as certain Securities Act and Exchange Act rules and forms. Whether an acquisition is significant under Rule 3-05 is determined by applying these tests, which generally can be described as follows:

- “Investment Test” – The registrant’s (and its subsidiaries’) investments in and advances to the acquired business are compared to the total assets of the registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date.
- “Income Test” – The registrant’s (and its subsidiaries’) equity in the income from continuing operations of the acquired business before income taxes, exclusive of amounts attributable to any noncontrolling interests, as reflected in the business’s most recent annual pre-acquisition financial statements, is compared to such income of the registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date.
- “Asset Test” – The registrant’s (and its subsidiaries’) proportionate share of the acquired business’s total assets reflected in the business’s most recent annual pre-acquisition financial statements is compared to the total assets of the registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date.

2. Amendments

Substantive amendments have been made to the Investment Test and the Income Test, but not to the Asset Test.

a. Investment Test

The Investment Test has been amended, only with respect to acquisitions and dispositions, so that the registrant’s (and its subsidiaries’) investments in and advances to the acquired business are compared to the aggregate worldwide market value of the registrant’s voting and non-voting common equity (i.e., market cap), when available. Market cap is determined using the average of the last five trading days of the most recently completed month ending prior to the earlier of the announcement date or agreement date of the transaction. The existing asset test that is part of the Investment Test will continue to be used for acquisitions and dispositions in circumstances where the registrant does not have an aggregate worldwide market value (e.g., when a company is filing

a registration statement for an IPO), and for additional purposes for which the Rule 1-02(w) definition applies. “Investments in” generally means the consideration transferred or received (i.e., the purchase or sale price) for the net assets acquired or sold.

Current:	Amendment(s):
A registrant’s (and its subsidiaries’) investments in and advances to acquired business are compared to total assets of registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date.	<ul style="list-style-type: none"> - A registrant’s (and its subsidiaries’) investments in and advances to acquired business are compared to aggregate worldwide market value of the registrant’s voting and non-voting common equity (i.e., market cap), when available. - If worldwide market value not available, the amount of acquiror’s investment in acquired business compared to registrant’s total assets.

Other technical changes have been made to the Investment Test, including that the registrant’s (and its subsidiaries’) “investments in” the acquired business must include the fair value of contingent consideration if required to be recognized at fair value by the registrant at the acquisition date under U.S. GAAP.² If recognition at fair value is not required, then “investments in” the acquired business must include all contingent consideration, except contingent consideration for which the likelihood of payment is remote.

b. Income Test

The Income Test has been amended to add a revenue component, in addition to the net income component. To satisfy the Income Test, the acquired business must meet both the revenue component and the net income component when the revenue component applies, and for purposes of the application of Rule 3-05, may use the lower of the revenue component and the net income component to determine the number of periods for which Rule 3-05 financial statements are required. The new revenue component compares a registrant’s (and its subsidiaries’) proportionate share of the acquired business’s consolidated total revenues (after intercompany eliminations) to such consolidated total revenues of the registrant for the most recently completed fiscal year. The revenue component does not apply if either the registrant and its subsidiaries consolidated or the acquired business did not have material revenue in each of the two most recently completed fiscal years.

Current:	Amendment(s):
A registrant’s (and its subsidiaries’) equity in the income from continuing operations of the acquired business before income taxes, exclusive of amounts attributable to any noncontrolling business interests, as reflected in the business’s most recent annual pre-acquisition financial statements, is compared to such income of the registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date.	<p>Whichever is lower of (a) “net income” or (b) “revenue”:</p> <ul style="list-style-type: none"> (a) the registrant’s (and its subsidiaries’) equity in the income from continuing operations of the acquired business before income taxes, exclusive of amounts attributable to any noncontrolling business interests, as reflected in the business’s most recent annual pre-acquisition financial statements, is compared to such income of the registrant reflected in its most recent annual financial statements required to be filed at or prior to the acquisition date; or (b) the registrant’s (and its subsidiaries’) proportionate share of the acquired business’s consolidated total revenues (after intercompany eliminations) is compared to such consolidated total revenues of the registrant for the most recently completed fiscal year.

² References to U.S. GAAP in this client advisory should be replaced with IFRS-IASB, if applicable.

B. Audited Financial Statements for Significant Acquisitions

1. Current

Depending on the relative significance of the acquired or to be acquired business, Rule 3-05 financial statements may be required for up to three years. Specifically, Rule 3-05 financial statements are required for:

- the most recent fiscal year and any required interim periods if any of the Rule 3-05 significance tests exceeds 20%, but none exceeds 40%;
- the two most recent fiscal years if any test exceeds 40%, but none exceeds 50%; and
- the three most recent fiscal years if any of the tests exceeds 50%.

As discussed further in Section II.C below, Rule 3-05 contains an additional requirement for certain registration statements and proxy statements related to the aggregate effect of individually insignificant businesses, which may trigger a requirement for Rule 3-05 financial statements for a business for which none of the significance tests exceeds 20%. A smaller reporting company (SRC) is subject to similar requirements under Rule 8-04 of Regulation S-X, but financial statements are only required for up to two fiscal years.

2. Amendments

Rule 3-05 has been amended to require up to two years of Rule 3-05 financial statements, as opposed to up to three years. Specifically, Rule 3-05 financial statements are now required for:

- the most recent fiscal year and any required interim periods if **any** of the Rule 3-05 significance tests exceeds 20%, but none exceeds 40%; and
- the two most recent fiscal years if **any** test exceeds 40%.

Additionally, Rule 3-05 has been revised to also require financial statements for the “most recent” interim period specified in Rules 3-01 and 3-02, rather than “any” interim period, where a significance test exceeds 20%, but none exceeds 40%. The revision eliminates the need to provide a comparative interim period when only one year of audited Rule 3-05 financial statements is required.

