SEC Proposed Rules Would Overhaul Public Company Reporting

Tuesday, September 1, 2026

INTRODUCTION

The Securities and Exchange Commission is on a mission to simplify its rules to create a regulatory scheme that encourages capital formation in the public markets, while continuing to provide necessary information to protect investors. Three proposals issued in May have the potential to drastically change the nature and timing of required disclosure for most public companies and those seeking to go public. This memo summarizes these proposals. The comment periods have now closed on these proposals and the SEC is weighing their impact, if any, on the proposed rules. The final rules have not been issued and their effective times and any relevant transition periods remain unclear. Nonetheless, it is expected that despite any opposition, the rules will all be finalized promptly by the remaining few Commissioners. Therefore, Issuers are encouraged to familiarize themselves with the sweeping changes contained in the proposed rules so they can be prepared to adapt promptly.

1. SEC PROPOSED RULE: OPTIONAL SEMIANNUAL REPORTING

Overview of Proposed Amendments to Exchange Act Periodic Reporting Requirements

On May 5, 2026, the SEC proposed amendments which would allow reporting companies to elect to file semiannual reports on a new Form 10-S in lieu of Form 10-Q. Electing companies ("semiannual filers") would file one Form 10-S and one Form 10-K per fiscal year.[1] Companies that choose not to elect would continue under the existing quarterly framework. Companies making the election would file one Form 10-S and one Form 10-K each

[1]Semiannual Reporting, Securities Act Release No. 33-11414, Exchange Act Release No. 34-105368, Trust Indenture Act Release No. 39-2563, Investment Company Act Release No. 36140, at 15–16, 25–26 (May 5, 2026). https://www.sec.gov/files/rules/proposed/2026/33-11414.pdf. The release is now available on the Federal Register website at https://www.federalregister.gov/documents/2026/05/07/2026-09095/semiannual-reporting.

fiscal year.[2] The proposal would not change requirements for foreign private issuers and would not override private contractual obligations.[3] The public comment period ended on July 6, 2026.[4]

THE PROPOSED RULE

Rules 13a-13 and 15d-13 currently require reporting companies subject to domestic periodic reporting to file quarterly reports on Form 10-Q, subject to existing exceptions, including for foreign private issuers, certain investment companies, and asset-backed issuers. The proposal would preserve quarterly reporting as the default while giving companies that currently file Form 10-Q the option to elect semiannual reporting on Form 10-S. It would not change the existing reporting requirements applicable to foreign private issuers.

ELECTION MECHANISM

Companies would make the election by checking a reporting box on the cover page of Form 10-K.[5] The election would apply for the full fiscal year. The box would also appear on the cover page of Forms S-1, S-3, S-4, S-11, and 10 for companies who are not yet Exchange Act reporting companies and desire to make an initial election in connection with a registration statement.[6] The election would apply to the financial information included in the registration statement and continue until the Company files a Form 10-K that indicates otherwise.[7]

A company that wishes to continue filing on a semiannual basis must renew the election each year by checking the box on its Form 10-K annual report.[8] If the box is left unchecked, the company would revert to default quarterly reporting for the following fiscal year.[9] The proposal would permit a company to correct an election error by filing an amendment to its Form 10-K, provided the amendment is filed before the due date of the first Form 10-Q that would otherwise be required for that fiscal year.[10]

FORM 10-S DISCLOSURE REQUIREMENTS

Companies that elect semiannual reporting would file interim reports on new Form 10-S. The form would generally require the same narrative disclosures and financial information as Form 10-Q, but for a six-month period rather than a fiscal quarter. The required disclosures would include:

- Management's discussion and analysis (MD&A) and quantitative and qualitative disclosures about market risk;
- Disclosure controls and procedures, including material changes in internal control over financial reporting;
- Legal proceedings and material changes to previously disclosed risk factors;
- Sales of unregistered equity securities, use of proceeds, and issuer repurchases;

[2] *Id.* at 25–26.
[3] *Id.* at 7–8, 17–18.
[4] *Id.* at 1.
[5] *Id.* at 26–27.
[6] *Id.* at 26.
[7] *Id.* at 26–27.
[8] *Id.* at 27–28.
[9] *Id.* at 28.
[10] *Id.* at 29–31.

