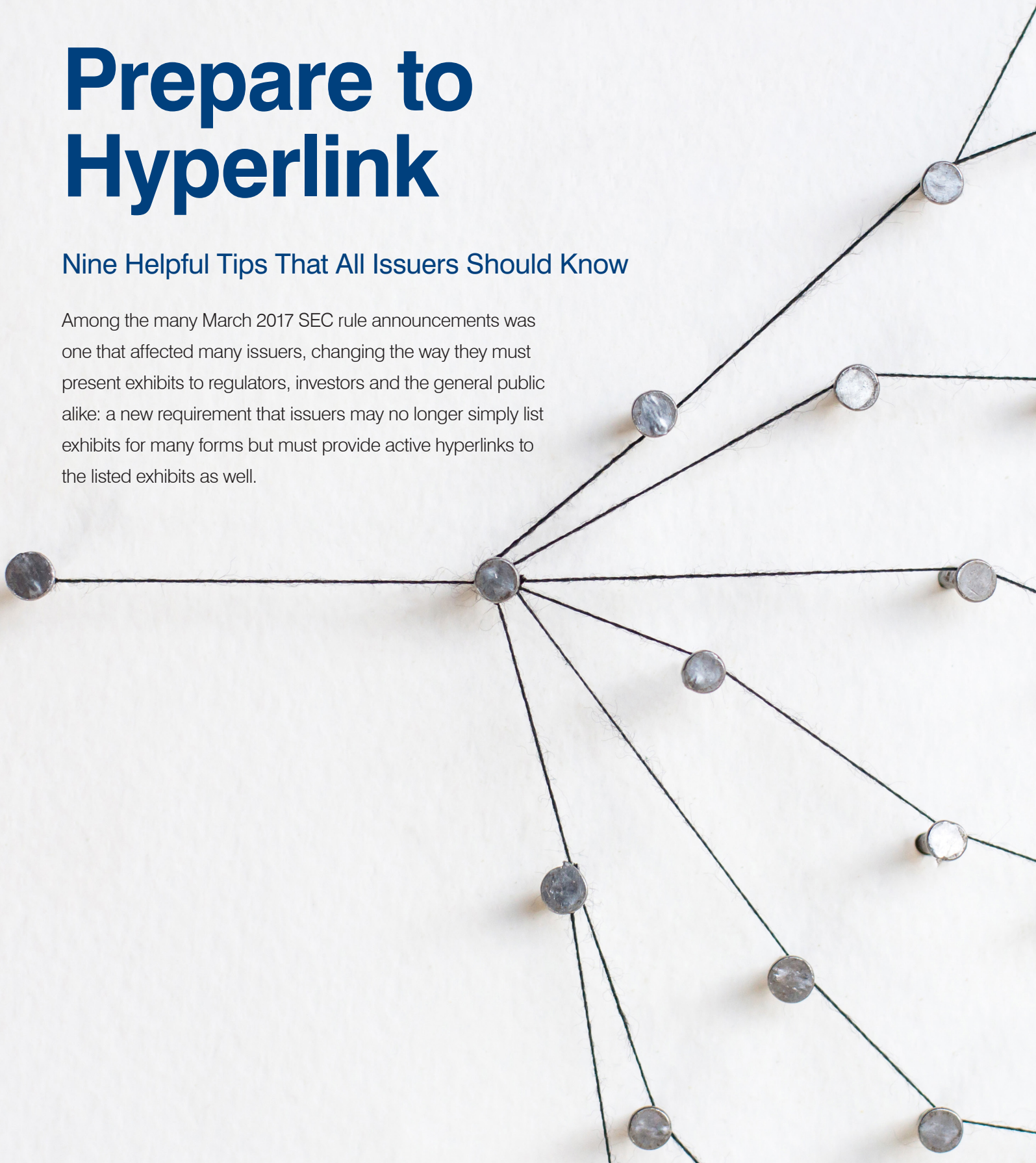


# Prepare to Hyperlink

## Nine Helpful Tips That All Issuers Should Know

Among the many March 2017 SEC rule announcements was one that affected many issuers, changing the way they must present exhibits to regulators, investors and the general public alike: a new requirement that issuers may no longer simply list exhibits for many forms but must provide active hyperlinks to the listed exhibits as well.



The hyperlinking rule began impacting larger issuers on September 1, 2017. Issuers filing periodic and current reports subject to the exhibit requirements explained in Item 601 of Regulation S-K – as well as foreign issuers that file Forms F-10 and 20-F – are subject to the requirement.

Requiring registrants to link to the actual filings in the exhibit index will provide investors and other interested parties with easier access to exhibits incorporated by reference.

While life became easier for anyone who searches through a registrant's filings to view a given exhibit, public companies scrambled to understand their new responsibilities before the fast-approaching compliance date.