Current:	Amendment(s):
<ul style="list-style-type: none"> - Rule 3-05 financial statements are required for: <ul style="list-style-type: none"> • the most recent fiscal year and any required interim periods if any of the Rule 3-05 significance tests exceeds 20%, but none exceeds 40%; • the two most recent fiscal years if any test exceeds 40%, but none exceeds 50%; and • the three most recent fiscal years if any of the tests exceeds 50%. - Additional requirement for certain registration statements and proxy statements related to the aggregate effect of individually insignificant businesses. SRCs are subject to similar requirements under Rule 8-04 of Regulation S-X, but financial statements are only required for up to two fiscal years. 	<ul style="list-style-type: none"> - Rule 3-05 financial statements are now required for: <ul style="list-style-type: none"> • the most recent fiscal year and any required interim periods if any of the Rule 3-05 significance tests exceeds 20%, but none exceeds 40%; and • the two most recent fiscal years if any test exceeds 40%. - Amendments for 3-05 financial statements in registration statements and proxy statements related to the aggregate effect of individually insignificant businesses, and amendments specific to SRCs, are discussed in greater detail in their respective sections below.

C. Financial Statements for Net Assets that Constitute a Business

1. Current

Registrants frequently acquire a component of an entity that is a business as defined in Rule 11-01(d) but does not constitute a separate entity, subsidiary, or division, such as a product line or a line of business contained in more than one subsidiary of the selling entity. In these circumstances, it may be impracticable to prepare Rule 3-05 financial statements because the acquired businesses often represent only a small portion of the selling entity. Therefore, registrants have been permitted to instead provide audited abbreviated financial statements of the acquired business in the form of statements of assets acquired and liabilities assumed and statements of revenues and expenses.

2. Amendments

Rule 3-05(e) has been adopted to codify current reporting practices, by permitting companies acquiring assets to provide audited abbreviated financial statements of the acquired business in the form of statements of assets acquired and liabilities assumed and statements of revenues and expenses, exclusive of specified indirect expenses. In order to be permitted to provide audited annual and unaudited interim abbreviated financial statements, each of the following qualifying conditions must be met:

- The total assets and total revenues (both after intercompany eliminations, if applicable) of the acquired or to be acquired business constitute 20% or less of such corresponding amounts of the seller and its subsidiaries consolidated as of and for the most recently completed fiscal year;

- The acquired business was not a separate entity, subsidiary, operating segment (as defined in U.S. GAAP), or division during the periods for which the acquired business financial statements would be required;
- Separate financial statements for the business have not previously been prepared; and
- The seller has not maintained the distinct and separate accounts necessary to present financial statements that include the omitted expenses and it is impracticable to prepare such financial statements.

In addition to the qualifying conditions discussed above, Rule 3-05(e) includes certain presentation conditions to which the audited abbreviated financial statements must conform. Examples include, but are not limited to, the title of the statement of comprehensive income must be appropriately modified to indicate it omits certain expenses, and interest expense may be excluded from the statements if the debt to which the interest expense relates will not be assumed by the registrant or its subsidiaries consolidated.

Current:	Amendment(s):
<p>Current practice to provide audited abbreviated financial statements of the acquired business in the form of statements of assets acquired and liabilities assumed and statements of revenues and expenses.</p>	<ul style="list-style-type: none"> - Rule 3-05(e) has been adopted to codify current reporting practices. To be permitted to provide audited annual and unaudited interim abbreviated financial statements for net assets that constitute a business, each of the following qualifying conditions must be met: <ul style="list-style-type: none"> • The total assets and total revenues (both after intercompany eliminations, if applicable) of the acquired or to be acquired business constitute 20% or less of such corresponding amounts of the seller and its subsidiaries consolidated as of and for the most recently completed fiscal year; • The acquired business was not a separate entity, subsidiary, operating segment (as defined in U.S. GAAP), or division during the periods for which the acquired business financial statements would be required; • Separate financial statements for the business have not previously been prepared; and • The seller has not maintained the distinct and separate accounts necessary to present financial statements that include the omitted expenses and it is impracticable to prepare such financial statements. - Audited abbreviated financial statements must conform to certain presentation conditions.

D. Financial Statements of a Business that includes Oil and Gas Producing Activities

1. Current

Rule 3-05 applies to acquisitions of a significant business that includes oil and gas producing activities. However, Rule 3-05 does not specify industry-specific disclosures regarding

such activities. In the absence of specific requirements, registrants generally provide certain industry-specific disclosures specified in FASB ASC Topic 932 *Extractive Activities –Oil and Gas* (ASC 932 Disclosures) on an unaudited basis for each full year of operations presented for the acquired business. Rule 3-05 also does not specify the form and content of Rule 3-05 financial statements when the acquired business generates substantially all of its revenues from oil and gas producing activities. In these circumstances when certain criteria are met, registrants have been permitted to provide abbreviated financial statements that consist of income statements modified to exclude expenses that are not expected to be comparable to future operations.

2. Amendments

Rule 3-05(f) has been adopted to codify current reporting practices. For a significant acquired business that includes *significant oil- and gas-producing activities* (as defined in the FASB ASC Master Glossary), Rule 3-05 financial statements must include certain ASC 932 Disclosures, which may be presented as unaudited supplementary information for each full year of operations presented for the acquired business. Additionally, Rule 3-05 financial statements may consist of only audited statements of revenues and expenses that exclude depreciation, depletion and amortization expense, corporate overhead expense, income taxes, and interest expense that are not comparable to the proposed future operations if:

- substantially all of the revenues of the business are generated from oil-and gas-producing activities (as defined); and
- all of the qualifying conditions for abbreviated financial statements for net assets that constitute a business, described in Section I.C.2 above, are met.

Certain of the presentation conditions for abbreviated financial statements for net assets that constitute a business, described in Section I.C.2 above, must also be provided.

