



Securities Law ADVISORY ■

DECEMBER 27, 2018

SEC Adopts Final Rules on Hedging Disclosures

On December 18, 2018, the Securities and Exchange Commission (SEC) [adopted final rules](#), as mandated by Section 955 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, that require registrants to make new disclosures regarding hedging practices or policies in any proxy statement or information statement relating to the election of directors.

The new Item 407(i) of Regulation S-K requires registrants to detail any practices and policies relating to its employees' and directors' ability to purchase financial instruments or otherwise engage in transactions that hedge or offset, or are designed to hedge or offset, any decrease in the market value of the registrant's equity securities that were either granted to such person as compensation or that are held, directly or indirectly, by such person. The new rules require either a disclosure of policies in full or a summary of policies that include hedging categories that are specifically allowed or prohibited. Lastly, if the registrant has no practices or policies, it should disclose that fact or make known that hedging is generally permitted. The disclosure requirement in Item 407(i) covers equity securities of the registrant, any parent of the registrant, any subsidiary of the registrant, or any subsidiary of any parent of the registrant.

The new rules do not require that reporting companies prohibit or limit hedging transactions, or that reporting companies adopt a specific policy relating to hedging. However, in light of the new rules, reporting companies should review their current policies and consider adding a policy about employees' and directors' ability to engage in hedging transactions to the extent hedging is not already covered.

All proxy statements and information statements for the election of directors filed during fiscal years beginning on or after July 1, 2019, must comply with the new disclosure requirements. For smaller reporting companies and emerging-growth companies, the rules apply for proxy statements and information statements filed during fiscal years beginning on or after July 1, 2020.

You can subscribe to future *Securities* advisories and other Alston & Bird publications by completing our [publications subscription form](#).

If you would like more information, please feel free to contact one of the attorneys in our [Securities Group](#).

This advisory is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

ALSTON & BIRD

WWW.ALSTON.COM

© ALSTON & BIRD LLP 2018

ATLANTA: One Atlantic Center ■ 1201 West Peachtree Street ■ Atlanta, Georgia, USA, 30309-3424 ■ 404.881.7000 ■ Fax: 404.881.7777

BEIJING: Hanwei Plaza West Wing ■ Suite 21B2 ■ No. 7 Guanghua Road ■ Chaoyang District ■ Beijing, 100004 CN ■ +86 10 8592 7500

BRUSSELS: Level 20 Bastion Tower ■ Place du Champ de Mars ■ B-1050 Brussels, BE ■ +32 2 550 3700 ■ Fax: +32 2 550 3719

CHARLOTTE: Bank of America Plaza ■ 101 South Tryon Street ■ Suite 4000 ■ Charlotte, North Carolina, USA, 28280-4000 ■ 704.444.1000 ■ Fax: 704.444.1111

DALLAS: Chase Tower ■ 2200 Ross Ave. ■ Suite 2300 ■ Dallas, Texas, USA, 75201 ■ 214.922.3400 ■ Fax: 214.922.3899

LOS ANGELES: 333 South Hope Street ■ 16th Floor ■ Los Angeles, California, USA, 90071-3004 ■ 213.576.1000 ■ Fax: 213.576.1100

NEW YORK: 90 Park Avenue ■ 15th Floor ■ New York, New York, USA, 10016-1387 ■ 212.210.9400 ■ Fax: 212.210.9444

RALEIGH: 555 Fayetteville Street ■ Suite 600 ■ Raleigh, North Carolina, USA, 27601-3034 ■ 919.862.2200 ■ Fax: 919.862.2260

SAN FRANCISCO: 560 Mission Street ■ Suite 2100 ■ San Francisco, California, USA, 94105-0912 ■ 415.243.1000 ■ Fax: 415.243.1001

SILICON VALLEY: 1950 University Avenue ■ 5th Floor ■ East Palo Alto, California, USA, 94303-2282 ■ 650-838-2000 ■ Fax: 650.838.2001

WASHINGTON, DC: The Atlantic Building ■ 950 F Street, NW ■ Washington, DC, USA, 20004-1404 ■ 202.239.3300 ■ Fax: 202.239.3333
