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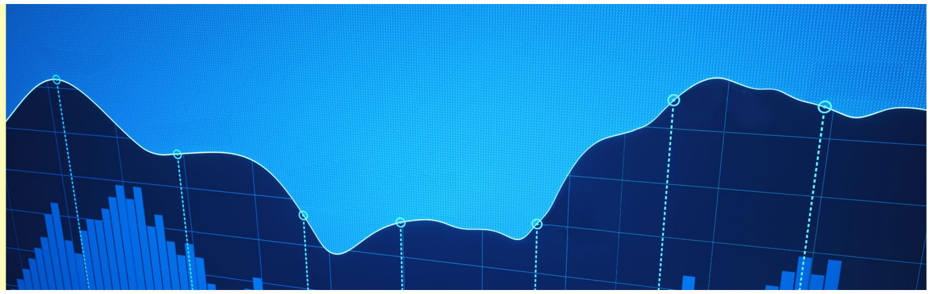

Securities Quarterly Update

July 2025 | Summer Edition

Welcome to the summer edition of Securities Quarterly Update*, a publication that provides updates and guidance on securities regulatory and compliance issues. In this edition, we review important disclosure considerations for quarterly reports, recent developments at the SEC, action items following annual shareholder meetings, and DEI and sustainability-related considerations.*

Form 10-Q Disclosure Considerations

Hostilities with Iran

A new round of direct hostilities has broken out between the United States, Israel and Iran involving significant missile and drone strikes aimed at dismantling Iran's nuclear capabilities. To the extent material, companies should include appropriate disclosures in risk factors and management's discussion and analysis (MD&A) regarding known risks and uncertainties as they relate to direct hostilities with Iran, such as, for example, related supply chain implications.

Tariffs

Companies should continue to keep in mind the impact of tariffs and, as seen in recent SEC comments, ensure their disclosures remain current as tariff policies change. In particular, companies should quantify the impact of tariffs on their operations, to the extent feasible, in risk factors, MD&A, and Quantitative and Qualitative Disclosures About Market Risk sections, to the extent material. Consider also the impact on earnings guidance and the accounting impact.

Artificial Intelligence

The SEC has been heavily scrutinizing companies' disclosures regarding the use of artificial intelligence, machine learning and related disclosures. When including such disclosures, companies need to ensure such disclosures are accurate and comprehensive, describe how such technology is used in the business, and disclose potential risks, including cybersecurity and data privacy.

Inflation and Supply Chain Disruptions

Companies should continue to review the impact of supply chain disruptions and inflation on their business and provide or revise disclosures in the risk factors, MD&A, and Quantitative and Qualitative Disclosures About Market Risk sections as needed.

Segment Disclosures

Beginning with 2024 Form 10-K filings (for year-end filers), companies are now subject to new segment reporting disclosures in the notes to the financial statements. SEC comments have begun to emerge on these disclosures, including the following:

- Please disclose how the chief operating decision maker uses each of your reported measures of segment profit or loss in assessing segment performance and deciding how to allocate resources pursuant to ASC 280-10-50-29.f.
- We note your chief operating decision maker (CODM) uses Adjusted EBITDA as the basis for evaluating the performance and allocating resources to operating segments. We also note your footnote 1 on page 119, that "Other Reportable Segment Expenses" primarily relates to Cost of sales (excluding depreciation and amortization) and Selling, general and administrative expenses for the respective reportable segment. We also note your disclosure on page 118 that "[o]ther significant expenses regularly provided to the CODM include total Restructuring and other transformation costs…" Please tell us whether "Other Reportable Segment Expenses" represents other segment items disclosed pursuant to ASC 280-10-50-26B and 50-26C, and if so, how the Company has explained the nature

of the expense information the CODM uses to manage operations as required by ASC 280-10-50-26C.

- Please provide us with a detailed analysis of how you determined you have one reportable segment and revise your disclosure as applicable. In doing so, clarify why the [certain] platforms do not qualify as separate reportable segments.
- We note your response to prior comment 16 and that your CODM regularly reviews trends in operating metrics, revisits, assesses, and adjusts significant strategic and operational matters, and makes resource adjustments as needed. You also indicate certain financial information can be disaggregated. Please tell us:
    - What financial information is provided to the CODM on a disaggregated basis (e.g., [certain platforms]), the frequency it is provided, and how it is used by the CODM. Clarify if the disaggregated revenue noted in your response is provided to the CODM. Provide quantification of any disaggregated expense information.
    - What operating metrics are provided to the CODM, whether they are provided on a consolidated or disaggregated basis, the frequency they are provided, and how they are used by the CODM. Provide examples of how such operating metrics are used to allocate resources and assess performance. For example, how are they used to allocate resources for advertising expenses and incentive programs.
    - What disaggregated financial information and operating metrics are provided to the Board of Directors.

Regulatory Changes

Companies may need to incorporate recent regulatory changes into their Form 10-Q disclosures, as applicable, such as developments related to federal contractors, stablecoins, regulation of artificial intelligence, tax, trade or bank capital rule changes.