Current:	Amendment(s):
<ul style="list-style-type: none"> - Current practice to provide certain industry-specific disclosures specified in ASC 932 Disclosures on an unaudited basis for each full year of operations presented for the acquired business. - No codified form and content requirements for Rule 3-05 financial statements when the acquired business generates substantially all of its revenues from oil and gas producing activities. When certain criteria are met, registrants have been permitted to provide abbreviated financial statements that consist of income statements modified to exclude expenses that are not expected to be comparable to future operations 	<ul style="list-style-type: none"> - Rule 3-05(f) has been adopted to codify current reporting practices. For a significant acquired business that includes <i>significant oil- and gas-producing activities</i>, Rule 3-05 financial statements must include certain ASC 932 Disclosures, which may be presented as unaudited supplementary information for each full year of operations presented for the acquired business. - Rule 3-05 financial statements may consist of only audited statements of revenues and expenses that exclude depreciation, depletion and amortization expense, corporate overhead expense, income taxes, and interest expense that are not comparable to the proposed future operations if: <ul style="list-style-type: none"> • substantially all of the revenues of the business are generated from <i>oil-and gas-producing activities</i>; and • all of the qualifying conditions for abbreviated financial statements for net assets that constitute a business are met. - Certain presentation conditions for abbreviated financial statements for net assets that constitute a business must also be provided.

E. SRCs and Issuers Relying on Regulation A

1. Current

Rule 8-04 provides SRC disclosure requirements for the financial statements of businesses acquired or to be acquired. Part F/S of Form 1-A directs an issuer relying on Regulation A to present financial statements of businesses acquired or to be acquired, as specified by Rule 8-04, but permits the periods presented to be the shorter of those applicable to issuers relying on Regulation A and the periods specified by Article 8.

2. Amendments

Rule 8-04 has been revised to reference Rule 3-05 for the requirements relating to the financial statements of businesses acquired or to be acquired, other than for form and content requirements for such financial statements, which will continue to be prepared in accordance with Rules 8-02 and 8-03. Rule 8-01 has also been revised to add a paragraph expressly permitting application of Rule 3-06 to the preparation of financial statements of SRCs and issuers relying on Regulation A.

Rule 8-04 continues to require up to two years of acquired business historical financial statements, but, in accordance with current practice, the revised rule expressly permits SRCs to omit such financial statements if the acquired business has been included in the registrant's results for a complete fiscal year. References to Rule 8-04 in Rule 3-06, and to Rule 3-06 in Article 8, have also been added to expressly permit SRCs to file audited financial statements covering a period of nine to 12 months to satisfy the requirement for filing financial statements for a period of one year for an acquired business.

The amendments also provide that a SRC is eligible to exclude acquired business financial statements from a registration statement if the business acquisition was consummated no more than 74 days prior to the date of the relevant final prospectus or prospectus supplement, rather than 74 days prior to the effective date of the registration statement as under current Rule 8-04(c)(4).

Current:	Amendment(s):
<ul style="list-style-type: none">- Rule 8-04 provides SRC disclosure requirements for the financial statements of businesses acquired or to be acquired.- Part F/S directs an issuer to Rule 8-04 but permits the periods presented to be the shorter of those applicable to issuers relying on Regulation A and the periods specified by Article 8.	<ul style="list-style-type: none">- SRCs must refer to Rule 3-05 for the requirements relating to the financial statements of businesses acquired or to be acquired, other than for form and content requirements for such financial statements, which will continue to be prepared in accordance with Rules 8-02 and 8-03. SRCs and issuers relying on Regulation A are permitted to apply Rule 3-06 when preparing their financial statements of SRCs.- Rule 8-04 continues to require up to two years of acquired business historical financial statements but SRCs may omit such financial statements if the acquired business has been included in the SRC's results for a complete fiscal year. SRCs are permitted to file audited financial statements covering a period of nine to 12 months to satisfy the requirement for filing financial statements for a period of one year for an acquired business.- An SRC is permitted to exclude acquired business financial statements from a registration statement if the business acquisition was consummated no more than 74 days prior to the date of the relevant final prospectus or prospectus supplement, rather than 74 days prior to the effective date of the registration statement.

II. Amendments Relating to Rule 3-05 Financial Statements Included in Registration Statements and Proxy Statements

Pursuant to the amendments, a prospectus is generally required to include (or incorporate by reference) financial statements for a significant acquisition of a business (as determined by the significance tests) that has closed **more than 74 days** prior to the offering to which the prospectus relates. However, if an acquisition (i) closed 74 days or less prior to the offering and (ii) exceeds 50% significance, then financial statements will generally be required. Whenever an acquired business's financial statements are required, so is pro forma financial information.

For probable acquisitions that have not closed, financial statements:

- will not be needed for less than or equal to 50% significance, and
- will be needed for greater than 50% significance.

In the case of a probable or recently closed acquisition that is above the 20% significance level but less than the 50% significance level, marketing and/or disclosure considerations may lead to the inclusion of acquired company financial statements (and related pro formas) even before the expiration of the 75-day grace period. This is a case-by-case analysis.

A. Omission of Rule 3-05 Financial Statements for Businesses That Have Been Included in the Registrant's Financial Statements

1. Current

Generally, Rule 3-05 financial statements of the acquired business may be omitted from registration statements and proxy statements once the operating results of the acquired business have been reflected in the registrant's audited consolidated financial statements for a complete fiscal year. However, Rule 3-05 financial statements must be included in registration statements and proxy statements when:

- they have not been previously filed, even if the acquired business is included in post-acquisition audited results,³ or
- the Rule 3-05 financial statements have been previously filed, but the acquired business is of *major significance* to the registrant, such that omission of those Rule 3-05 financial statements would materially impair an investor's ability to understand the historical financial results of the registrant. For example, an acquired business meeting at least one of the significance tests at the 80% level at the time of acquisition would require a registrant to continue to file the financial statements of the acquired business.

³ However, the SEC typically has not objected to registrants reducing the Rule 3-05 financial statement periods presented by the equivalent period that the acquired business is included in the registrant's post-acquisition audited results.

2. Amendments

For acquired businesses that **exceed 20% significance but do not exceed 40% significance**, Rule 3-05 financial statements may be omitted from a registrant’s registration statements and proxy statements once Rule 3-05 financial statements have been reflected in the registrant’s filed post-acquisition financial statements for **nine months**.

For acquired businesses that **exceed 40% significance**, the amendments retain the existing requirement that Rule 3-05 financial statements may be omitted from a registrant’s registration statements and proxy statements once Rule 3-05 financial statements have been reflected in the registrant’s filed post-acquisition financial statements for **one year**.

