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[FR Doc. 2022-21714 Filed 10-7-22; 8:45 am]

BILLING CODE 3510-33-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33-11101; 34-95817; 39-2546; IC-34703]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange
Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is adopting amendments to Volume II of the Electronic Data Gathering, Analysis, and Retrieval system (“EDGAR”) Filer Manual (“Filer Manual”) and related rules and forms. The EDGAR system was upgraded on September 19, 2022.

DATES: *Effective date:* October 13, 2022. The incorporation by reference of the Filer Manual is approved by the Director of the **Federal Register** as of October 13, 2022.

FOR FURTHER INFORMATION CONTACT: For questions regarding the amendments to Volume II of the Filer Manual and related rules, please contact Rosemary Filou, Deputy Director and Chief Counsel, or Jane Patterson, Senior Special Counsel, in the EDGAR Business Office at (202) 551-5188. For questions regarding the electronic submission of Form 13F confidential treatment requests and applications for orders under the Investment Adviser’s Act of 1940, or Forms N-MFP and N-CEN, please contact Heather Fernandez, Financial Analyst, in the Division of Investment Management at (202) 551-6708. For questions regarding the electronic filing requirement of online Form 144, please contact Christian Windsor, Senior Special Counsel, in the Division of Corporation Finance at (202) 551-3419 and Heather Mackintosh, EDGAR Liaison in the Division of Corporation Finance at (202) 551-8111. For questions concerning taxonomies or schemas, please contact the Office of Structured Disclosure in the Division of Economic and Risk Analysis at (202) 551-5494.

SUPPLEMENTARY INFORMATION: We are adopting an updated Filer Manual, Volume II: “EDGAR Filing,” Version 63 (September 2022) and amendments to

17 CFR 232.301 (“Rule 301”). The updated Filer Manual volume is incorporated by reference into the Code of Federal Regulations.

I. Background

The Filer Manual contains information needed for filers to make submissions on EDGAR. 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.¹ Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filings when preparing documents for electronic submission.

II. Edgar System Changes and Associated Modifications to Volume II of the Filer Manual

EDGAR was updated in Releases 22.2.1, 22.2.2, and 22.3, and corresponding amendments to Volume II of the Filer Manual are being made to reflect these changes, as described below.²

On June 23, 2022, the Commission adopted amendments to rules to require

¹ See Rule 301 of Regulation S-T.

² Release 22.2.1 was deployed on July 15, 2022, and Release 22.2.2 was deployed on Aug. 15, 2022.

the filing of certain applications, confidential treatment requests and forms from paper to electronic submission.³ The amended rules also require institutional investment managers to file confidential treatment requests for filings made under section 13(f) of the Securities Exchange Act of 1934 electronically on EDGAR. In order to assist filers to access and file the confidential treatment requests for Form 13F and amendments thereto, EDGAR Release 22.3 introduced new submission types Form 13F Confidential Treatment Request and Amendment to Form 13F Confidential Treatment Request, including a *de novo* request, for filing on EDGAR.

The Commission also adopted amendments to require the electronic submission of applications for orders under the Investment Advisers Act of 1940 on EDGAR under the following submission types, as applicable: 40-APP, 40-APP/A, 40-OIP, 40-OIP/A, 40-6B, and 40-6B/A. The Filer Manual is being updated accordingly.

On June 2, 2022, the Commission adopted rule and form amendments that mandate the electronic filing or submission of documents that are currently permitted as electronic filings or submissions.⁴ As part of the rule, the Commission mandated the electronic filing of Form 144 with respect to securities issued by issuers subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. In accordance with these requirements, the Form 144 was revised as a new fillable form and will be made available on the EDGAR Online Forms website for electronic filing on EDGAR. Filers also may file the new version of Form 144 as a filer-constructed XML filing using related technical specifications and transmit the filing via the EDGAR Online Forms √ Transmit XML Submission link, or via EDGARLink Online √ EDGARLink Online Form Submission √ Transmit as a Live Submission. The Filer Manual will be updated with instructions for the electronic submission of Form 144 accordingly.