- Defaults on senior securities;
- Material changes to procedures for security-holder recommendations of director nominees, and adoptions or terminations of Rule 10b5-1 plans by directors or officers; and
- Exhibits required under Item 601 of Regulation S-K, including certifications by the principal executive and principal financial officers.[11]

Form 10-S would be due 40 days after the end of the first fiscal semiannual period for large accelerated and accelerated filers and 45 days for all other registrants.[12] The accompanying financial statements would be prepared in accordance with U.S. GAAP, reviewed by an independent public accountant, and tagged in Inline XBRL.[13] Existing requirements concerning disclosure controls, internal control over financial reporting, and officer certifications would continue to apply.[14]

AMENDMENTS TO REGULATION S-X

The proposal would also amend Regulation S-X to revise financial statement requirements in periodic reports.[15] Key elements include amending requirements governing the age of financial statements to prevent semiannual filers' statements from being considered "stale" under rules built along a quarterly framework, and consolidating those requirements in a single rule, amending Rule 3-01 and eliminating Rule 3-12.[16] Additionally, the proposal would amend Rules 13a-10 and 15d-10 governing transition reports upon a change in fiscal year, along with technical amendments to numerous existing rules and forms that reference quarterly reporting.[17]

IMPLICATIONS FOR BORROWERS AND LENDERS

The proposed amendments change only the frequency of mandatory SEC periodic reports.[18] They would not modify or override private contractual obligations in credit agreements, indentures, or other debt instruments.[19] The SEC acknowledges that "debt agreements, lending arrangements, and other creditor contracts frequently require the provision of quarterly or even monthly financial information to the lender, often irrespective of the frequency of mandatory reporting under the Federal securities laws."[20] For purposes of its economic analysis, the SEC estimates that approximately 1,195 companies (20% of the 5,976 affected reporting companies) would elect semiannual reporting.[21]

The SEC recognizes that some semiannual filers "may nonetheless continue to prepare quarterly financial information internally or obtain interim auditor reviews to satisfy creditor monitoring, covenant compliance, or to facilitate raising capital (at least unless and until contracts or agreements are renegotiated to reflect different

[11] *Id.* at 31–32.
[12] *Id.* at 234.
[13] *Id.* at 31.
[14] *Id.*
[15] *Id.* at 23–24.
[16] *Id.* at 23–24, 45–50.
[17] *Id.* at 61–62.
[18] *Id.* at 22–23.
[19] *Id.* at 109–10.
[20] *Id.* at 109.
[21] *Id.* at 125.

reporting frequencies)."[22] The SEC further notes that the Rule 144A debt markets generally require quarterly financial reporting as a contractual matter and that this contractual demand for quarterly financial information "may persist also under the proposed amendments."[23]

The SEC anticipates that some semiannual reporters "would need to expend time and resources to renegotiate contracts or other agreements that relied, at least to some degree, on quarterly reports," including debt contracts that rely on quarterly financial metrics for maintenance covenants, which may outweigh the financial benefits a reporting company would gain from the proposed semiannual filings.[24]

Additionally, longer intervals between mandatory public reports may delay dissemination of material information about an issuer's financial condition, increasing information asymmetry among market participants.[25] For example, where lending arrangements separately require quarterly or monthly reporting, lenders would continue to receive private financial information at the contractually specified frequency irrespective of the borrower's SEC reporting election, expanding the timeframe when lenders would be at an information advantage over the public.[26]

IMPLICATIONS FOR INSIDERS AND EMPLOYEES

Exchange Act reporting companies typically have insider trading policies that prohibit trading by officers, directors and other insiders for a period of time preceding the close of a financial reporting period (typically a few weeks) until a few days after the financial results for that period have been filed with the SEC, known as a blackout period.[27] In deciding whether to elect semiannual reporting, a Company will need to consider the implications to its blackout periods and whether to revise its insider trading policy accordingly. Under the PCAOB's Auditing Standard 4105, an independent public accountant's interim review provides a basis for reporting whether the accountant is aware of material modifications needed for conformity with U.S. GAAP. [28] AS 6101 governs comfort letters to underwriters.[29] Because negative assurance regarding subsequent changes is limited to a date less than 135 days after the end of the most recent period audited or reviewed, less frequent reviews could constrain a semiannual reporter's ability to complete securities offerings during certain periods of the year as auditors will be unable to provide customary negative assurance.[30] The SEC has requested comment on whether AS 6101 should be revised to address this issue.[31]