The amendments eliminate the requirement that Rule 3-05 financial statements must be provided when they have not been previously filed or when they have been previously filed but the acquired business is of major significance.

Current:	Amendment(s):
<ul style="list-style-type: none"> - Generally, Rule 3-05 financial statements may be omitted from registration statements and proxy statements once the operating results of the acquired business have been reflected in the registrant’s audited consolidated financial statements for a complete fiscal year. - However, Rule 3-05 financial statements must be included when: <ul style="list-style-type: none"> • they have not been previously filed, even if the acquired business is included in post-acquisition audited results, or • the Rule 3-05 financial statements have been previously filed, but the acquired business is of <i>major significance</i> to the registrant, such that omission of those Rule 3-05 financial statements would materially impair an investor’s ability to understand the historical financial results of the registrant. 	<ul style="list-style-type: none"> - Acquired businesses that exceed 20% significance but do not exceed 40% significance: Rule 3-05 financial statements may be omitted from a registrant’s registration statements and proxy statements once Rule 3-05 financial statements have been reflected in the registrant’s filed post-acquisition financial statements for nine months. - Acquired businesses that exceed 40% significance: retain existing requirement that Rule 3-05 financial statements may be omitted from a registrant’s registration statements and proxy statements once Rule 3-05 financial statements have been reflected in the registrant’s filed post-acquisition financial statements for one year. - Eliminate requirement that Rule 3-05 financial statements must be provided when they have not been previously filed or when they have been previously filed but the acquired business is of major significance.

B. Use of Pro Forma Financial Information to Measure Significance

1. Current

A registrant is generally permitted to use pro forma, rather than historical, financial information to test significance of a subsequently acquired business if the registrant made a significant acquisition after the latest fiscal year-end and filed its Rule 3-05 financial statements and pro forma financial information on Form 8-K. However, this Form 8-K filing requirement has the practical effect of precluding the use of pro forma financial information that gives effect to a significant acquisition subsequent to the latest fiscal year-end to test significance of a subsequently

acquired business when determining Rule 3-05 disclosure requirements in initial registration statements.

2. Amendments

For filings that require Rule 3-05 financial statements and Rule 3-14 financial statements, registrants are permitted to measure significance using filed pro forma financial information that only depicts significant business acquisitions and dispositions consummated after the latest fiscal year-end for which the registrant’s financial statements are required to be filed, subject to the following conditions:

- the registrant has filed Rule 3-05 financial statements or Rule 3-14 financial statements for any such acquired business; and
- the registrant has filed the pro forma financial information required by Article 11 for any such acquired or disposed business.

Once a registrant uses pro forma financial information to measure significance, it must continue to use pro forma financial information to measure significance until the next annual report on Form 10-K (or Form 20-F, as applicable).

Current:	Amendment(s):
A registrant is generally permitted to use pro forma, rather than historical, financial information to test significance of a subsequently acquired business if the registrant made a significant acquisition after the latest fiscal year-end and filed its Rule 3-05 financial statements and pro forma financial information on Form 8-K.	<ul style="list-style-type: none"> - For filings that require Rule 3-05 financial statements and Rule 3-14 financial statements, registrants are permitted to measure significance using filed pro forma financial information that only depicts significant business acquisitions and dispositions consummated after the latest fiscal year-end for which the registrant’s financial statements are required to be filed, subject to the following conditions: <ul style="list-style-type: none"> • the registrant has filed Rule 3-05 financial statements or Rule 3-14 financial statements for any such acquired business; and • the registrant has filed the pro forma financial information required by Article 11 for any such acquired or disposed business. - Once a registrant uses pro forma financial information to measure significance, it must continue to use pro forma financial information to measure significance until the next annual report on Form 10-K (or Form 20-F, as applicable).

C. Disclosure Requirements for Individually Insignificant Acquisitions

1. Current

Audited historical pre-acquisition financial statements are generally not required if an acquired or to be acquired business:

- does not exceed 20% significance, or

- does not exceed 50% significance and the acquisition has not yet occurred or the date of the final prospectus or prospectus supplement relating to an offering is no more than 74 days after consummation and the financial statements have not been previously filed.

However, if the aggregate impact of “individually insignificant businesses” acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 50%, audited historical pre-acquisition financial statements covering at least the substantial majority of the businesses acquired must be included in a registration statement or proxy statement, as well as pro forma financial information pursuant to Article 11.

2. Amendments

Disclosure is required if the aggregate impact of businesses acquired or to be acquired since the date of the most recent audited balance sheet filed for the registrant, for which financial statements are either not required because significance does not exceed 20%, or are not yet required because either the acquisition has not yet occurred or the date of the final prospectus or prospectus supplement relating to an offering is no more than 74 days after consummation and the financial statements have not been previously filed, exceeds 50% for any condition. The amendments thus clarify that “individually insignificant businesses” include:

- any acquisition consummated after the registrant’s audited balance sheet date whose significance does not exceed 20%;
- any probable acquisition whose significance does not exceed 50%; and
- any consummated acquisition whose significance exceeds 20%, but does not exceed 50%, for which financial statements are not yet required because of the 75-day filing period.

Registrants are required to provide pre-acquisition historical financial statements only for those businesses whose individual significance exceeds 20%. The amended rule also requires registrants to provide pro forma financial information depicting the aggregate effects of all “individually insignificant businesses” in all material respects.

Registrants are required to include both Rule 3-05 businesses and Rule 3-14 real estate operations when determining the aggregate impact of the Investment Test for individually insignificant acquisitions. This amendment is limited to the Investment Test because the Asset Test and Income Test do not apply to Rule 3-14 real estate operations. In determining whether the Income Test condition (both the revenue component and the net income component) exceeds 50%, the businesses specified in Rule 3-05(b)(2)(iv) reporting losses must be aggregated separately from those reporting income, and if either group exceeds 50%, the disclosure requirements apply to all of the businesses subject to the aggregate test and must not be limited to either the businesses with losses or those with income.

