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SEC PROPOSES TO SIMPLIFY THE REPORTING COMPANY FILER STATUS FRAMEWORK

RULE PROPOSAL WOULD REDUCE NUMBER OF LARGE ACCELERATED FILERS AND EXTEND SCALED DISCLOSURE ACCOMMODATIONS TO ALL OTHER PUBLIC COMPANIES

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On May 19, 2026, the SEC proposed rule amendments to streamline filer statuses for 1934 Act reporting companies.

As described further below, the proposals would:

- reduce the number of filer categories from five overlapping categories to two, leaving only large accelerated filers and non-accelerated filers;
- raise the threshold and seasoning requirements for large accelerated filer status;
- extend certain existing accommodations and scaled disclosures, including those for smaller reporting companies and emerging growth companies, to all non-accelerated filers, while continuing to require compliance with the more fulsome, non-scaled disclosure for those qualifying as large accelerated filers under the modified standards; and
- extend the deadlines to file periodic reports for the smallest non-accelerated filers, as measured by total assets.

On May 19, 2026, the SEC also proposed a broad array of amendments to registration statement forms and Securities Act rules intended to facilitate registered public offerings for a greater number of issuers.

The SEC has requested to receive comments on the filer status proposal on or before July 20, 2026.

BACKGROUND

As noted by the SEC in the rule proposal, and as illustrated in our July 2025 blog post, Confirming SEC Filer Status for the Upcoming Year, determining filer status is complex, with periodic report filing deadlines varying based on a determination as to whether a registrant is a large accelerated filer, accelerated filer, or "non-accelerated" filer. Additionally, determining that a registrant qualifies as an emerging growth company or smaller reporting company statuses is significant, given scaled disclosure requirements under the exiting regime for such registrants. The multiplicity of filer categories has resulted in requirements and accommodation that are largely overlapping, yet simultaneously distinct. As the SEC notes in its fact sheet related to the rule proposal:

> "Currently, the requirement to obtain an auditor's attestation on a company's internal control over financial reporting applies to large accelerated filers, accelerated filers, and certain smaller reporting companies (that are also accelerated filers and not also emerging growth companies), but not to non-accelerated filers or emerging growth companies. Certain disclosure scaling and accommodations are available to smaller reporting companies, and others are available to emerging growth companies. The disclosure scaling and accommodations available to a particular company depend on whether it is in one, both, or neither of these categories."

As a result, ascertaining filer status, let alone determining what disclosure obligations attach to such status, is by no means "simple."

According to the release and the summary fact sheet, the SEC is seeking to incentivize more companies to go and stay public by proposing to extend current disclosure scaling and other accommodations and simplify the filer status framework to make it easier to understand.

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Under the proposal, the new rules would:

Raise the public float threshold for becoming a large accelerated filer from $700 million to $2 billion

The SEC noted that the $700 million threshold has not been updated since the large accelerated filer status was adopted in 2005. At that time, companies with a public float of over $700 million were estimated to represent approximately 18% of the total number of companies on the public markets and nearly 95% of the total public float on these markets, compared to 35.4% of public companies and 98.8% of total market public float today. The new $2 billion public float threshold would capture approximately 20% of public companies and 93.5% of total market public float, thereby returning coverage to that which existed when the filer status was first adopted.

Establish a new, longer public float calculation window for determining public float

The proposed rules base the annual public float calculation on the average of the closing prices over the last 10 trading days of the second quarter of the registrant's fiscal year (or, if there is no closing price on a day, the average of the bid and ask prices that day), using the number of shares held by non-affiliates on the last day of the second quarter of the registrant's fiscal year, rather than the closing price (or the average of the bid and ask prices) on the last business day of an registrant's most recently completed second fiscal quarter. The SEC notes that this is intended to address the risk that a single day's market volatility could result in unexpected changes to filer status. The SEC is proposing that the number of shares be based on a single date to simplify the calculation.

Establish that a registrant will only transition into or out of a status after the registrant has been above or below the public float threshold for two consecutive years

The revised transition rules are designed to further the SEC's goal to avoid situations in which a registrant frequently enters and exits accelerated and large accelerated filer status due to small fluctuations in public float. In the rule proposal, the SEC notes that, while that goal is laudable, the distinct criteria for transitioning out of a particular filer status as provided for in the current rules increases the complexity of the filer system. Accordingly, the SEC believes that requiring the threshold be met in two consecutive years, based in each year on a longer calculation window, would more meaningfully address these concerns while being easier for registrants to implement and providing earlier notice of a possible change in filer status.