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## Following are nine helpful hints:

### **1** What is the full list of forms for which hyperlinks are required for issuers under Item 601 of Regulation S-K, as well as for foreign issuers

The list is quite lengthy: S-1, S-3, S-4, S-8, S-11, F-1, F-3, F-4, F-10, 20-F, SF-1, SF-3, 10, 10-K, 10-Q, 8-K and 10-D.

### **2** Which forms are excluded from the hyperlinking requirement?

Excluded from the rule are XBRL exhibits, Form 6-K or other forms under the multi-jurisdictional disclosure system used by certain Canadian issuers, and exhibits filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S-T or pursuant to Rule 311 of Regulation S-T.

### **3** May issuers filing on EDGAR continue to use ASCII?

Although many issuers are using HyperText Markup Language, otherwise known as "HTML", some have stuck with ASCII. Non-accelerated filers and smaller reporting companies will need to begin transitioning to HTML, but have a year after the final rules go into effect to do so. Issuers may choose to continue using ASCII for proxies and forms that are not subject to the exhibit filing requirements under Item 601.

### **4** What are the hyperlink requirements for foreign private issuers?

The hyperlink requirements are in effect for Forms F-10 and 20-F. However, the SEC is not requiring exhibit hyperlinks for Form 6-K or other forms filed under the multi-jurisdictional disclosure system that is used in Canada.

## **5 Must all companies begin hyperlinking immediately?**

The SEC adopted a one-year phase-in period after the final rule went into effect for non-accelerated filers and smaller reporting companies that submit filings in ASCII. The effective date for those filings is September 1, 2018.

## **6 Are there exceptions to the hyperlinking requirement?**

No. On December 13, 2017, the SEC posted a Notice of Compliance for Form 10-D Hyperlinking stating that any registrant filing a Form 10-D on or after June 1, 2018, must include a hyperlink to any exhibit filed with Form ABS-EE that is included in the exhibit index of Form 10-D.

Also on December 11, the SEC completed technical programming, allowing issuers the “option” to include Forms ABS-EE and Form 10-D in a single submission. The only caveat is that the data file size for Form ABS-EE does not exceed 600 megabytes and the file size for Form 10-D does not exceed 200 megabytes, for a total submission size of 800 megabytes.

Issuers are not required to submit Form 10-D and Form ABS-EE in a single submission. An issuer may file a Form 10-D and Form ABS-EE in separate submissions and comply with the new requirements by including an external hyperlink in the exhibit index of the Form 10-D to a previously filed Form ABS-EE.

In other words, filers have two options for Form 10-D and Form ABS-EE submissions.

Option A allows the filer to continue transmitting two separate filings: a Form 10-D and a Form ABS-EE. If this option is chosen, the Form ABS-EE is filed first. The exhibit list for the Form 10-D would then need to include links to Exhibits 102 and 103 filed in the disseminated Form ABS-EE.

Option B allows the filer to transmit one filing combining the 10-D (and exhibits) and ABS-EE (and Exhibits 102 and 103) within a single transmission. The main form type is 10-D. The exhibit list for the 10-D would then need to include links to Exhibits 102 and 103 filed with the 10-D and ABS-EE. It’s important to note that once the filings are submitted in this scenario, there will be two accession numbers (one for each filing: the 10-D and ABS-EE). After the submission is transmitted, the SEC will accept the ABS-EE. If, however, there are any issues with any documents included within the submission, the entire submission will be rejected.

## **7 What if a hyperlink is inaccurate or does not function properly?**

In the case of a registration statement that is not yet effective, the registrant must correct a non-functioning or inaccurate hyperlink by filing a pre-effective amendment to that registration statement. When a registration statement is already effective or part of an Exchange Act report, an amendment with a proper link to the exhibit is required in the next Exchange Act periodic report.

## **8 Can an issuer link to an external website?**


No. The SEC reminded issuers that EDGAR does not accept documents with hyperlinks to external websites.

## **9 How will Donnelley Financial Solutions handle links for exhibits incorporated by reference?**

If you prefer that Donnelley Financial Solutions research the SEC’s database to find the target exhibit, we will be happy to help out in this way!

## Do you still have questions?

Please contact your representative at Donnelley Financial Solutions, and we will be happy to respond to your specific needs.



The full version of the SEC's hyperlinking rule can be read at

<https://www.sec.gov/rules/final/2017/33-10322.pdf>.

The Notice of Compliance for 10-D Hyperlinking can be read at

<https://www.sec.gov/rules/other/2017/33-10446.pdf>.

For more information or answers to additional questions, please contact your Donnelley Financial Solutions representative or visit our website at [dfsco.com](http://dfsco.com).

## About Donnelley Financial Solutions

Donnelley Financial Solutions (NYSE: DFIN) provides software and services that enable clients to communicate with confidence in a complex regulatory environment. With 3,500 employees in 61 locations across 18 countries, we provide thousands of clients globally with innovative tools for content creation, management and distribution, as well as data analytics and multi-lingual translations services. Leveraging advanced technology, deep-domain expertise and 24/7 support, we deliver cost-effective solutions to meet the evolving needs of our clients.

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