Current:	Amendment(s):
<ul style="list-style-type: none"> - Audited historical pre-acquisition financial statements are generally not required if an acquired or to be acquired business: <ul style="list-style-type: none"> • does not exceed 20% significance, or • does not exceed 50% significance and the acquisition has not yet occurred or the date of the final prospectus or prospectus supplement relating to an offering is no more than 74 days after consummation and the financial statements have not been previously filed. - However, if the aggregate impact of “individually insignificant businesses” acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 50%, audited historical pre-acquisition financial statements covering at least the substantial majority of the businesses acquired must be included in a registration statement or proxy statement, as well as pro forma financial information pursuant to Article 11. 	<ul style="list-style-type: none"> - Disclosure is required if the aggregate impact of businesses acquired or to be acquired since the date of the most recent audited balance sheet filed for the registrant, for which financial statements are either not required because significance does not exceed 20%, or are not yet required because either the acquisition has not yet occurred or the date of the final prospectus or prospectus supplement relating to an offering is no more than 74 days after consummation and the financial statements have not been previously filed, exceeds 50% for any condition. - The amendments thus clarify that “individually insignificant businesses” include: <ul style="list-style-type: none"> • any acquisition consummated after the registrant’s audited balance sheet date whose significance does not exceed 20%; • any probable acquisition whose significance does not exceed 50%; and • any consummated acquisition whose significance exceeds 20%, but does not exceed 50%, for which financial statements are not yet required because of the 75-day filing period. - Registrants are required to provide pre-acquisition historical financial statements only for those businesses whose individual significance exceeds 20%. Registrants must provide pro forma financial information depicting the aggregate effects of all “individually insignificant businesses” in all material respects. - Registrants are required to include both Rule 3-05 businesses and Rule 3-14 real estate operations when determining the aggregate impact of the Investment Test for individually insignificant acquisitions. - In determining whether the Income Test condition (both the revenue component and the net income component) exceeds 50%, the businesses specified in Rule 3-05(b)(2)(iv) reporting losses must be aggregated separately from those reporting income, and if either group exceeds 50%, the disclosure requirements apply to all of the businesses subject to the aggregate test and must not be limited to either the businesses with losses or those with income.

III. Rule 3-14 - Financial Statements of Real Estate Operations Acquired or to be Acquired

A. Align Rule 3-14 with Rule 3-05

1. Current

If a registrant has acquired or, in certain circumstances, proposes to acquire one or more properties which in the aggregate are significant, Rule 3-14 requires the registrant to file only abbreviated income statements. If the real estate operation is not acquired from a related party, audited Rule 3-14 financial statements are required for only one year. Where a registrant is

permitted to provide one year of financial statements, Rule 3-14 also requires a registrant to specifically describe the material factors it considered in assessing the real estate operation.

Rule 3-14 refers to acquisitions that are “significant”, although neither “significant property” nor “significant real estate operation” are defined in Regulation S-X. Current practice looks to the 10% significance threshold in the definition of “significant subsidiary” in Rule 1-02(w) when determining “significance” under Rule 3-14. Additionally, Rule 3-14 financial statements are currently required when the registrant has acquired or proposes to acquire a group of properties that are significant in the aggregate. In practice, consummated and probable acquisitions since the date of the most recent audited balance sheet that are less than 10% significant are aggregated and, if the significance of the aggregated group exceeds 10%, Rule 3-14 financial statements are provided for each acquisition that is 5% or more significant and for enough other acquisitions in order to cover the substantial majority of the group. Rule 3-14 also requires registrants to provide three years of financial statements for significant acquisitions from related parties.

2. Amendments

a. Generally

Rule 3-14 has been amended to conform it to the Rule 3-05 amendments, where no unique industry considerations exist. Specifically, Rule 3-14 has been amended to conform to certain amendments to Rule 3-05 discussed above, including:

- the Investment Test;
- Financial Statements for Net Assets that Constitute a Business (related only to certain required footnote disclosures);
- Omission of Rule 3-05 Financial Statements for Businesses That Have Been Included in the Registrant’s Financial Statements (excluding the requirement related to acquisitions that exceed 40% significance, which does not apply to Rule 3-14);
- Use of Pro Forma Financial Information to Measure Significance; and
- Disclosure Requirements for Individually Insignificant Acquisitions, among other changes.

b. Significance Thresholds

The Rule 3-14 significance threshold for individual acquisitions has been aligned with Rule 3-05 to 20% or more of the aggregate worldwide market value of the acquiror’s common equity. In addition, the Rule 3-14 significance threshold for the aggregate impact of acquisitions has been aligned to the 50% threshold in Rule 3-05. These requirements apply only to certain registration statements and proxy statements and not to Form 8-K.

c. Years of Required Financial Statements for Acquisitions from Related Parties

Rule 3-14 has been aligned with Rule 3-05 by eliminating the specific requirement to provide three years of financial statements for acquisitions from related parties.⁴

d. Application of Rule 3-06

Existing Rule 3-06(b) provides that financial statements required under Rule 3-05 “covering a period of 9 to 12 months shall be deemed to satisfy a requirement for filing financial statements for a period of 1 year,” but it did not address acquired real estate operations under Rule 3-14. So that Rule 3-14 is aligned with Rule 3-05, Rule 3-06 has been revised to permit the filing of financial statements covering a period of nine to 12 months to satisfy the requirement for filing financial statements for a period of one year for an acquired or to be acquired real estate operation.

e. Timing of filings

Rule 3-14 has been amended to include the same filing period for the filing of Rule 3-14 financial statements in registration statements and proxy statements as exists under Rule 3-05.

f. Omission of Rule 3-14 Financial Statements for Real Estate Operations That Have Been Included in the Registrant’s Financial Statements

Rule 3-14 has been aligned with the amendments to Rule 3-05 by no longer requiring Rule 3-14 financial statements in registration statements and proxy statements once the acquired real estate operation is reflected in filed post-acquisition registrant financial statements for nine months.

g. Forms 10-K and 8-K

Item 8 of Form 10-K, which currently excepts registrants from complying with Rule 3-05 and Article 11, has been amended to include Rule 3-14.⁵

Form 8-K has been amended to:

- clarify that Item 2.01 requires the disclosure of the acquisition or disposition of assets that constitute a significant real estate operation as defined in Rule 3-14;
- address the filing requirements in Item 9.01(a) consistently for all business acquisitions, including real estate operations; and
- revise Item 2.01 Instruction 4 to reference Rule 3-14 to make clear that, as with Rule 3-05, the aggregate impact of acquisitions of real estate operations is not required to be reported unless these acquisitions are related real estate operations and significant in the aggregate.

