

**SECURITIES AND EXCHANGE
COMMISSION****17 CFR Part 232**[Release Nos. 33-8956; 34-58584; 39-2458;
IC-28381]**Adoption of Updated EDGAR Filer
Manual****AGENCY:** Securities and Exchange
Commission.**ACTION:** Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to support the rule amendments made to mandate the electronic filing of information required by Securities Act of 1933 Form D with the implementation of a new Form D online application.

In addition, the revisions also include updates to submission types PREM14A, DEFM14A, PREM14C and DEFM14C to correctly process series and class identifiers; updates to the EDGAR company name conformance rules; updates to the EDGARLite Form TA-2 (Annual Report of Transfer Agent activities filed pursuant to the Securities Exchange Act of 1934) to correct the OMB expiration date displayed on the printed blank form, to correct the order that the response fields for Question 1(h) (Full Name of Registrant as stated in Question 3 of Form TA-1) and Question 3(a) (Registrants Appropriate Regulatory Agency) are displayed on the printed blank form, to make a response to Question 11(a)(i) (Date of Database Search) optional and to prevent the submission of invalid ASCII characters; updates to the EDGAR processing of series and classes co-registrant filings; and the incorporation of the final U.S. GAAP Taxonomies 1.0 into EDGAR.

The revisions to the Filer Manual reflect changes within Volume I entitled EDGAR Filer Manual, Volume I: "General Information," Version 5 (September 2008) and Volume II entitled EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 9 (September 2008). The updated manual will be incorporated by reference into the Code of Federal Regulations.

DATES: *Effective Date:* September 24, 2008. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of September 24, 2008.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology,

Rick Heroux, Assistant Director of the EDGAR Program Office, at (202) 551-8800; in the Division of Corporation Finance for questions regarding the electronic filing and revision of Form D, contact Gerald J. Laporte, Chief, or Corey A. Jennings, Attorney-Advisor, Office of Small Business Policy at (202) 551-3460; in the Division of Trading and Markets for questions concerning updates to Form TA-2, contact Catherine Moore, Special Counsel, Office of Clearance and Settlement, at (202) 551-5710; in the Division of Investment Management for questions regarding co-registrant filing of series and classes (contracts), contact Ruth Armfield Sanders, Senior Special Counsel, Office of Legal and Disclosure, at (202) 551-6989; and in the Office of Interactive Disclosure, for questions concerning XBRL filings contact Jeffrey W. Naumann, Assistant Director of the Office of Interactive Disclosure, at (202) 551-5352.

SUPPLEMENTARY INFORMATION: Today we are adopting an updated EDGAR Filer Manual, Volume I and Volume II. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.¹ It also describes the requirements for filing using EDGARLink² and the Online Forms/XML Web site.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.³ Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.⁴

¹ We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33-6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on June 12, 2008. See Release No. 33-8926 (June 4, 2008) [73 FR 33298].

² This is the filer assistance software we provide filers filing on the EDGAR system.

³ See Rule 301 of Regulation S-T (17 CFR 232.301).

⁴ See Release Nos. 33-6977 (February 23, 1993) [58 FR 14628], IC-19284 (February 23, 1993) [58 FR 14848], 35-25746 (February 23, 1993) [58 FR 14999], and 33-6980 (February 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. See also Release No. 33-7122 (December 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33-7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33-7472 (October 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998, we would

In support of the adopted rule amendments mandating the electronic filing of information required by Securities Act of 1933 Form D⁵ through the Internet, EDGAR Release 9.13 will be implemented on September 15, 2008. EDGAR Release 9.13 will implement a new Form D online application that will allow filers to create and submit Form D and Form D amendment filings electronically to the Commission. The Form D online application can be accessed from the EDGAR OnlineForms/XML Web site (<https://www.onlineforms.edgarfiling.sec.gov>) by logging in and selecting the "File Form D" link. Filers can also log in by clicking the "Would you like to File a Form D?" link from the EDGAR Portal Web site (<http://www.portal.edgarfiling.sec.gov>).

Use of the new Form D online application requires EDGAR access codes (e.g., CIK (filer ID number), CCC (filer ID number confirmation code) and password). Filers that have a CIK, but have previously filed with the Commission in paper only must use the "Convert Paper Only Filer to Electronic Filer" function on the EDGAR Filer Management Web site (<https://www.filermanagement.edgarfiling.sec.gov>) to be converted to an