REGULATORY IMPLICATIONS

The proposal would make conforming amendments under the Securities Act of 1933, including to Rules 138, 139, 139b, 144, 158, 175, and 405, and to registration statement Forms S-1, S-3, S-4, S-11, and the F-series forms (including Forms F-1, F-3, F-4, and F-10), to add references to semiannual reporting and Form 10-S where existing

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[22]*Id.* at 109–10.
[23]*Id.* at 88–89.
[24]*Id.* at 115–16.
[25]*Id.* at 109–11.
[26]*Id.* at 109–11.
[27]*Id.* at 18–19, 43–44.
[28]*Id.* at 11, 82–83.
[29]*Id.*
[30]*Id.* at 82–83.
[31]*Id.* at 41–42.

provisions reference Form 10-Q.[32] Liability under Section 11 of the Securities Act for material misstatements or omissions in registration statements would continue to apply to information incorporated from Form 10-S, just as it applies to information incorporated from Form 10-Q.[33]

The proposal would also amend the Trust Indenture Act of 1939 Rule 0-11 to incorporate references to semiannual reporting. Sarbanes-Oxley Act Sections 302 and 906 certification requirements—covering disclosure controls, internal controls, and financial-condition representations—would continue to apply to Form 10-S filings in the same manner as they currently apply to Form 10-Q.[34]

Voluntary earnings releases and forward-looking earnings guidance by semiannual filers would remain subject to Regulation FD's selective-disclosure requirements and to the non-GAAP financial measure requirements of Regulation G and Regulation S-K Item 10(e).[35] The antifraud provisions of the federal securities laws, including Exchange Act Section 10(b) and Rule 10b-5, would also continue to apply to all issuer disclosures regardless of the reporting frequency elected.[36]

National securities exchange listing standards would not be automatically amended by the proposal. NYSE and Nasdaq rules that currently reference Form 10-Q, including requirements to make quarterly reports available to shareholders, delinquency procedures for late Form 10-Q filings, and timely dissemination of interim earnings, would remain in effect unless separately revised by the relevant exchange through the Exchange Act Section 19(b) rule-change process.[37]

Similarly, numerous federal agency regulations and state statutes that reference Form 10-Q would not be automatically updated. Federal requirements administered by agencies such as the FDIC, OCC, NRC, and Federal Housing Finance Agency, as well as state laws and administrative regulations that make Form 10-Q a condition of an approval, exemption, or safe harbor, could continue to mandate quarterly financial information independently.[38] Companies considering semiannual reporting should assess these external requirements to determine whether they separately require quarterly financial submissions.

NEXT STEPS

The comment period closed on July 6, 2026. The SEC received over 80,000 comments, mostly in opposition to the proposed rule, including many form letters. Investors are strongly in favor of maintaining mandatory quarterly reporting. The SEC is reviewing the comments. There is no announced timeline for finalizing the proposal. Once finalized, companies could begin electing semiannual reporting upon the rule's effective date.

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[32] *Id.* at 62–64.
[33] *Id.* at 23–24, 244–45.
[34] *Id.* at 31–32, 242.
[35] *Id.* at 20–23.
[36] *Id.* at 20–24.
[37] *Id.*
[38] *Id.* at 83–85.