⁴ Related businesses are treated as a single business when measuring significance.

⁵ Currently, such exception is in Rule 3-14 itself.

B. Definition of Real Estate Operation

1. Current

“Real estate operation” is not currently defined in Regulation S-X or any other Securities Act or Exchange Act rule. Thus, the SEC has interpreted, for purposes of Rule 3-14, a real estate operation to refer to properties that generate revenues solely through leasing, but has not interpreted this definition to preclude a property that includes a limited amount of non-leasing revenues (like property management or other services related to the leasing) from being considered a real estate operation. The SEC has also issued guidance that a real estate operation includes real properties that will be held directly by the registrant or through an equity interest in a pre-existing legal entity that holds the real property under lease and related debt.

2. Amendments

Rule 3-14 has been amended to define a real estate operation as “a business that generates substantially all of its revenues through the leasing of real property.” Application of the term “substantially all” will depend on specific facts and circumstances.

C. Significance Tests

1. Current

Rule 3-14 does not provide explicit guidance on how to determine whether a real estate operation is significant. Due to the nature of a real estate operation, registrants typically determine “significance” through application of the Investment Test to compare the registrant’s and its subsidiaries’ “investments in” the real estate operation, including debt secured by the real properties that is assumed by the registrant, to the registrant’s total assets at the last audited fiscal year end.

2. Amendments

The Investment Test in Rule 1-02(w) is required to be used to determine the significance of a real estate operation. When the Investment Test is based on total assets (because market cap is not available), then the Investment Test should be modified to compare the registrant’s and its subsidiaries’ “investments in” the real estate operation, including any debt secured by the real properties that is assumed by the registrant, to the registrant’s total assets as of the end of the most recently completed fiscal year.

D. Interim Financial Statements

1. Current

Unlike Rule 3-05, Rule 3-14 does not expressly require registrants to provide interim financial statements. However, existing registrant practice is to provide interim financial statements for acquisitions of real estate operations.

2. Amendments

Rule 3-14 has been amended to specifically require Rule 3-14 financial statements for the most recent year-to-date interim period prior to the acquisition.

E. SRCs and Issuers Relying on Regulation A

1. Current

Rule 8-06 provides SRC disclosure requirements for the financial statements of real estate operations acquired or to be acquired that are substantially similar to the requirements in Rule 3-14. Part F/S directs an issuer relying on Regulation A to present financial statements of real estate operations acquired or to be acquired as specified by Rule 8-06.

2. Amendments

Rule 8-06 has been amended to direct registrants to Rule 3-14 for the requirements relating to financial statement disclosures of real estate operations acquired or to be acquired, while still permitting SRCs to rely on the form and content for annual and interim financial statements provided in Rules 8-02 and 8-03.

F. Blind Pool Real Estate Offerings

1. Current

Certain registrants, typically non-traded real estate investment trusts (REITs), that conduct continuous offerings over an extended period of time follow the disclosure guidance provided under Industry Guide 5 *Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships*. Such registrants provide certain undertakings to disclose information about significant acquisitions to investors in addition to Rule 3-14 financial statements.

Due to the nature of a blind pool investment as well as the supplemental undertakings provided, these registrants typically apply adapted significance tests when determining whether they are required to provide Rule 3-14 financial statements. The SEC has interpreted significance during the distribution period to be computed by comparing the registrant's and its subsidiaries' "investments in" the real estate operation to the sum of:

- the registrant's total assets as of the date of the acquisition, and
- the proceeds (net of commissions) in good faith expected to be raised in the registered offering over the next 12 months.

After the distribution period has ended, the registrant determines significance using the total assets as of the acquisition date until the registrant files its next Form 10-K. After that next Form 10-K

is filed, the registrant, following the staff’s guidance, can determine significance using total assets as of the end of the most recently completed fiscal year included in the Form 10-K.

2. Amendments

SEC interpretations in this area have been codified to provide that significance for blind pool offerings must be computed by comparing the registrant’s (and its subsidiaries’) “investments in” the real estate operation to the sum of:

- the registrant’s total assets as of the date of the acquisition, and
- the proceeds (net of commissions) in good faith expected to be raised in the registered offering over the next 12 months.

The amendments also extend the adapted significance test to Rule 3-05 acquisitions by registrants in blind pool offerings because the accommodation is based on the unique characteristics of the offering and registrants, rather than the type of acquisition.

Current:	Amendment(s):
<ul style="list-style-type: none"> - Rule 3-14 contains requirements that are separate from Rule 3-05. - Definition of “real estate operation” not codified; only through SEC imprecations and guidance. - No explicit guidance on how to determine whether a real estate operation is significant. - No express requirement to provide interim financial statements. - Rule 8-06 provides SRC disclosure requirements for the financial statements of real estate operations acquired or to be acquired Part F/S of Form 1-A directs an issuer relying on Regulation A to present financial statements of real estate operations acquired or to be acquired as specified by Rule 8-06. - For blind pool real estate offerings, the SEC has interpreted “significance” during the distribution period to be computed by comparing the registrant’s and its subsidiaries’ “investments in” the real estate operation to the sum of: (a) the registrant’s total assets as of the date of the acquisition, and (b) the proceeds (net of commissions) in good faith expected to be raised in the registered offering over the next 12 months. Following the distribution period, the registrant determines significance using total assets as of the acquisition date until the registrant files its next Form 10-K. 	<ul style="list-style-type: none"> - Rule 3-14 has been amended to conform it to the Rule 3-05 amendments, where no unique industry considerations exist, as discussed in detail in Sections IV.A.2.(a)-(g) above. - “Real estate operation” defined as “a business that generates substantially all of its revenues through the leasing of real property.” - The Investment Test in Rule 1-02(w) is required to be used to determine the significance of a real estate operation. - Rule 3-14 financial statements are required for the most recent year-to-date interim period prior to an acquisition. - SRCs must follow Rule 3-14 for the requirements relating to financial statement disclosures of real estate operations acquired or to be acquired, but SRCs are permitted to rely on the form and content for annual and interim financial statements provided in Rules 8-02 and 8-03. - Significance for blind pool real estate offerings must be computed by comparing the registrant’s (and its subsidiaries’) “investments in” the real estate operation to the sum of: (a) the registrant’s total assets as of the date of the acquisition, and (b) the proceeds (net of commissions) in good faith expected to be raised in the registered offering over the next 12 months.

