

Topic: Application of S-X Rule 3-10 when a registrant acquires an entity that has outstanding registered debt

NOTICE: The AICPA SEC Regulations Committee addresses with the SEC Staff emerging technical accounting and reporting issues relating to SEC rules and regulations in between regularly scheduled joint meetings. The purpose of the following discussion documents is to summarize the issues addressed with the SEC Staff. These discussion documents have not been considered and acted on by senior technical committees of the AICPA, or by the Financial Accounting Standards Board, and do not represent an official position of either organization.

In addition, these discussion documents are not authoritative positions or interpretations issued by the SEC or its Staff. The discussion documents were not transcribed by the SEC and have not been considered or acted upon by the SEC or its Staff. Accordingly, these discussion documents do not constitute an official statement of the views of the Commission or of the Staff of the Commission.

If an issuer of a previously registered debt security (Target Registrant) is acquired by a registrant and the acquirer guarantees or assumes the obligation under the registered debt security as part of a business combination, and a new guarantee structure is adopted, for what periods shall the registrant provide condensed consolidating financial information under Rule 3-10 of Regulation S-X assuming all of the criteria to provide condensed consolidating financial information under Rule 3-10 are met? That is, should the condensed consolidating financial information be presented prospectively only commencing with the period of the business combination or for all periods presented, including periods prior to the business combination?

Background: Rule 3-10 requires that every issuer of a registered security that is guaranteed and every guarantor of a registered security must file the financial statements required for a registrant by Regulation S-X, except under certain circumstances when condensed consolidating financial information is permitted or in certain limited cases when narrative disclosure about the guarantees is permitted in lieu of condensed consolidating financial information.

Issue/Question: It is not clear how a registrant should apply Rule 3-10 in a situation whereby the registrant acquires an entity that has outstanding registered debt, for which the acquiring company becomes a parent guarantor. Does the fact the parent guarantee was not added until after the business combination, and the Target Registrant had disclosed Rule 3-10 financial information in its periodic reports prior to the business combination impact the rule that financial information under Rule 3-10 be presented for the same periods required for the registrant under Regulation S-X?

View A: Condensed consolidating financial information under Rule 3-10 should be presented for the current period in which the entity that has the outstanding registered debt is acquired and prospective periods only. The application of View B does not seem correct since the registrant did not consolidate the Target Registrant prior to the business combination, so the subsidiary issuer and subsidiary guarantor columns would be zero prior to the business combination date, and the Rule 3-10 information would not appear meaningful. Also, since the Rule 3-10 information was historically provided in the Target Registrant's financial statements, Rule 3-10 information would not appear necessary for these same periods in the registrant's financial statements.

View B: Condensed consolidating financial information under Rule 3-10 should be presented for the same periods required for the registrant under Regulation S-X and amounts related to the Target Registrant would be included only for periods subsequent to the date of acquisition.

Committee Recommendation: The Committee supports View B.

SEC Staff Position: The Staff takes View B.