

## SEC Makes JOBS Act Technical Amendments to Cover Pages of Many Securities Act and Exchange Act Forms

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**PRACTICES** Capital Markets and Securities, Corporate Governance, Corporate

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On March 31, 2017, the Securities and Exchange Commission (the “SEC”) adopted several new technical amendments to conform certain rules and forms under the Securities Act of 1933, as amended (the “Securities Act”), and the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to provisions of the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”) and related interpretations. These changes went into effect on April 12, 2017. A copy of the SEC’s adopting release is available [here](#).

### Technical Amendments to Cover Pages of Forms

Notably, these technical amendments revised the cover pages of certain Securities Act and Exchange Act forms, which must now include new check boxes for: (i) whether the registrant is an emerging growth company (an “EGC”) at the time of the filing and (ii) if so, whether the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards.

Although the revisions to these forms concern EGCs, all companies, including non-EGCs, must update the cover pages of these forms to address the new check boxes. The following forms are impacted by these amendments:

- Securities Act Forms S-1, S-3, S-4, S-8, S-11, F-1, F-3 and F-4; and
- Exchange Act Forms 8-K, 10-Q, 10-K, 10, 20-F and 40-F.

See [Exhibit A](#) for sample language for the amendments to such forms.

### Inflation Adjustment to Emerging Growth Company Definition

The SEC also raised the annual gross revenue threshold to qualify as an EGC from \$1.0 billion to \$1.07 billion pursuant to a mandate under the JOBS Act to index the gross revenue threshold for inflation every five years. Under the amended definition of an EGC, an issuer must have less than \$1.07 billion in total annual gross revenue during its most recently completed fiscal year to qualify as an EGC, and it will continue to be deemed an EGC until the earliest of: (i) the last day of the fiscal year during which it had \$1.07 billion or more in total annual gross revenue, (ii) the last day of the fiscal year following the fifth anniversary of the first sale of common equity securities pursuant to an effective registration statement under the Securities Act, (iii) the date on which the issuer issued more than \$1.0 billion in non-convertible debt during the previous three-year period or (iv) the date on which the issuer is deemed to be a “large accelerated filer.” For more information relating to EGCs and the JOBS Act, please see our previous [client alert](#).

If you have any questions about this topic, please contact a member of our [Capital Markets and Securities Practice Group](#).

*To download the alert with Exhibit A attached, click on the PDF linked below.*

[SEC-Makes-JOBS-Act-Technical-Amendments.PDF](#)

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<sup>1</sup> Note that this non-convertible debt issuance threshold was not adjusted for inflation.