2. SEC PROPOSED RULE: ENHANCEMENT OF EMERGING GROWTH COMPANY ACCOMMODATIONS AND SIMPLIFICATION OF FILER STATUS FOR REPORTING COMPANIES

Overview of Proposed Amendments to Filer Status and Disclosure Requirements

On May 19, 2026, the SEC proposed the consolidation of the five existing Exchange Act filer statuses into two categories: large accelerated filers (LAFs) and non-accelerated filers (NAFs).[39] The proposal would raise the LAF public float threshold from $700 million to $2 billion, NAFs would receive most accommodations currently available to smaller reporting companies and emerging growth companies, including exemption from internal control over financial reporting (ICFR) auditor attestation.[40] The proposal would also create a small non-accelerated filer (SNF) subcategory with extended filing deadlines.[41]

THE PROPOSED RULE

Exchange Act Rule 12b-2 currently establishes five overlapping filer statuses: large accelerated filers, accelerated filers, non-accelerated filers, smaller reporting companies and emerging growth companies.[42] The SEC noted that this framework has become "bewildering" for companies, adds compliance costs, and may deter companies from going or staying public.[43] The proposal would consolidate these into two categories, LAFs and NAFs, which would eliminate the accelerated filer and smaller reporting company designations. EGC status, which is statutory, would remain but would become largely redundant because NAFs would receive nearly all EGC accommodations.[44]

LARGE ACCELERATED FILER AMENDMENTS

The proposal would revise the LAF definition to require: (1) a public float of $2 billion or more; (2) a public float calculation based on the average stock price over the last 10 trading days of the second fiscal quarter multiplied by shares held by non-affiliates; (3) public float at or above the threshold for two consecutive fiscal years before entering LAF status; and (4) a seasoning period of 60 consecutive calendar months of Exchange Act reporting (increased from the current 12-month requirement).[45] An LAF would remain an LAF until its public float falls below $2 billion for two consecutive fiscal years as determined as of the last day of the fiscal year.[46] The SEC estimates

[39]Enhancement of Emerging Growth Company Accommodations and Simplification of Filer Status for Reporting Companies, Securities Act Release No. 33-11419, Exchange Act Release No. 34-105515, at 36–38 (May 19, 2026). https://www.sec.gov/files/rules/proposed/2026/33-11419.pdf. The release is now available on the Federal Register website at https://www.federalregister.gov/documents/2026/05/21/2026-10222/enhancement-of-emerging-growth-company-accommodations-and-simplification-of-filer-status-for.
[40]*Id.* at 36–37.
[41]*Id.* at 103–104.
[42]*Id.* at 9–11.
[43]*Id.* at 12, 35–36.
[44]*Id.* at 36–40.
[45]*Id.* at 39–40, 47–49.
[46]*Id.* at 43–45.

19.2% of registrants (representing 93.5% of total market public float) would be LAFs under the proposal, compared with 35.4% currently.[47]

NON-ACCELERATED FILER FRAMEWORK

The proposal would define an NAF as any issuer that is not an LAF, which would eliminate accelerated filer and smaller reporting company as separate categories.[48] All issuers would initially be NAFs and would remain so unless and until they satisfy the proposed LAF requirements.[49] The SEC estimates that NAFs would represent approximately 81% of registrants and only 6.5% of total public float.[50] NAFs would remain subject to periodic and current reporting, audited financial statements, MD&A, and management's assessment of ICFR under Section 404(a), but would not be required to obtain an auditor attestation on ICFR under Section 404(b).[51]

ACCOMMODATIONS EXTENDED TO NAFs

NAFs would receive current SRC and EGC accommodations, including: more limited business description; two rather than three years of audited financial statements (Article 8 of Regulation S-X); two rather than three years of MD&A; executive compensation disclosure for three rather than five named officers; exemption from ICFR auditor attestation and pay-versus-performance disclosure; exemption from shareholder advisory votes on executive compensation, frequency of say-on-pay and golden parachute arrangements in M&A transactions; and omission of risk factors, performance graph, market risk disclosure, and compensation discussion and analysis and related tables and information about policies and procedures applicable to related party transactions, compensation committees and audit committees.[52] Further, newly public NAFs could defer compliance with new accounting standards for their first five years.[53] The proposed rule will require all issuers to disclose unresolved SEC comments, a requirement now of only AF and LAF issuers.[54]

