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Regulatory Update

SEC Proposes Rules to Significantly Reduce Disclosure Obligations for Public Companies

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On May 19, 2026, the Securities and Exchange Commission (SEC) [proposed rules](#) that would reduce the current multiple and sometimes overlapping categories of public filers. Under the proposed rules, over 80% of issuers would become subject to the “scaled disclosure” regime that today applies to smaller reporting companies (SRCs)¹ and emerging growth companies (EGCs)². If adopted, the proposed rules would substantially reduce the reporting obligations of 1,688 filers that are currently subject to the most comprehensive disclosure obligations and provide incremental relief to an additional 1,991 registrants, based on SEC estimates. Notably, these issuers will be exempt from the following requirements:

- The auditor attestation on internal control over financial reporting (Section 404(b) of SoX).
- An annual say-on-pay vote.
- Compensation disclosure for five executives rather than three executives.
- A compensation discussion and analysis (CD&A) section and multiple compensation tables in the annual proxy statement.

The proposed rules would also create certainty for all IPO issuers that they would not become subject to more onerous reporting obligations, irrespective of their public float, until at least five years after their IPO.

That’s Another Fine Mess You’ve Gotten Me Into³

Public companies currently fall into five overlapping categories that define their ongoing reporting obligations based on market cap and revenue: EGC, large accelerated filer (LAF)⁴, accelerated filer (AF)⁴, nonaccelerated filer (NAF)⁴ and SRC. These categories were adopted to create a less onerous IPO process and less burdensome reporting obligations for companies based on their size and resources.

Aside from the confusion that these overlapping categories have created, they arguably no longer serve their purpose. The SEC notes that U.S. domestic public companies have declined in number from 6,996 in 2004 to 5,976 in 2024. The SEC identifies multiple concerns faced by smaller companies contemplating going public based on the cost and burden of public reporting obligations.

The SEC states that there have been no significant concerns raised about the “scaled disclosure” accommodations afforded to SRCs since SRC status was first adopted in 2007. SRCs continue to have

the least onerous reporting obligations, and the proposed rules adopt this reporting regime as the baseline for the vast majority of filers.

A New and Dramatically Simplified Alphabet Soup⁵

The proposed rules would create two categories of filer status, LAF and NAF, and provide a subset of NAFs, referred to as smaller nonaccelerated filers (SNFs), with extended reporting deadlines:

	LAF	NAF	SNF
Seasoning	> 5 years (60 consecutive calendar months).	Not applicable. A NAF is any company that is not a LAF.	
Public float	≥ \$2 billion.		
Trigger	Achieving public float as of end of second quarter for two consecutive years.		
Additional requirement	Not applicable.	Not applicable.	Total assets of ≤\$35 million as of end of second quarter for two consecutive years.
Impact	Decrease in LAFs from 2,115 to 1,146 (representing 19.2% of all registrants and 93.5% of total market public float).	4,825 companies would qualify as NAFs (representing 80.7% of all registrants and 6.5% of total market public float). This compares to 3,108 companies that currently qualify as SRCs or EGCs.	
			1,072 companies (representing 17.9% of all registrants) would qualify as SNFs).

As a result, AF status and SRC status would be eliminated. EGC status was created in 2012 by the JOBS Act and served additional purposes to ease the path to IPO, although the distinction between EGCs and non-EGCs in connection with the IPO process has largely been removed through SEC rulemaking. Under the new regime, the impact of EGC status would effectively be subsumed within the NAF regime, as NAF status is guaranteed for at least five years after an IPO.

Just When I Thought I Was Out, They Pull Me Back In (To LAF, NAF and SNF Status)⁶

Entering and Exiting LAF and NAF Status

The SEC is seeking to achieve greater stability for LAF and NAF status through several means, namely by:

- **Resetting the Market Cap Trigger to \$2 Billion.** A market cap of \$2 billion under the proposed regime would trigger LAF status. This contrasts with the current trigger of \$700 million, which was established in 2005. A \$2 billion threshold will only slightly reduce the total public market float covered while significantly reducing the number of companies in this category.
- **Calculating Public Float Based on 10-Day Average Closing Price.** A company would calculate its public float using the average closing pricing of its common stock over the last 10 trading days of its second fiscal quarter. The current test uses the closing price on the last day of the second fiscal quarter, which is more susceptible to an individual day’s volatility.
- **Maintaining a Longer-Term View on Market Value.** Companies would not transition between filer statuses until they have maintained a public float of \$2 billion or greater, or less than \$2 billion for two years. Thus, a company that transitions under the proposed regime would know after the second triggering quarter that it would transition at the start of the immediately following

fiscal year and would be subject to filing a nonscaled Form 10-K in that upcoming fiscal year with respect to the prior fiscal year.

