

SEC Staff Recommends Relaxing Enforcement of Signature Requirements in Light of COVID-19

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On March 24, 2020, the SEC staff (the Staff) recommended to the Commission that, given the public health and safety concerns resulting from the coronavirus (COVID-19), the requirements of Rule 302(b) of Regulation S-T be relaxed for those public companies affected. Rule 302(b) provides that each signatory of documents filed electronically with the SEC manually sign a signature page, or other document, authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic filing. Any public company electronically filing documents with the SEC must maintain those documents for a minimum of five years and furnish copies to the SEC or the SEC's staff upon request.

The Staff noted that many signatories are likely working from home or are otherwise unavailable to sign documents and leave them at work. The Staff stated that, while they expect every registrant to comply to the requirements to the fullest extent possible under the circumstances, it would recommend that the SEC not bring an enforcement action against a registrant that is not in compliance as a result of COVID-19, if:

- a signatory retains a manually signed signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic filing and provides such document, as promptly as reasonably practicable, to the filer for retention in the ordinary course pursuant to Rule 302(b);
- such document indicates the date and time when the signature was executed; and
- the filer establishes and maintains policies and procedures governing this process.

As an example, if a signatory is teleworking, the signatory should sign the document being filed at home and keep that page until he or she is back in the office, where it can be stored per typical procedure.

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Authors

[Michael J. Blankenship](#)

[J. Eric Johnson](#)

[John P. Niedzwiecki](#)

[Ben D. Smolij](#)

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[Michael J. Blankenship](#)



[J. Eric Johnson](#)



John P. Niedzwiecki



Ben D. Smolij

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