SMALL NON-ACCELERATED FILERS

The proposal would create a new SNF subcategory for the smallest NAFs with total assets of $35 million or less as of the end of each of their two most recent second fiscal quarters.[55] SNFs would receive extended filing deadlines: 120 days for Form 10-K (versus 90 days for other NAFs) and 50 days for Form 10-Q (versus 45 days for other NAFs).[56] The SEC estimates approximately 1,072 registrants (17.9% of all registrants and 22.2% of proposed NAFs) would qualify as SNFs.[57]

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[47] *Id.* at 39–40.
[48] *Id.* at 56.
[49] *Id.* at 54.
[50] *Id.*
[51] *Id.* at 55–61.
[52] *Id.* at 65–72, 79–82, 90–91.
[53] *Id.* at 83.
[54] *Id.* at 68–70.
[55] *Id.* at 103.
[56] *Id.* at 103–104.
[57] *Id.* at 106.

IMPLICATIONS FOR EGCs

EGC status is statutory and would not be eliminated. A company currently qualifies as an EGC if it has total annual gross revenues below $1.235 billion and has not exceeded five years since its IPO, issued more than $1 billion in nonconvertible debt over three years, or become an LAF.[58] Under the proposal, virtually all EGC accommodations would be extended to all NAFs, making separate reliance on EGC status unnecessary in most circumstances.[59] The confidentiality of nonpublic draft registration statements under Securities Act Section 6(e)(2) would remain limited to statutory EGCs, as the SEC lacks authority to extend that protection to non-EGC companies, however since 2017 the SEC has allowed all filers to submit registration statements for confidential review.[60]

TRANSITION PERIOD

The proposed rule provides that existing registrants would assess their filer status using data from the fiscal year-end preceding effectiveness of the final rules and the immediately prior fiscal year.[61] If an issuer fails to make the assessment by the end of the fiscal year in which the rules take effect, any existing large accelerated filer will continue as an LAF and all others will be NAFs, until the next assessment date. A registrant qualifying as an NAF could use NAF accommodations in its next Securities Act or Exchange Act filing after completing the assessment.[62] A registrant qualifying as an SNF could use SNF deadlines in its next Form 10-K or Form 10-Q. The release provides an example using an assumed August 1, 2027, effective date; therefore, a calendar-year registrant would assess their status by December 30, 2027.[63]

IMPLICATIONS FOR BORROWERS AND LENDERS

The proposal would expand NAF status and make scaled disclosure and other accommodations available to issuers that currently qualify as LAFs or accelerated filers.[64] As a result, an issuer transitioning to NAF status could provide less extensive financial, business, executive compensation, and corporate governance disclosure and would no longer be required to obtain an auditor attestation of internal control over financial reporting. These changes could reduce the amount of public information available to lenders and other market participants for assessing the issuer's financial condition. Borrowers and lenders should therefore review whether their credit documentation provides adequate contractual rights to financial statements, compliance certificates, and other information in light of the proposed disclosure changes.

REGULATORY IMPLICATIONS

The proposal would amend provisions under the Securities Act, Exchange Act, Regulation S-X, Regulation S-K, and Regulation S-T.[65] Cover-page checkboxes would be revised to reflect LAF, NAF, SNF, and EGC status, removing AF

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[58] *Id.* at 30–31.
[59] *Id.* at 38–39, 79–81.
[60] *Id.* at 81–82.
[61] *Id.* at 114.
[62] *Id.* at 114–115.
[63] *Id.*
[64] *Id.* at 55.
[65] *Id.* at 3–5.

and SRC checkboxes.[66] Federal agency regulations (FDIC, OCC, NRC) and state statutes referencing current categories would not be updated automatically. Foreign private issuers on FPI forms would remain outside the LAF/NAF framework pending the SEC's broader FPI review.

NEXT STEPS

The comment period closed on July 20, 2026.[67] The SEC is reviewing the comments. While the number of comment letters is rather small-roughly 30 they are largely in support of the new framework and the simplification, while raising some substantive points for consideration around the impact of exemption from auditor attestation, the exclusion of executive compensation disclosure, threshold levels and the implications and timing of transition periods. There is no announced timeline for finalizing the proposal.