On March 29, 2022, the Commission adopted technical amendments to various rules and forms, including amendments to Form N-MFP and Form N-CEN to clarify instructions and

correct typographical errors.⁵ Conforming text changes were made in EDGAR to the style sheets for Form N-MFP and Form N-CEN and the online application for Form N-CEN.

EDGAR Release 22.3 also made general functional enhancements to EDGAR, for which revisions are being made to the Filer Manual.

Pursuant to EDGAR Release 22.2.2, EDGAR was updated on August 15, 2022, to accept the 2022Q3 supplemental versions of the U.S. Generally Accepted Accounting Principles Financial Reporting and SEC Reporting Taxonomies. Please see <https://www.sec.gov/info/edgar/edgartaxonomies.shtml> for a complete list of supported standard taxonomies. Volume II of the Filer Manual is also being amended to address minor software changes made in EDGAR on July 15, 2022, pursuant to EDGAR Release 22.2.1.

IV. Amendments to Rule 301 of Regulation S-T

Along with the adoption of the updated 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 the current 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.

The updated EDGAR Filer Manual is available at <https://www.sec.gov/edgar/filer-information/current-edgar-filer-manual>.

V. Administrative Law Matters

Because the Filer Manual and rule amendments relate solely to agency procedures or practice and do not substantially alter the rights and obligations of non-agency parties, publication for notice and comment is not required under the Administrative Procedure Act (“APA”).⁶ It follows that the amendments do not require analysis under requirements of the Regulatory Flexibility Act⁷ or a report to Congress under the Small Business Regulatory Enforcement Fairness Act of 1996.⁸

The effective date for the updated Filer Manual and related rule amendments is October 13, 2022. In accordance with the APA,⁹ we find that there is good cause to establish an effective date less than 30 days after publication of these rules. 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 related system upgrades.

VI. Statutory Basis

We are adopting the amendments to Regulation S-T under the authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,¹⁰ Sections 3, 12, 13, 14, 15, 15B, 23, and 35A of the Securities Exchange Act of 1934,¹¹ Section 319 of the Trust Indenture Act of 1939,¹² and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.¹³

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

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 general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 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, 80b-4, 80b-6a, 80b-10, 80b-11, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 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 forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the EDGAR Filer Manual, Volume I: “General Information,” Version 40 (March 2022). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 63 (September 2022). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved

³ Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV-NR; Amendments to Form 13F, Release 34-95148 (June 23, 2022) [87 FR 38943 (June 30, 2022)].

⁴ Updating EDGAR Filing Requirements and Form 144 Filings, Release 33-11070 (June 2, 2022) [87 FR 35393 (June 10, 2022)].

⁵ Technical Amendments to Commission Rules and Forms, Release 33-11047 (Mar. 29, 2022) [87 FR 22444 (Apr. 15, 2022)].

⁶ 5 U.S.C. 553(b)(A).

⁷ 5 U.S.C. 601 through 612.

⁸ 5 U.S.C. 804(3)(C).

⁹ 5 U.S.C. 553(d)(3).

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

¹¹ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78o-4, 78w, and 78ll.

¹² 15 U.S.C. 77sss.

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

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. The EDGAR Filer Manual is available at <https://www.sec.gov/edgar/filer-information/current-edgar-filer-manual>. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

By the Commission.

Dated: September 19, 2022.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2022–22194 Filed 10–12–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9968]

RIN 1545–BQ16

Affordability of Employer Coverage for Family Members of Employees

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 36B of the Internal Revenue Code (Code) that amend the regulations regarding eligibility for the premium tax credit (PTC) to provide that affordability of employer-sponsored minimum essential coverage (employer coverage) for family members of an employee is determined based on the employee's share of the cost of covering the employee and those family members, not the cost of covering only the employee. The final regulations also add a minimum value rule for family members of employees based on the benefits provided to the family members. The final regulations affect taxpayers who enroll, or enroll a family member, in individual health insurance coverage through a Health Insurance Exchange (Exchange) and who may be allowed a PTC for the coverage.

DATES: These final regulations are effective on December 12, 2022.