not accept in paper filings that we require filers to submit electronically; Release No. 34-40934 (January 12, 1999) [64 FR 2843], in which we made mandatory the electronic filing of Form 13F; Release No. 33-7684 (May 17, 1999) [64 FR 27888], in which we adopted amendments to implement the first stage of EDGAR modernization; Release No. 33-7855 (April 24, 2000) [65 FR 24788], in which we implemented EDGAR Release 7.0; Release No. 33-7999 (August 7, 2001) [66 FR 42941], in which we implemented EDGAR Release 7.5; Release No. 33-8007 (September 24, 2001) [66 FR 49829], in which we implemented EDGAR Release 8.0; Release No. 33-8224 (April 30, 2003) [68 FR 24345], in which we implemented EDGAR Release 8.5; Release Nos. 33-8255 (July 22, 2003) [68 FR 44876] and 33-8255A (September 4, 2003) [68 FR 53289] in which we implemented EDGAR Release 8.6; Release No. 33-8409 (April 19, 2004) [69 FR 21954] in which we implemented EDGAR Release 8.7; Release No. 33-8454 (August 6, 2004) [69 FR 49803] in which we implemented EDGAR Release 8.8; Release No. 33-8528 (February 3, 2005) [70 FR 6573] in which we implemented EDGAR Release 8.10; Release No. 33-8573 (May 19, 2005) [70 FR 30899] in which we implemented EDGAR Release 9.0; Release No. 33-8612 (September 21, 2005) [70 FR 57130] in which the Commission granted the authorization to publish the release adopting the reorganized EDGAR Filer Manual; Release No. 33-8633 (November 1, 2005) [70 FR 67350] in which we implemented EDGAR Release 9.2; Release No. 33-8656 (January 27, 2006) [71 FR 5596] in which we implemented EDGAR Release 9.3; Release No. 33-8834 (August 15, 2007) [72 FR 46559] in which we implemented EDGAR Release 9.7; Release No. 33-8922 (May 30, 2008) [73 FR 33002] in which we implemented EDGAR Release 9.8 and Release 9.9; and Release No. 33-8926 (June 4, 2008) [73 FR 33298] in which we implemented EDGAR Release 9.10.

⁵ See Release No. 33-8891 (February 6, 2008) [73 FR 10592].

electronic filer prior to using the Form D application (See EDGAR Filer Manual—Volume I, section 3.3.1 for details). For those filers that have never been assigned a CIK, they must apply for EDGAR access codes via the EDGAR Filer Management Web site (See EDGAR Filer Manual—Volume I, section 3.2 for details) prior to using the new Form D online application.

EDGAR Release 9.13 will include updates to submission types PREM14A, DEFM14A, PREM14C and DEFM14C to correctly process series and class identifiers. Target funds that are series and class investment companies must use these submission types for those proxy mergers for which the acquiring fund does not file a registration statement on Form N-14; PREM14A, DEFM14A, PREM14C and DEFM14C must include the relevant series and class identifiers for both the target and the acquiring fund (if in existence). Filers must download the updated EDGARLink Submission Template 2 to ensure PREM14A, DEFM14A, PREM14C and DEFM14C submissions are processed successfully.

The EDGAR conformed name values applied to the following words have been updated (See EDGAR Filer Manual—Volume I, Appendix C, section C.5 for details).

Original value	Conformed value as of EDGAR release 9.13
Company	Co.
Corporation	Corp.
Incorporated	Inc.
Incorporation	Inc.
Limited	Ltd.

The EDGARLite Form TA-2 (Annual Report of Transfer Agent activities filed pursuant to the Securities Exchange Act of 1934) is being updated to correct two errors that occur when the “Check to show blank form for printing” option is checked on the form: (1) The OMB expiration date displayed will be corrected to be “September 30, 2009” and (2) the response fields for Question 1(h) (Full Name of Registrant as stated in Question 3 of Form TA-1) and Question 3(a) (Registrants Appropriate Regulatory Agency) will be correctly displayed under the appropriate question. Note that the OMB expiration date and Questions 3(a) and 1(h) display correctly on the EDGARLite TA-2 submission template if the “Check to show blank form for printing” option is not selected. Form TA-2 will also be updated to make Question 11(a)(i) (Date of Database Search) optional. Data fields on Form TA-2 that allow the entry of

text were updated to accept only valid ASCII characters (See EDGAR Filer Manual—Volume II, sections 5.2.1.1 and 5.2.1.2 for details). Filers must download the updated EDGARLite TA-2 Submission Template from the EDGAR OnlineForms Web site to ensure that TA-2 submissions will be processed successfully. Previous versions of the templates will not work properly.

EDGAR Release 9.12, implemented on June 23, 2008, updated EDGAR processing for all submission types that require series and class (contract) identifiers to suspend co-registrant filings unless at least one series and one class (contract) identifier associated with the respective co-registrant CIK is included in the submission for each respective co-registrant (i.e., the filing must include at least one series and class (contract) identifier for the primary co-registrant and at least one series and class (contract) identifier for each of the other co-registrants); increased the maximum number of co-registrants acceptable per submission to 999; and incorporated the final US GAAP Taxonomies version 1.0 into EDGAR.

