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**ALERT!**

**SEC PROPOSES RULES REQUIRING THAT SECTIONS 302 AND  
906 CERTIFICATIONS BE PROVIDED AS EXHIBITS**

The Securities and Exchange Commission has proposed new rules that would require issuers to provide the certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act as exhibits to the periodic reports to which the certifications relate.

Current rules require the Section 302 certifications to appear in a filing immediately after the signature block at the end of the periodic report. There was no guidance on the proper manner in which to make the Section 906 certification, and issuers had various methods of furnishing it. Under the proposed rules, attaching the certifications as exhibits will allow investors who are reviewing a registrant's report easier and more efficient access to the certifications. In addition, the proposed rules will allow the SEC staff to search a periodic report more expeditiously to verify that the required certifications have been included in the report and to review the certifications. With respect to Section 906 certifications, the proposed rules would enable the Department of Justice, which has the responsibility for enforcing Section 906, to effectively review the form and content of the certifications required by that section.

No substantive changes, other than filing the certifications as exhibits, are made by the proposed rules. Thus, the signature appearing at the end of the certifications would continue to be subject to the signature requirement of the SEC's rules.

With respect to Section 906 certifications that are required only in periodic reports that contain financial statements, the proposed rules make it clear that an issuer is to "furnish", rather than "file", the Section 906 certification with the SEC. This ensures that the Section 906 certifications would not be subject to liability under Section 18 of the Securities Exchange Act of 1934 and would not be subject to automatic incorporation by reference into an issuer's registration statement filed pursuant to the Securities Act of 1933.

Until the final rules are adopted, the SEC is encouraging issuers to file/furnish Section 906 certifications as an "Additional Exhibit" under Item 99 of Item 601(b) of Regulation S-B or S-K. In addition, when submitting the Section 906 certification via EDGAR, the issuer should add the following legend after the text of the certification: "A signed original of this written statement required by Section 906 has been provided to [name of issuer] and will be retained by [name of issuer] and furnished to the Securities and Exchange Commission or its staff upon request."

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The information in this Alert is intended for general information purposes only and should not be considered legal advice or opinion on any specific facts or circumstances. You are urged to contact a professional advisor concerning any specific question you may have relating to your own situation.

If you would like to discuss the matters presented in this Alert you may contact:



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