Company Stock Repurchases

Companies engaging in stock repurchases, pursuant to an established program or otherwise (such as repurchases of restricted stock in connection with tax withholdings upon vesting), are required to disclose all stock repurchases made during the applicable fiscal quarter in the Form 10-Q, including presenting repurchase information on a monthly basis in tabular form.

Companies with active repurchase programs that did not engage in repurchases during the quarter should describe the repurchase program, indicate that no repurchases were made under the program during the quarter and disclose the approximate dollar value of shares that may yet be purchased under the repurchase program.

Post-Annual Shareholder Meeting Reminders

Following annual shareholder meetings, depending on the proposals approved by the shareholders, companies may need to take additional actions beyond filing a Form 8-K disclosing the annual shareholder meeting voting results.

New or Amended Equity Incentive Plans

If shareholders approved a new or amended equity plan at the annual meeting, the annual meeting results Form 8-K should also include a description of the plan under Item 5.02, a copy of the plan, and any related forms of award agreements should be filed as exhibits. In addition, the company may need to file a plan registration statement on Form S-8 with the SEC and distribute the related plan prospectus to plan participants before issuing any securities under the plan.

For the filing fee exhibits required to be included in registration statements, large accelerated filers are currently required to tag the exhibit in iXBRL, and all other filers will be required to iXBRL tag the exhibit beginning July 31, 2025. Printers may have specific tagging requirements that require changes to the current form of exhibit, so companies should coordinate in advance as needed.

Frequency of Say-on-Pay Votes on Executive Compensation

As a reminder, for companies holding their say-on-frequency vote, if the board's decision regarding say-on-frequency on executive compensation is not disclosed in the initial Form 8-K announcing final voting results from the annual meeting, companies are required to file a Form 8-K amendment no later than 150 calendar days following the date of the annual meeting in which the say-on-frequency vote occurred and no later than 60 calendar days prior to the deadline for the submission of shareholder proposals for the next annual meeting.

ISS Peer Group Submission Window

ISS has announced that its peer group submission window opens on July 7, 2025, for companies with annual shareholder meetings scheduled to be held between September 15, 2025, and January 31, 2026.

Changes to SEC Filer Status

Companies can determine their SEC filer status for the following fiscal year by calculating their non-affiliate public float as of the last business day of the second fiscal quarter (which, for calendar year filers, is Monday, June 30). The SEC filer status is relevant in determining the company's filing deadlines for annual and quarterly reports and the scope of required disclosures.

With regard to capital raising, legislation regarding the definition of "accelerated filers" and information provided by emerging growth companies remains pending.

Transition to EDGAR Next

Companies should be planning their transition to EDGAR Next, if they have not yet completed the process.

Beginning September 15, 2025, filers that have not been enrolled in EDGAR Next will be unable to make filings with the SEC until such enrollment is completed, and legacy EDGAR codes may only be used for enrollment. Starting December 22, 2025, legacy codes can no longer be used to enroll in EDGAR Next, and all filers, including existing filers who did not enroll in EDGAR Next by such date, will be required to apply for access by submitting a new Form ID. The SEC has advised Form ID applicants to apply for EDGAR Next access well in advance of any anticipated filing, as SEC staff currently requires an average of six business days to conduct Form ID reviews.

To facilitate the transition to EDGAR Next, companies and insiders with reporting obligations will need to gather the CIK, CCC and passphrase for each filer (which may need to be updated if the CCC and passphrase have not been updated since September 2019); determine who will enroll the filer and who will serve as account administrators (and such persons will need to obtain login.gov credentials in order to access the EDGAR Next dashboard); and coordinate with all parties who currently file on the entity or individual's behalf (such as public companies for which individuals serve on the board, printers and brokers).

Companies that file internally using in-house software, such as Workiva or Active Disclosure, will also need to set up calls with software providers to discuss EDGAR Next requirements and how the filing process may change.

Going forward, companies should incorporate EDGAR Next enrollment into their director and officer onboarding processes. Please see our previous Securities Law Update for more details on how to prepare for EDGAR Next.

Recent SEC Developments

Executive Compensation Roundtable

On June 26, 2025, the SEC held an executive compensation disclosure roundtable during which themes of simplification and the usefulness of disclosure to investors featured prominently. Among the topics discussed were the pay ratio rules, pay versus performance, clawbacks, compensation discussion and analysis (CD&A), description of actual pay and equity compensation cycle, perks, including executives' security and cybersecurity, the size of the named executive officer (NEO) group and iXBRL tagging of compensation tables.

We will be monitoring for further developments.

Staffing Cuts at the SEC

As part of the Trump administration's focus on government efficiency, the SEC has reduced its staff, with 600 staff members voluntarily accepting buyout offers (with the Office of General Counsel and Division of Investment Management experiencing the most voluntary departures) and 550 authorized positions eliminated, resulting in a current headcount of approximately 4,300. The SEC intends to implement further cost-cutting measures; in May, it submitted its budget for fiscal year 2026 to Congress, which called for enough funding to preserve around 4,100 positions. Despite the cuts, the SEC's reviews of registration statements in particular remain rigorous.