- **Ensuring at Least 5 Years of NAF Status for IPO Issuers.** Only companies that have been seasoned for five years could qualify as LAFs, as opposed to the current regime where earlier-stage companies could qualify. This ensures that an IPO company will have a guaranteed five years before being subject to the full disclosure regime regardless of its public float. Under the current regime, a significant number of IPO companies lose EGC status relatively shortly after their IPO when their public float exceeds \$700 million as of the end of the second fiscal quarter after they have filed their first Form 10-K or 20-F.

Entering and Exiting SNF Status

A public company would test its total assets for the purpose of the \$35 million SNF test as of the end of its second fiscal quarter, subsequently entering SNF status at the start of the fiscal year that immediately follows the second triggering test. However, in the context of an IPO, the test would be applied to total assets as they appear in the annual audited financial statements.

Do Less, So Much Less ... Well, Less is More⁷

Periodic Report Filing Deadlines

Reports are due within the following number of days after the close of each fiscal period:

	LAF	NAF	SNF
Form 10-K	60	90	120
Form 10-Q	40	45	50

Reporting and Other Public Company Obligations

The following table sets forth the areas where NAFs would be accorded relief from obligations otherwise applicable to LAFs:

Internal Control Matters	Accommodation
Auditor Attestation on Internal Control Over Financial Reporting	Not required
Financial-Related Disclosures	
Financial Statements	Two years audited financial statements
MD&A	Limited to two years
Supplementary Financial Information	Not required
Compliance with New or Revised Financial Accounting Standards	Can elect not to comply for first five years of registration (see below this table)
Compensation-Related Votes	
Say-on-Pay Vote	Not required
Frequency-on-Pay Vote	Not required
Compensation-Related Disclosures	
Compensation Discussion and Analysis	Not required
Executive Compensation Disclosure	Limited to three named executive officers
Summary Compensation Table	Limited to two years
Grants of Plan-Based Awards Table	Not required
Pension Benefits Table	Not required
Option Exercises and Stock Vested Table	Not required
Nonqualified Deferred Compensation Table	Not required
Pay Ratio Disclosure and Related Exhibit	Not required

Pay v. Performance Disclosure	Not required
Policies and Procedures for Related Party Transactions	Not required
Compensation Policies and Practices Related to Risk Management	Not required
Golden Parachute Compensation Disclosure	Not required
Advisory Vote on Golden Parachute Compensation	Not required
Corporate Governance	
Audit Committee Financial Expert Disclosure (first annual report)	Not required
Compensation Committee Report	Not required
Compensation Committee Interlocks and Insider Participation Disclosure	Not required
Other Disclosures	
Description of Business	Limited
Risk Factors	Not required in Form 10-K (and accordingly there are no updates required in Form 10-Q)
Quantitative and Qualitative Disclosure About Market Risk	Not required
Certain Payments by Resource Extraction Issuers	Not required
Stock Performance Graph	Not required other than for investment companies

Other Changes

- **Disclosure of Unresolved SEC Comments.** The SEC is extending the Form 10-K/Form 20-F requirement to disclose all material unresolved SEC comments received at least 180 days before a registrant's fiscal year end to all issuers, regardless of filer status, including foreign private issuers (FPIs). This requirement currently applies only to WKSIs.
- **Related Party Transaction Disclosure.** SRCs are currently subject to a heightened threshold triggering disclosure of related party transactions and the requirement to disclose parent companies and related ownership and control information. The SEC is proposing to not apply this to NAFs, which will be subject to the flat \$120,000 threshold applicable generally.
- **Guaranteed 5-Year Election Regarding FASB Pronouncements.** All newly public companies will be able to elect to defer compliance with new or revised financial accounting standards issued by the Financial Accounting Standards Board (FASB) for a full five years. The election will be irrevocable and will cease on the last day of the fiscal year in which the fifth anniversary of the NAF's initial registration effective date occurs. Currently, public companies lose the ability to defer compliance once they lose EGC status.