3. SEC PROPOSED RULE: REGISTERED OFFERING REFORM

Overview of Proposed Amendments to Form S-3 Eligibility, Enhanced Registration Benefits, and Related Rules.[68]

On May 19, 2026, the SEC proposed amendments to significantly expand Form S-3 eligibility by eliminating the $75 million public float requirement, the one-year seasoning requirement, and all transaction requirements.[69] The proposal would also replace the well-known seasoned issuer (WKSI) framework for domestic issuers with three new categories: Form S-3 eligible issuers, Eligible Listed Issuers (ELIs), and Seasoned Eligible Listed Issuers (SELIs).[70] This would extend enhanced registration and communication benefits to a broader set of issuers. Additionally, the proposal would preempt state securities law registration and qualification requirements for all registered offerings and modernize Form S-1 incorporation by reference. The comment period closed on July 27, 2026.[71]

THE PROPOSED RULE

Current Form S-3 eligibility generally requires a 12-month seasoning period during which the issuer has made all exchange act filings, a $75 million public float for unlimited primary offerings and compliance with various registrant and transaction requirements.[72] The SEC appears to have concluded that this framework has become overly restrictive given modern information dissemination, and proposes to shift eligibility to focus on whether

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[66]*Id.* at 91.
[67]*Id.* at 1.
[68]U.S. Sec. & Exch. Comm'n, Proposed Rule: Registered Offering Reform, Securities Act Release No. 33-11418, at 1 (May 19, 2026), https://www.sec.gov/files/rules/proposed/2026/33-11418.pdf. The release is now available on the Federal Register Website at https://www.federalregister.gov/documents/2026/05/26/2026-10373/registered-offering-reform.
[69]*Id.* at 1.
[70]*Id.* at 1.
[71]*Id.* at 1.
[72]*Id.* at 28–29.

investors can readily obtain issuer-specific information through Exchange Act filings.[73] In the SEC's view, current and timely reporting and the availability of filings through EDGAR provide a more relevant measure than an issuer's reporting history, public float, or amount of registered debt issued.[74] The SEC estimates that the proposal could result in an increase of over 60% in the number of issuers eligible to use Form S-3.[75]

FORM S-3 ELIGIBILITY AMENDMENTS

The proposal would eliminate: (1) the one-year seasoning requirement, allowing issuers to use Form S-3 immediately upon becoming subject to Exchange Act reporting; (2) the $75 million public float requirement; (3) all transaction requirements in General Instruction I.B, including the one-third-of-public-float cap for limited primary offerings; (4) the requirement that the issuer has not failed to pay any dividends or defaulted on any debt since the last fiscal year end; (5) that the issuer has made all required electronic filings and filed all required interactive data files.[76] The proposal would retain the requirements that an issuer be subject to Exchange Act reporting and be current and timely in its filings.[77] A proposed exception would preserve eligibility for a single untimely filing if made within seven calendar days of the original due date.[78] The proposal includes a new instruction that makes it clear majority owned subsidiaries may be co-registrants on Form S-3 in regard to issuing guarantees so long as their parent is an eligible issuer.[79]

INELIGIBLE ISSUERS

The SEC recognizes that there are certain categories of issuers that pose a greater potential for non-compliance and proposes to create a new category of ineligible issuers to address this issue. Proposed General Instruction I.A.2 would prohibit Form S-3 use by(1) a new category of issuers "BSP Issuers" defined as blank-check companies, shell companies, and penny-stock issuers, with an exception for former SPACs that have completed de-SPAC transactions; and (2) issuers or subsidiaries convicted of specified felonies or misdemeanors within three years; issuers subject to specified antifraud-related judicial or administrative decrees within three years; issuers whose registration statements are subject to pending Section 8 proceedings; and issuers subject to pending Section 8A proceedings.[80] Proposed General Instruction I.A.3 would additionally prohibit use by foreign governments, foreign private issuers, asset-backed issuers, investment companies, and business development companies.[81]

ENHANCED REGISTRATION AND COMMUNICATION BENEFITS

Under current rules WKSIs benefit from enhanced registration and communication flexibility, including the ability to file an automatic shelf, to make certain offerings prior to filing a registration statement, expanded use of free writing prospectuses, and ability to use pay as you go for filing fees.[82] The proposal would eliminate the current