FOR FURTHER INFORMATION CONTACT: Clara Raymond at (202) 317–4718 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

I. Overview

This document amends the Income Tax Regulations (26 CFR part 1) under section 36B of the Code. On April 7, 2022, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–114339–21) in the **Federal Register** (87 FR 20354) under section 36B (proposed regulations). A public hearing was held on June 27, 2022. The Treasury Department and the IRS also received written comments on the proposed regulations. After consideration of the testimony heard at the public hearing and the comments received, the proposed regulations are adopted as amended by this Treasury decision (final regulations).

These final regulations provide that, for purposes of determining eligibility for PTC, affordability of employer coverage for individuals eligible to enroll in the coverage because of their relationship to an employee of the employer (related individuals) is determined based on the employee's share of the cost of covering the employee and the related individuals. As further explained in the Summary of Comments and Explanation of Revisions, the affordability rule for related individuals in these final regulations represents the better reading of the relevant statutes and is consistent with Congress's purpose in the Affordable Care Act (ACA)¹ to expand access to affordable health care coverage. The final regulations also include amendments to the rules relating to the determination of whether employer coverage provides a minimum level of benefits, referred to as minimum value; conforming amendments to the current regulations; and clarification of the treatment of premium refunds.

II. Eligibility for Employer Coverage Under Section 36B

Section 36B provides a PTC for applicable taxpayers who meet certain eligibility requirements, including that a member of the taxpayer's family enrolls in a qualified health plan through an Exchange (QHP or Exchange coverage) for one or more "coverage months." Under § 1.36B–1(d) of the Income Tax Regulations, a taxpayer's family consists of the taxpayer, the taxpayer's spouse if filing jointly, and any dependents of the taxpayer.

¹ The term ACA in this preamble means the Patient Protection and Affordable Care Act, Pub. L. 111–148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152, 124 Stat. 1029 (2010).

Section 1.36B–3(d)(1) provides that the PTC for a coverage month is the lesser of: (i) the premiums for the month, reduced by any amounts that were refunded, for one or more QHPs in which a taxpayer or a member of the taxpayer's family enrolls (enrollment premiums); or (ii) the excess of the adjusted monthly premium for the applicable benchmark plan over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year (taxpayer's contribution amount).

Under section 36B(c)(2)(B) and § 1.36B–3(c), a month is a coverage month for an individual only if the individual is not eligible for minimum essential coverage (MEC) for that full calendar month (other than coverage under a health care plan offered in the individual market within a state). Under section 5000A(f)(1)(B) of the Code, the term MEC includes employer coverage. If an individual is eligible for employer coverage for a given month, no PTC is allowed for the individual for that month.

Section 36B(c)(2)(C) generally provides that an individual is not treated as eligible for employer coverage if the coverage offered is unaffordable or does not provide minimum value. However, if the individual enrolls in employer coverage, the individual is eligible for MEC, irrespective of whether the employer coverage is affordable or provides minimum value. See section 36B(c)(2)(C)(iii) and § 1.36B–2(c)(3)(vii).

Under the affordability test in section 36B(c)(2)(C)(i)(II), an employee who does not enroll in employer coverage is not treated as eligible for the coverage if "the employee's required contribution (within the meaning of section 5000A(e)(1)(B)) with respect to the plan exceeds 9.5 percent of the applicable taxpayer's household income."² The flush language following this provision provides that "[t]his clause shall also apply to an individual who is eligible to enroll in the plan by reason of a relationship the individual bears to the employee."

Section 5000A generally requires applicable individuals³ to make an individual shared responsibility payment⁴ with their tax return if they

² This required contribution percentage of 9.5 is indexed annually under section 36B(c)(2)(C)(iv). For simplicity, this preamble refers to 9.5 percent as the required contribution percentage.

³ Section 5000A(d)(1) defines an applicable individual as any individual other than an individual with a religious conscience exemption, an individual who is not lawfully present or an individual who is incarcerated.

⁴ Public Law 115–97 (2017), commonly referred to as the Tax Cuts and Jobs Act, reduced the