Notice of the updates has previously been provided on the EDGAR Filing and OnlineForms/XML Filing Web site and on the Commission’s public Web sites. The discrete updates are reflected on the EDGAR OnlineForms/XML Filing Web site and in the updated Filer Manual, Volume I and Volume II.

Along with adoption of the Filer Manual, we are amending Rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of today’s revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, Securities and Exchange Commission, 100 F Street, NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. We will post electronic format copies on the Commission’s Web site; the address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You may also obtain copies from Thomson Financial, the paper document contractor for the Commission, at (800) 638-8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).⁶ It follows that

⁶ 5 U.S.C. 553(b).

the requirements of the Regulatory Flexibility Act⁷ do not apply.

The effective date for the updated Filer Manual and the rule amendments is September 24, 2008. In accordance with the APA,⁸ we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 9.13 is scheduled to become available on September 15, 2008. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the system upgrade.

Statutory Basis

We are adopting the amendments to Regulation S-T under sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,⁹ sections 3, 12, 13, 14, 15, 23, and 35A of the Exchange Act,¹⁰ section 319 of the Trust Indenture Act of 1939,¹¹ and sections 8, 30, 31, and 38 of the Investment Company Act of 1940.¹²

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

■ In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR

⁷ 5 U.S.C. 601-612.

⁸ 5 U.S.C. 553(d)(3).

⁹ 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

¹⁰ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w, and 78ll.

¹¹ 15 U.S.C. 77sss.

¹² 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: "General Information," Version 5 (September 2008). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 9 (September 2008). Additional provisions applicable to Form N-SAR filers are set forth in the EDGAR Filer Manual, Volume III: "N-SAR Supplement," Version 1 (September 2005). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, Securities and Exchange Commission, 100 F Street, NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10 am and 3 p.m., or by calling Thomson Financial at (800) 638-8241. Electronic copies are available on the Commission's Web site. The address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Dated: September 18, 2008.
By the Commission.

J. Lynn Taylor,
Assistant Secretary.
[FR Doc. E8-22391 Filed 9-23-08; 8:45 am]
BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9321]

RIN 1545-BE79

Application of Section 409A to Nonqualified Deferred Compensation Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD

9321) which were published in the **Federal Register** on April 17, 2007 (72 FR 19323). The final regulations relate to section 409A and nonqualified deferred compensation plans.

DATES: This correction is effective September 24, 2008, and applicable on April 17, 2007.

FOR FURTHER INFORMATION: Guy R. Traynor, (202) 622-3693 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to this document are under section 409A of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9321) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment.

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.409A-6, paragraph (a)(3)(i) is revised to read as follows:

§ 1.409A-6 Application of section 409A and effective dates.

* * * * *

(a) * * *

(3) * * *

(i) *Nonaccount balance plans.* The amount of compensation deferred before January 1, 2005, under a nonqualified deferred compensation plan that is a nonaccount balance plan (as defined in § 1.409A-1(c)(2)(i)(C)), equals the present value of the amount to which the service provider would have been entitled under the plan if the service provider voluntarily terminated services without cause on December 31, 2004, and received a payment of the benefits available from the plan on the earliest possible date allowed under the plan to receive a payment of benefits following the termination of services, and received the benefits in the form with the maximum value.

Notwithstanding the foregoing, for any subsequent taxable year of the service provider, the grandfathered amount may increase to equal the

present value of the benefit the service provider actually becomes entitled to, in the form and at the time actually paid, determined under the terms of the plan (including applicable limits under the Internal Revenue Code), as in effect on October 3, 2004, without regard to any further services rendered by the service provider after December 31, 2004, or any other events affecting the amount of or the entitlement to benefits (other than a participant election with respect to the time or form of an available benefit). For purposes of calculation the present value of a benefit under this paragraph (c)(3)(i), reasonable actuarial assumptions and methods must be used. Whether assumptions and methods are reasonable for this purpose is determined as of each date the benefit is valued for purposes of determining the grandfathered benefit, provided that any reasonable actuarial assumptions and methods that were used by the service recipient with respect to such benefit as of December 31, 2004, will continue to be treated as reasonable assumptions and methods for purposes of calculating the grandfathered benefit.

Actuarial assumptions and methods will be presumed reasonable if they are the same as those used to value benefits under a qualified plan sponsored by the service recipient the benefits under which are part of the benefit formula under, or otherwise impact the amount of benefits under, the nonaccount balance nonqualified deferred compensation plan.

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Guy R. Traynor,
Federal Register Liaison, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8-22383 Filed 9-23-08; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9422]

RIN 1545-BE95

S Corporation Guidance Under AJCA of 2004 and GOZA of 2005; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 9422) that were published in the **Federal Register** on Thursday, August 14, 2008 (73 FR 47526) providing guidance