<p>- After that next Form 10-K is filed, the registrant, following SEC guidance, can determine significance using total assets as of the end of the most recently completed fiscal year included in the Form 10-K.</p>	<p>- The amendments also extend the adapted significance test to Rule 3-05 acquisitions by registrants in blind pool offerings because the accommodation is based on the unique characteristics of the offering and registrants, rather than the type of acquisition.</p>
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IV. Pro Forma Financial Information

Pro forma financial information described in Article 11 of Regulation S-X must accompany Rule 3-05 financial statements and Rule 3-14 financial statements. Pro forma financial information for a business acquisition combines the historical financial statements of the registrant and the acquired business and is adjusted for certain items if specified criteria are met.

Pro forma financial information for an acquired business is currently required at the 20% and 10% (increased to 20% under the amendments) significance thresholds under Rule 3-05 and Rule 3-14, respectively. The rules also require pro forma financial information for a significant disposed business at a 10% (increased to 20% under the amendments) significance threshold for all registrants.

A. Adjustment Criteria and Presentation Requirements

1. Current

Article 11 provides that the only adjustments that are appropriate in the presentation of the pro forma condensed statement of comprehensive income are those that are:

- directly attributable to the transaction;
- expected to have a continuing impact on the registrant; and
- factually supportable.

By contrast, the pro forma condensed balance sheet reflects pro forma adjustments that are directly attributable to the transaction and factually supportable, regardless of whether the impact is expected to be continuing or nonrecurring.

2. Amendments

The existing pro forma adjustment criteria in Article 11 has been replaced with simplified requirements to depict the accounting for the transaction and to provide the option to depict synergies and dis-synergies of the acquisitions and dispositions for which pro forma effect is being given. The revised pro forma adjustment criteria are broken out into three categories:

- “Transaction Accounting Adjustments;”
- “Autonomous Entity Adjustments;” and

- “Management’s Adjustments.”

As discussed further below, Transaction Accounting Adjustments and Autonomous Entity Adjustments are required adjustments, and Management’s Adjustments are optional.

Current:	Amendment(s):
<ul style="list-style-type: none"> - The only adjustments that are appropriate in the presentation of the pro forma condensed statement of comprehensive income are those that are: <ul style="list-style-type: none"> • directly attributable to the transaction; • expected to have a continuing impact on the registrant; and • factually supportable. - By contrast, the pro forma condensed balance sheet reflects pro forma adjustments that are directly attributable to the transaction and factually supportable, regardless of whether the impact is expected to be continuing or nonrecurring. 	<ul style="list-style-type: none"> - The revised pro forma adjustment criteria are broken out into three categories: <ul style="list-style-type: none"> • “Transaction Accounting Adjustments;” • “Autonomous Entity Adjustments;” and • “Management’s Adjustments.” - The three categories, as well as the explanatory notes section to pro forma financial statements, are discussed in greater detail below.

a. Transaction Accounting Adjustments and Autonomous Entity Adjustments

The Transaction Accounting Adjustments reflect only the application of required accounting to the acquisition, disposition, or other transaction linking the effects of the acquired business to the registrant’s audited historical financial statements. The Transaction Accounting Adjustments require registrants to depict:

- in the pro forma condensed balance sheet, the accounting for the transaction required by U.S. GAAP; and
- in the pro forma condensed income statements, the effects of those pro forma balance sheet adjustments assuming the adjustments were made as of the beginning of the fiscal year presented.

If the condition requiring pro forma financial information in Rule 11-01(a) that is met does not have a balance sheet effect, then the Transaction Accounting Adjustments to the pro forma statement of comprehensive income should depict the accounting for the transaction required by U.S. GAAP.

Autonomous Entity Adjustments are adjustments necessary to reflect the operations and financial position of the registrant as an autonomous entity when the registrant was previously part of another entity. Autonomous Entity Adjustments must be presented in a separate column from Transaction Accounting Adjustments. Historical and pro forma per share data must be presented on the face of the pro forma condensed statement of comprehensive income and give effect to Transaction Accounting Adjustments as well as to Autonomous Entity Adjustments.

b. Management's Adjustments

Management's Adjustments depicting synergies and dis-synergies of the acquisitions and dispositions for which pro forma financial information is being given may, in the registrant's discretion, be presented if in its management's opinion, such adjustments would enhance an understanding of the pro forma effects of the transaction. In order to present Management's Adjustments, the following conditions related to the basis for Management's Adjustments and the form of presentation must be met:

- There is a reasonable basis for each such adjustment;
- The adjustments are limited to the effect of such synergies and dis-synergies on the historical financial statements that form the basis for the pro forma statement of comprehensive income as if the synergies and dis-synergies existed as of the beginning of the fiscal year presented. If such adjustments reduce expenses, the reduction shall not exceed the amount of the related expense historically incurred during the pro forma period presented; and
- The pro forma financial information reflects all Management's Adjustments that are, in the opinion of management, necessary to a fair statement of the pro forma financial information presented and a statement to that effect is disclosed. When synergies are presented, any related dis-synergies shall also be presented.