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[73] *Id*. at 45–46.
[74] *Id.* at 50–51.
[75] *Id*. at 11.
[76] *Id.* at 44–46, 58–63, 81–84, 92–94, 234.
[77] *Id.* at 48–49.
[78] *Id.* at 391.
[79] *Id*. at 97.
[80] *Id.* at 63–65, 67–69.
[81] *Id.* at 76–78.
[82] *Id*. at 23–25.

requirement that an issuer must be a WKSI, which currently requires a $700 million public float or $1 billion of registered non-convertible debt and that the issuer is not ineligible to use Form S-3, to benefit from these enhanced registration and communication benefits.[83] The proposal instead adopts new requirements centered on three new tiers of issuers:

- Form S-3 Eligible: All Form S-3 eligible issuers would gain the ability to use free writing prospectuses in connection with offerings, have broker-dealers publish issuer-specific research reports during a distribution without those reports being treated as offers, and omit the identities of selling security holders from the base prospectus.[84]
- Eligible Listed Issuers (ELI): Form S-3-eligible issuers with at least one class of common equity listed on a national securities exchange would gain additional flexibilities that are currently reserved for WKSIs.[85] These include greater latitude to communicate with the market before and after filing a registration statement, the ability to add new securities or classes of securities (including for majority-owned subsidiaries) through post-effective amendments without filing an entirely new registration statement, the ability to omit a plan of distribution and description of securities offered and the identity of other issuers, and pay-as-you-go registration fee payment at the time of each takedown rather than upfront at filing.[86]
- Seasoned Eligible Listed Issuer (SELI): Eligible listed issuers that have been subject to Exchange Act reporting for at least 12 calendar months would additionally qualify for automatic shelf registration.[87]

The SEC estimates that these changes could result in a potential increase of over 200% in the number of issuers eligible for all enhanced registration and communication benefits.[88]

ATM OFFERINGS

Expanded Form S-3 eligibility would increase access to primary at-the-market (ATM) offerings. The proposal would amend Rule 415(a)(4) to limit ATM offerings to securities listed on a national securities exchange or traded in a market designated by the Commission.[89]

FORM S-1 AMENDMENTS

The proposal would expand incorporation by reference on Form S-1 by permitting backward incorporation regardless of whether the issuer has filed an annual report for its most recently completed fiscal year and expand the use of forward incorporation to any issuer that can backward incorporate rather than the current limitation that only allows a smaller reporting company to do so."[90] The amendments would allow issuers that otherwise

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[83] *Id*. at 110.
[84] *Id*. at 117–18.
[85] *Id*. at 115–16.
[86] *Id*.
[87] *Id*. at 115–16, 123–24.
[88] *Id*. at 11–12.
[89] *Id*. at 11–12.
[90] *Id*. at 12–13.

satisfy the applicable requirements to use Exchange Act filings to reduce duplicative disclosure and update registration statements more efficiently.[91]

STATE SECURITIES LAW PREEMPTION

The proposal would define "qualified purchaser" under Section 18(b)(3) of the Securities Act to include any person to whom securities are offered or sold pursuant to an offering registered under the Securities Act.[92] As a result, securities in all registered offerings, including offerings of unlisted securities, would constitute "covered securities" and would be exempt from state securities law registration and qualification requirements, subject to the states' retained antifraud and other authority under Section 18(c).[93]

DELAYING AMENDMENT

The proposal would eliminate the need to include a delaying amendment on any registration statement to avoid it becoming effective 20 days after filing.[94] Instead, the proposal adopts a presumption that the effectiveness of a registration statement is delayed unless there is a statement to the contrary on the cover of the registration statement.[95]

NEXT STEPS

The comment period closed on July 27, 2026. The SEC is reviewing the comments. The comments are mostly in favor of the reforms with some suggesting loosening of the definition of ineligible issuer. There is no announced timeline for finalizing the proposal.

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[91] *Id*. at 109.
[92] *Id*. at 13–14.
[93] *Id*. at 185.
[94] *Id*. at 264.
[95] *Id*. at 268.

CONTACT

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