The SEC acknowledges the potential drawbacks, including that investors would not receive the benefits of the more fulsome, non-scaled disclosure following a non-accelerated filer's single-year increase in public float, as they would under the existing rules. On the other hand, however, a registrant may have to continue with the fulsome, non-scaled disclosure requirements for a longer period following a decrease in public float. The SEC apparently believes these drawbacks are counter-balanced because the two-year lookback could provide more consistency to the disclosure regime and more comparable period-to-period information, to the benefit of both registrants and investors.

Increase the "seasoning" threshold for becoming an large accelerated filer to 60 consecutive calendar months

Under current rules, a registrant must be an Exchange Act reporting company for at least 12 calendar months before it can be classified as a large accelerated filer, which was designed, together with the public float requirement, to include the companies that are least likely to find accelerated deadlines overly burdensome and where investor interest in accelerated filing is likely to be highest. In contrast, the extended seasoning period would effectively create a minimum five-year on-ramp for every new registrant, regardless of public float.

The SEC believes allowing all recent registrants time to adjust to the disclosure and filing requirements of a public company may encourage more companies to go public and stay public.

The SEC notes this may in turn ultimately improve overall market transparency and provide investors with more investment opportunities and greater transparency afforded by Exchange Act reporting, even while acknowledging that (i) delayed compliance for the more fulsome, non-scaled disclosure requirements, (ii) accelerated reporting deadlines, and (iii) internal control over financial reporting auditor attestation as compared to the current rules will collectively affect a "small subset" of registrants. The SEC also noted this five-year on-ramp was consistent with the goals of the JOBS Act, which created an on-ramp of up to five years in emerging growth company status, reducing registrants' compliance burdens in their early years as public companies, in order to encourage more companies to go and stay public.

Non-Accelerated Filer status and benefits

The proposed rules would formally establish non-accelerated filer status for all companies that are not large accelerated filers. The rules would consolidate and extend all of the current disclosure requirements applicable to smaller reporting companies and emerging growth companies to all such non-accelerated filers. These registrants would therefore not be required to obtain an auditor's attestation on a company's internal control over financial reporting and could take advantage of disclosure scaling and other accommodations, including no say-on-pay or say-when-on-pay shareholder advisory votes, scaled executive compensation disclosure (including no pay versus performance disclosure), and fewer years of financial statements (with reduced presentation requirements).

There is one area of disclosure that the SEC is proposing to extend to non-accelerated filers: the existing requirement currently applicable to large accelerated filers and accelerated filers to disclose on Form 10-K or Form 20-F the substance of material unresolved staff comments regarding the registrant's periodic or current reports received at least 180 days before a registrant's fiscal year end. The SEC believes this additional disclosure is appropriate to protect investors by providing them with additional information in light of the proposed offering reform proposal to make Form S-3 and the ability to conduct shelf offerings, including automatic shelf offerings, available to significantly more issuers.

In light of the amendments described above, the accelerated filer and smaller reporting company filer statuses would be eliminated as unnecessary.

Small Non-Accelerated Filers

The new rules would establish a new "sub-category" of small non-accelerated filers for companies with total assets of $35 million or less for the two most recent years. Small non-accelerated filers would have an additional 30 days to file Form 10-K annual reports and an additional five days to file Form 10-Q quarterly reports.

According to the SEC, if the proposed amendments were in place today, 19.2% of current public companies would be large accelerated filers (compared to 35.4% currently) and 80.8% would be

non-accelerated filers. A total of 17.9% of public companies (or 22.2% of non-accelerated filers) would be small non-accelerated filers.

FINAL THOUGHTS

As noted in our blog post on the offering reform proposals, the proposed expansion of the scaled disclosure requirements for a greater number of companies, in conjunction with those offering reform proposals and other future modifications of Regulation S-K to eliminate burdensome non-material disclosures (as currently under review by the SEC), may make becoming (and remaining) a public company and having access to public capital raising more attractive and result in a greater number of US public companies in the long run.

RELATED CAPABILITIES

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