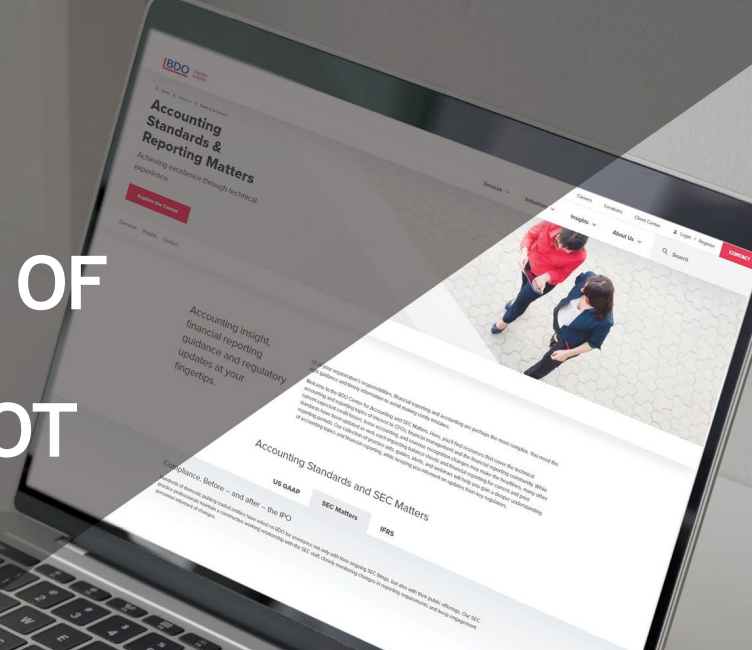




FINANCIAL STATEMENTS OF ACQUIRED REAL ESTATE OPERATIONS: A SNAPSHOT



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This guide provides a high-level summary of the SEC’s financial statement requirements for significant acquisitions of real estate operations and reflects the SEC’s [amendments](#) to Rule 3-14 that became effective on January 1, 2021.

WHERE TO START:

When evaluating the financial reporting ramifications for an acquisition, registrants should begin by answering the two following questions:

- ▶ Is the registrant acquiring a “real estate operation,” as defined by Regulation S-X?
- ▶ What is the significance of the acquired real estate operation to the registrant?

The answers to these questions will ultimately drive the financial statements to be filed in Form 8-K and any subsequently filed registration statements.

IS THE ACQUISITION A “REAL ESTATE OPERATION”?

Regulation S-X Rule 3-14

A real estate operation is defined as “a business that generates substantially all of its revenues through the leasing of real property.” An interest accounted for under the equity method or the fair value option also qualifies as a real estate operation.

IS THE ACQUIRED REAL ESTATE OPERATION “SIGNIFICANT”?

Regulation S-X Rules 3-14 and 1-02(w)

The significance of an acquired real estate operation (“target”) to the registrant (“acquiror”) is based on the investment test, and that investment test percentage dictates the financial reporting requirements.

Investment Test	Fair value of the acquiror’s investment in the real estate operation (i.e., GAAP purchase price), excluding any assumed debt secured by the real estate, compared to the acquiror’s aggregate worldwide market value (“WWMV”), if available, otherwise use total assets from the most recently audited balance sheet and include assumed debt secured by the real estate as part of the acquiror’s investment in the real estate operation
Blind Pool Offerings	See discussion of adapted significance calculations for blind pool offerings below

A group of related real estate operations are treated as a single acquisition for significance purposes. Real estate operations are related if they are under common control or management, one acquisition is contingent upon the acquisition of each other real estate operations or on a single common event, such as an IPO. Financial statements of related real estate operations may be presented on a combined basis for any period under common control or management.

Additionally, a registrant is permitted to use pro forma financial information to measure significance for acquisitions completed after the latest fiscal year end if the registrant has filed:

- ▶ The required financial statements of the acquired real estate operation, and
- ▶ The required Article 11 pro forma financial information for any such acquired real estate operation.

WHEN TO REPORT A SIGNIFICANT ACQUIRED REAL ESTATE OPERATION:

	STEP 1	STEP 2	STEP 3
Action	Sign the Purchase Agreement	Close the Acquisition	File the Required Financial Statements
When & what to file	Within 4 business days, File Item 1.01 Form 8-K	Within 4 business days, file Item 2.01 Form 8-K	Within 71 calendar days after Step 2, file Item 9.01 Form 8-K

If the acquired real estate operation financial statements are required in connection with a registration statement (as discussed below), they may be included in the registration statement or incorporated by reference from a Form 8-K filing.

FINANCIAL STATEMENTS OF AN ACQUIRED, OR PROBABLE TO BE ACQUIRED, REAL ESTATE OPERATION:

The historical financial statement requirements for an acquired real estate operation to be filed in Form 8-K or in a registration statement are based on the bright-line significance threshold set forth in S-X Rule 3-14 as follows:

SIGNIFICANCE	REQUIRED FINANCIAL STATEMENTS OF ACQUIRED REAL ESTATE
Less than 20%	No financial statements
Greater than 20% ¹	Abbreviated income statement excluding items not comparable to proposed future operations of the property, for most recent audited annual* and unaudited interim periods (no prior year annual or interim information is required)
Blind Pool Offerings	See discussion of adapted significance calculations for blind pool offerings below

* Financial statements for a period of 9 to 12 months satisfy the annual financial statement requirement for the acquired real estate operation.