SEC Proposes Changes to Foreign Private Issuer Definition

On June 4, 2025, the SEC announced it is seeking public comment on potential amendments to the definition of a "Foreign Private Issuer" (FPI). FPIs benefit from accommodations and exemptions from certain disclosure and filing requirements under federal securities laws. The initiative is in response to significant shifts in the FPI landscape, including an increase in FPIs incorporating in foreign jurisdictions with less robust disclosure requirements (Cayman Islands and China, for example) and a growing number of FPIs whose securities trade almost exclusively in U.S. equity markets. The SEC is concerned that the current FPI guidelines may no longer provide adequate investor protection and disadvantage U.S.-based companies.

Under Rule 405 of the Securities Act of 1933 and Rule 3b-4(c) of the Securities Exchange Act of 1934, a “Foreign Private Issuer” is any company incorporated outside of the United States unless (1) more than 50% of its outstanding voting securities are directly or indirectly owned by U.S. residents; and (2) any of the following applies: (a) the majority of its executive officers or directors are U.S. citizens or residents; (b) more than 50% of the company’s assets are located in the United States; or (c) the company’s business is principally administered in the United States.

The SEC’s concept release is seeking public input for six possible approaches to amending the FPI definition:

- Revising the current FPI eligibility criteria
- Introducing a foreign trading volume requirement
- Requiring FPIs to be listed on a major foreign exchange
- Adding a SEC assessment of foreign regulation applicable to FPI
- Creating new mutual recognition systems
- Requiring an international cooperation arrangement

Stakeholders interested in submitting comments to the SEC have until September 8, 2025.

Reminders for Companies Doing Business in China

Risks associated with companies that are based in or that have a majority of their operations in China have been highlighted by recent global events. Among other things, the SEC’s Division of Corporation Finance has recently been issuing comments to China-based companies asking them to disclose operational and legal risks associated with doing business in China and requesting disclosure regarding any material impacts of intervention of, or control by, the Chinese government on the company’s operations, its business or the value of its securities is of particular importance. Companies should also keep in mind the SEC’s sample comment letter relating to the disclosure obligations of companies doing a substantial amount of business in or based in China, as well as the Division of Corporation Finance’s guidance regarding additional disclosure considerations for China-based companies, including, among other considerations:

- Does the company provide clear and prominent disclosure of Public Company Accounting Oversight Board (PCOAB) inspection limitations and lack of enforcement mechanisms, along with the risks related to the quality of financial statements?
- Does the company use variable interest entities in its organizational structure and does the company include sufficient disclosure about related party transactions and risks?
- Does the company disclose risks related to the regulatory environment and the legal system in China?
- Does the company provide relevant risk disclosure about differing shareholder rights and remedies?

China-based companies should review and assess whether their disclosures are up to date and aligned with SEC guidance. U.S. companies doing business with companies in China should also be aware of the potential need for enhanced disclosure requirements.

DEI and ESG Updates

SEC Declines to Enforce its Climate Disclosure Rules

On March 27, 2025, the SEC voted to end its defense of its rules relating to disclosure of climate-related risks and greenhouse gas emissions. Then-Acting Chairman of the SEC, Mark Uyeda, characterized the SEC’s climate disclosure rules as “costly and unnecessarily intrusive.” The enforceability of the SEC’s climate disclosure rules continues to be challenged by multiple states in *Iowa v. SEC* pending before the Eighth Circuit. However, given the SEC’s voluntary stay of the rules, it is clear that the SEC’s climate disclosure rules will not be enforced anytime soon.

Other Recent Climate Disclosure-Related Developments

Of interest to banks, the Basel Committee on Banking Supervision recently released a voluntary framework for disclosing climate-related risks.

The scope, applicability and granularity of the EU climate rules and other ESG-based rules (CSRD, CSDDD, greenwashing, etc.) are in the process of being curtailed. Among other things, proposed changes would increase the revenue thresholds as well as the employee thresholds to

1,000-5,000 employees, the effect of which would place many companies out of scope of these regulations.

Update on California Climate Disclosure Rules

On May 29, 2025, the California Air Resources Board (CARB) hosted a virtual public workshop addressing the Climate Corporate Data Accountability Act (Senate Bill 253), the Climate-Related Financial Risk Act (Senate Bill 261), and amendments introduced by Senate Bill 219. For a summary of the workshop, see our previous alert.

Review, Assess and Monitor DEI and ESG Programs

In the wake of recent executive orders and U.S. Attorney General memoranda challenging diversity, equity and inclusion (DEI) and environmental, social and governance (ESG) programs, companies should continue to review and assess their respective programs to ensure alignment between practices, policies and public disclosures. For more information, see our prior quarterly updates discussing relevant considerations for DEI and ESG programs, as well as our previous alert.

FOR MORE INFORMATION

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Previous Editions of Securities Quarterly Update

- Spring 2025
- Winter 2024
- Fall 2024
- Summer 2024