

**MEMO# 32941**

November 24, 2020

# SEC Adopts Rules to Accommodate Electronic Signatures

[32941]

November 24, 2020 TO: Chief Compliance Officer Committee  
Operations Committee  
SEC Rules Committee  
Small Funds Committee  
Transfer Agent Advisory Committee RE: SEC Adopts Rules to Accommodate Electronic Signatures

On November 17, 2020, the SEC published a release announcing that it had revised rules<sup>[1]</sup> under the Federal securities laws to accommodate the use of electronic signatures in lieu of so-called “wet” signatures in various documents filed with the SEC.<sup>[2]</sup> According to the release, the rule amendments were originally requested in April 2020 through a rulemaking petition filed with the Commission. The petition noted the difficulty in obtaining wet signatures during the COVID pandemic and touted improvements in electronic signature technology that make it possible to confirm who signed a document and when. Based on widespread support for such rulemaking, the Commission has revised its rules to permit the use of electronic signatures in specified filings provided that, *at a minimum*, the electronic signing process:

- Requires the signatory to present a physical, logical, or digital credential that authenticates the signatory’s individual identity;
- Reasonably provides for non-repudiation of the signature;
- Provides that the signature be attached, affixed, or otherwise logically associated with the signature page or document being signed; and
- Includes a timestamp to record the date and time of the signature.

In addition, the revisions to Rule 302(b)(2) in Regulation S-T and, by extension, Rule 8b-11 under the Investment Company Act, require that, before a signatory initially uses an electronic signature to sign an authentication document, the signatory must manually sign a document attesting that the signatory agrees that the use of an electronic signature in any authentication document constitutes the legal equivalent of such individual’s manual signature for purposes of authenticating the signature to any filing for which it is provided.<sup>[3]</sup> Registrants are required to maintain the authentication documents created in connection with electronic signatures for at least five years.

Tamara K. Salmon  
Associate General Counsel

**endnotes**

[1] These rules include: Rules 402 and 471 under the Securities Act of 1933; Rules 301 and 302 under Regulation S-T (which govern EDGAR filings); Rules 12b-11, 14d-1, 15Fb1-1, and 16a-3 and Form CB under the Securities Exchange Act of 1934; and Rule 8b-11 under the Investment company Act.

[2] See *Electronic Signatures in Regulation S-T Rule 302*, SEC Release no. IC-34096 (November 17, 2020), which is available at: <https://www.sec.gov/rules/final/2020/33-10889.pdf>. These rule amendments will be effective upon publication in the *Federal Register*.

[3] See SEC Rule 8b-11(c) under the Investment Company Act.

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.