In addition, the *Form of Presentation* in Rule 11-02(a)(7)(ii) requires additional conditions for presenting Management's Adjustments, including, but not limited to, that they must be presented in the explanatory notes to the pro forma financial information in the form of reconciliations of pro forma net income from continuing operations attributable to the controlling interest and the related pro forma earnings per share data to such amounts after giving effect to Management's Adjustments. Any forward-looking information that is contained in Management's Adjustments is expressly covered by existing safe harbor provisions.

c. Explanatory Notes

Several amendments have been made to the explanatory notes of pro forma financial information to require, among other things, disclosure of revenues, expenses, gains and losses, and related tax effects that will not recur in the income of the registrant beyond 12 months after the transaction. The amendments include required disclosures for Transaction Accounting Adjustments, and relocate the explanatory note disclosures for Management's Adjustments that also apply to Autonomous Entity Adjustments.

B. Significance and Business Dispositions

1. Current

Pro forma financial information is required upon the disposition or probable disposition of a significant portion of a business⁶ if that disposition is not fully reflected in the financial statements of the registrant. In addition, a disposition of a business is “significant” if the business to be disposed of meets the conditions of a significant subsidiary under Rule 1-02(w), which currently uses a 10% significance threshold (instead of the 20% threshold used for business acquisitions under Rules 3-05 and 11-01(b)).

For Form 8-K disclosure, when a registrant determines that it has an acquisition or disposition of a significant amount of assets that do not constitute a business, Item 2.01 uses a 10% threshold for both acquisitions and dispositions to require disclosure of certain details of the transaction.

2. Amendments

The significance threshold for the disposition of a business has been increased from 10% to 20% and the tests used to determine significance of a disposed business have been conformed, to the extent applicable, to those used to determine significance of an acquired business. Moreover, Form 8-K and Article 8 of Regulation S-X have been amended to require SRCs to provide pro forma financial information for disposition of a significant business in Form 8-K and in certain registration statements and proxy statements when the disposition occurs during or after the most recently completed fiscal year.

Such amendments also apply to dispositions of real estate operations.

Current:	Amendment(s):
<ul style="list-style-type: none">- Pro forma financial information is required upon the disposition or probable disposition of a significant portion of a business if that disposition is not fully reflected in the financial statements of the registrant.- A disposition of a business is “significant” if the business to be disposed of meets the conditions of a significant subsidiary under Rule 1-02(w), which currently uses a 10% significance threshold (instead of the 20% threshold used for business acquisitions under Rules 3-05 and 11-01(b)).- For Form 8-K disclosure, when a registrant determines that it has an acquisition or disposition of a significant amount of assets that do not constitute a business, Item 2.01 uses a 10% threshold for both acquisitions and dispositions to require disclosure of certain details of the transaction.	<ul style="list-style-type: none">- The significance threshold for the disposition of a business has been increased from 10% to 20% and the tests used to determine significance of a disposed business have been conformed, to the extent applicable, to those used to determine significance of an acquired business.- Form 8-K and Article 8 of Regulation S-X have been amended to require SRCs to provide pro forma financial information for disposition of a significant business in Form 8-K and in certain registration statements and proxy statements when the disposition occurs during or after the most recently completed fiscal year.- Such amendments also apply to dispositions of real estate operations.

⁶ Dispositions may be the result of a sale, abandonment, or distribution to shareholders by means of a spin-off, split-up, or split-off.

C. SRCs and Issuers Relying on Regulation A

1. Current

Rule 8-05 sets forth pro forma financial information requirements for business acquisitions by SRCs. Part F/S directs an issuer relying on Regulation A to present the pro forma financial information specified by Rule 8-05. Like Article 11, SRCs are required to provide pro forma financial information only if financial statements of a business acquired or to be acquired are presented, which pro forma financial information must consist of a pro forma balance sheet and a pro forma statement of comprehensive income for the most recent year and interim period. However, no further preparation guidance is provided by Rule 8-05, including the types of pro forma adjustments that can be made.

2. Amendments

Rule 8-05 has been amended to require that the preparation, presentation, and disclosure of pro forma financial information by SRCs substantially comply with Article 11. Such amendments apply to issuers relying on Regulation A. In limited circumstances SRCs and issuers relying on Regulation A will have to provide pro forma financial information for two years when the transaction for which pro forma effect is being given, such as a combination of entities under common control or discontinued operation, will be retrospectively reflected in the historical financial statements of SRCs and such issuers for all periods presented as required by U.S. GAAP.

Rule 8-05 has been further amended to require presentation of pro forma financial information when the conditions in Rule 11-01 exist, which means that SRCs and issuers relying on Regulation A are required to provide pro forma financial information for significant acquisitions and dispositions and when a “roll-up transaction” occurs, the registrant previously was a part of another entity and such presentation is necessary to reflect operations and financial position of the registrant as an autonomous entity, or consummation of one or more transactions has occurred or is probable for which disclosure of pro forma financial information would be material to investors.

Current:	Amendment(s):
<ul style="list-style-type: none">- Rule 8-05 sets forth pro forma financial information requirements for business acquisitions by SRCs. Part F/S of Form 1-A directs an issuer relying on Regulation A to present the pro forma financial information specified by Rule 8-05.- Like Article 11, SRCs are required to provide pro forma financial information only if financial statements of a business acquired or to be acquired are presented, which pro forma financial information must consist of a pro forma balance sheet and a pro forma statement of comprehensive income for the most recent year and interim period.- No further preparation guidance is provided by Rule 8-05, including the types of pro forma adjustments that can be made.	<ul style="list-style-type: none">- The preparation, presentation, and disclosure of pro forma financial information by SRCs and issuers relying on Regulation A must substantially comply with Article 11.- In limited circumstances SRCs and such issuers will have to provide pro forma financial information for two years when the transaction for which pro forma effect is being given will be retrospectively reflected in the historical financial statements of SRCs and such issuers for all periods presented as required by U.S. GAAP.- The presentation of pro forma financial information is required when the conditions in Rule 11-01 exist.

The amendments to Regulation S-X for financial disclosures relating to acquisitions and dispositions of businesses are intended to streamline such disclosures and reduce the costs of preparing historical financial statements and pro forma financial information. If you would like further information regarding the impact of the amendments, please contact the lawyer at Sullivan & Worcester LLP with whom you regularly consult, or the lawyers listed above.