Foreign Private Issuers

Other than those that elect to file on domestic Exchange Act forms⁸, FPIs would be excluded from LAF and NAF status. Non-EGC FPIs with a public float greater than \$75 million will continue to be required to file a Section 404(b) auditor attestation report.

Transition Rules

Once the final rules are adopted, an existing reporting company must determine its filer status for the prior fiscal year under the new definitions sometime between the rules' effective date and the day before the last day of the fiscal year in which the rules become effective.⁹ In assessing its new filer status, a company would utilize its public float (and total assets, if applicable) for the two most recent fiscal years, ignoring its filer status prior to the rules' effectiveness. For example, a LAF prior to the rules' effectiveness

would be a NAF following effectiveness if it was not seasoned for the preceding 60 calendar months and/or did not have a \$2 billion or greater public float at the end of the second fiscal quarter of its two most recent fiscal years. Once a company determines that it qualifies as a NAF, it would then be able to utilize scaled-disclosure accommodations as soon as its next annual or quarterly filing.

Concluding Consideration

NAFs will still need to consider whether to comply voluntarily with obligations to which they are not subject. In particular, NAFs that seek to access the public markets in registered offerings, including ATMs, will likely find it necessary to include risk factors in their Form 10-Ks and material updates in their Form 10-Qs. In addition to such disclosure protecting the company, investment banks and counsel issuing 10b5-1 opinions will likely seek such disclosure. A similar conclusion may apply to qualitative and quantitative disclosures about market risk depending on a particular issuer's business.



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- ¹ An SRC is company with (1) a public float of less than \$250 million **or** (2) annual revenue of less than \$100 million during the most recently completed fiscal year and either no public float or a public float of less than \$700 million. Public float is measured as of the last business day of its most recently completed second fiscal quarter.
- ² An EGC is a company with total annual gross revenues of less than \$1.235 billion during its most recently completed fiscal year. A company remains an EGC until the earliest of (1) the last day of the fiscal year in which its annual gross revenues are at least \$1.235 billion, (2) the last day of the fiscal year following the fifth anniversary of the company's first sale of common equity securities pursuant to an effective registration statement under the Securities Act, (3) the date that the company becomes a "large accelerated filer" under Exchange Act Rule 12b-2 or (4) the date that the company has issued more than \$1 billion in nonconvertible debt during the previous rolling three-year period.
- ³ Possibly the most famous misquoted catchphrase from Stan Laurel and Oliver Hardy in "Another Fine Mess" (1930). The actual line is: "That's another *nice* mess you've gotten me into."
- ⁴ An LAF is a company that (1) has a public float in excess of \$700 million as of the last business day of its most recently completed second fiscal quarter, (2) has been subject to Exchange Act reporting obligations for at least 12 calendar months, (3) has filed at least one annual report under the Exchange Act and (4) is not eligible to be an SRC under the \$100 million prong. An AF has the same definition but with \$75 million substituted for \$700 million. A NAF is a public company that does not meet the criteria of either a LAF or an AF. There are also different exit thresholds for LAF and AF status, which are not included here. Companies can be AFs / NAFs only or AFs / NAFs and SRCs or EGCs or both.
- ⁵ Generally thought to refer to the New Deal era of the 1930s, when President Franklin D. Roosevelt's administration created agencies known by initials such as AAA, CCC, TVA, NRA, WPA and so on.
- ⁶ Spoken by Michael Corleone, played by Al Pacino, in the film "The Godfather: Part III" (1990).
- ⁷ Robert Browning's "Andrea del Sarto," first published in *Men and Women* in 1855
- ⁸ The SEC's Registered Offering Reform release from May 19, 2026 proposes to prohibit FPIs from using Forms S-1 and S-3. However, these proposed rules do not reference any similar proposed prohibition to the voluntary adoption of Exchange Act filings by an FPI.
- ⁹ For example, if the rules are effective on Jan. 15, 2027, calendar year end companies would have until Dec. 30, 2027, to determine their filer status as of Dec. 31, 2026, under the new rules.