In a registration statement, a registrant must apply the same significance calculation and financial statement requirements to “probable to be acquired” real estate operations.

¹ When the effective date of the registration statement is no more than 74 days after completion of the acquisition, financial statements may not be required if significance is at least 20%, but less than 50%. However, financial statements for 50% significant completed and probable acquisitions must be included.

Registrants also need to consider the aggregate effect of all real estate acquisitions that have been completed or are probable of acquisition since the date of the most recently filed audited balance sheet filed by the registrant. If the aggregate effect of such acquisitions exceeds 50% significance for the investment test, registrants are required to file:

- ▶ Pre-acquisition historical audited financial statements for any acquired real estate operation whose individual significance exceeds 20%; and
- ▶ Pro forma financial information depicting the aggregate effects of all such “individually insignificant” real estate acquisitions.

Financial statements of an acquired real estate operation are no longer required in a registration statement once the acquisition has been reflected in the registrant’s audited financial statements for nine months.

AGE OF FINANCIAL STATEMENTS OF AN ACQUIRED, OR PROBABLE TO BE ACQUIRED, REAL ESTATE OPERATION:

The ages of the annual and interim financial statements of the acquired (and probable to be acquired for registration statements only) real estate operation to be included in Form 8-K or in a registration statement are based on the following:

	FORM 8-K	REGISTRATION STATEMENT
Age is determined by reference to:	The due date of Step 2 Form 8-K	The effective date of the registration statement
Annual financial statements	Required when Step 2 Form 8-K is due 90 days or more after real estate operation’s fiscal year end	Required when filing is effective after 89th day after real estate operation’s fiscal year end -OR- May be required if filing is effective after 45 days but not more than 89 days after real estate operation’s fiscal year end depending on the registrant’s eligibility for relief under S-X Rule 3-01(c)
Interim financial statements	Latest interim period must be within 135 days of the Step 2 Form 8-K due date, except that the 3rd quarter is considered timely through the 90th day after the real estate operation’s fiscal year end	Latest interim period must be within 135 days of the effective date

BLIND POOL OFFERINGS

Regulation S-X Rules 3-14 and 11-01(b)

Registrants sell securities in a blind pool offering to purchase real estate operations. These real estate operations are not identified at the effective date of the registration statement and the significance test is as follows:

Significance - During the Distribution Period	The acquiror's investment in the real estate operation, including assumed debt, is compared to the sum of (1) the acquiror's total assets as of the date of the acquisition and (2) the proceeds, net of commissions, expected in good faith to be raised in the offering over the next 12 months
Significance - After the Distribution Period	The acquiror's investment in the real estate operation, including assumed debt, is compared to the sum of the acquiror's total assets as of the date of the acquisition, until the registrant files its next Form 10-K After filing its next Form 10-K, the registrant follows the investment test described above

In a blind pool offering, the adapted significance test may also be applied to acquisitions that would otherwise be considered a Rule 3-05 acquisition, such as hotels.

PRO FORMA FINANCIAL INFORMATION

Regulation S-X Article 11

When a real estate operation's abbreviated historical financial statements are required to be presented, pro forma financial information must also be presented that includes:

- ▶ A pro forma condensed balance sheet as of the end of the most recent period for which a balance sheet is required;
- ▶ Pro forma condensed statements of income from continuing operations for the last completed fiscal year and year-to-date interim period; and
- ▶ Accompanying explanatory notes.

Pro forma adjustments are required to give effect to the accounting for the acquisition. If the aggregate effect of such acquisitions exceeds 50% significance for the investment test, the aggregate effects of all other "individually insignificant" real estate acquisitions are also reflected in the pro forma financial information.

Additional management adjustments to reflect synergies and dis-synergies of the acquisition are optional and may be presented in the explanatory notes.



COMPANION PUBLICATIONS

Additional information on the SEC's pro forma financial information requirements for significant business acquisitions, and historical financial statement requirements for significant business acquisitions can be found in our companion publications.

[Pro Forma Financial Information: A Snapshot](#)

[Financial Statements of Acquired Businesses: A Snapshot](#)

Contacts

TIM KVIZ

National Managing Partner, SEC Services
703-245-8685 / tkviz@bdo.com

PAULA HAMRIC

Professional Practice Partner, SEC Services
312-616-3947 / phamric@bdo.com

BRANDON LANDAS

Professional Practice Partner, SEC Services
312-233-1887 / blandas@bdo.com

SHERI FABIAN

Professional Practice Partner, SEC Services
732-734-3063 / sfabian@bdo.com

MEGHAN DEPP

Professional Practice Partner, SEC Services
248-688-3368 / mdepp@bdo.com

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