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SEC Proposes Simplified Filer Status Rules and Expanded Disclosure Accommodations

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On May 19, 2026, the Securities and Exchange Commission (SEC) proposed amendments to substantially simplify its domestic public company filer status framework and extend existing scaled disclosure and other accommodations, including an exemption from auditor attestation requirements, to more public companies.

If the amendments are adopted as proposed, the SEC estimates that approximately 80% of current public companies would be eligible for less burdensome disclosure requirements. Many small- and mid-cap companies stand to benefit, but so do investors to the extent that these accommodations contribute to companies choosing to go or stay public. The SEC estimates that affected companies represent only 6.5% of total market public float, which means that companies representing the bulk of investor assets would continue to provide the most fulsome level of disclosure. With this proposal, the SEC is seeking to simplify and recalibrate the public company reporting framework so that more companies go and stay public, creating more investment opportunities and improving transparency for the market as a whole.

The proposal would eliminate the current rubric of overlapping filer categories – large accelerated filer (LAF), accelerated filer (AF), non-accelerated filer (NAF), smaller reporting company (SRC) and emerging growth company (EGC) – and replace it with two primary reporting categories under the Securities Exchange Act of 1934, as amended (Exchange Act): LAF and NAF. The NAF designation would provide significant scaled disclosure accommodations, in line with what is currently available to SRCs and EGCs, to the vast majority of public companies, and would relieve them from the obligation to obtain an independent auditor's attestation on internal control over financial reporting (ICFR) under Section 404(b) of the Sarbanes-Oxley Act (SOX).

Background

Under the existing framework, public companies can be simultaneously assigned to multiple overlapping status categories – LAF, AF, NAF, SRC and EGC – each carrying distinct thresholds and disclosure consequences that do not cleanly integrate across categories. The current LAF threshold is a public float of $700 million or more. A separate SRC category accommodates companies with a public float below $250 million or annual revenues below $100 million and public float below $700 million. The proposal would substantially simplify this structure while materially raising the eligibility threshold for the more demanding LAF disclosure and attestation requirements.

Proposed amendments

The proposal would make the following principal changes to the filer status framework:

- **Increase LAF public float threshold to $2 billion.** The threshold for becoming an LAF would increase from a public float of $700 million to $2 billion. Public float would be calculated based on the number of shares outstanding on the last day of the second quarter of a company's fiscal year using the average stock price over the last 10 trading days of the second fiscal quarter, rather than a single measurement date.
- **Enhance filer status stability and predictability.** A company would not transition into or out of LAF status unless the $2 billion threshold is met, or not met, for two consecutive years. A single one-year swing in public float would not affect a company's filer status.
- **Provide a five-year on-ramp for all newly public companies.** A company, regardless of public float size, would need at least 60 consecutive calendar months of Exchange Act reporting history before transitioning to LAF status. This change would effectively create a minimum five-year on-ramp for every new public company, regardless of public float, which builds on existing EGC accommodations.

- **Eliminate AF and SRC categories.** The "accelerated filer" and "smaller reporting company" designations would be eliminated as distinct regulatory classifications. EGC status, which is a statutory category, would be retained; however, all companies, including EGCs, that are not LAFs would become NAFs.
- **Extend ICFR auditor attestation exemption to more public companies.** All companies that are not LAFs would be NAFs, resulting in a decrease in the number of public companies that would be required to obtain an independent auditor's attestation on ICFR under Section 404(b) of SOX. Management's annual ICFR assessment under Section 404(a) and existing financial statement audit requirements would continue to apply to NAFs.
- **Extend scaled disclosures to all NAFs.** The proposal would extend to all NAFs the accommodations currently available to SRCs, along with certain EGC accommodations, including:
    - Two years of financial statements (with reduced presentation requirements) and management's discussion and analysis (MD&A), rather than three for LAFs.
    - Scaled executive compensation disclosure, including no compensation discussion and analysis (or related compensation committee report), pay ratio or pay-versus-performance disclosure; only three named executive officers (rather than five for LAFs); and only two years of summary compensation table information (rather than three for LAFs).
    - Exemption from say-on-pay and say-when-on-pay shareholder advisory votes, as well as golden parachute compensation in connection with mergers and acquisitions.
    - Risk factors and market risk disclosure not required in periodic reports.
    - Exemption from the requirement that the compensation committee conduct an independence assessment before engaging any compensation adviser.
- **Eliminate more rigorous related-person transaction disclosure requirements applicable to SRCs.** Currently, Item 404(d) of Regulation S-K provides, among other things, a different, more rigorous threshold for disclosure by SRCs of the lesser of $120,000 or 1% of the average total assets at year-end for the last two fiscal years when determining reportable transactions with related persons under Item 404(a). The proposal would eliminate Item 404(d) so that all reporting companies would be subject to the same related-person transaction disclosure requirements under Item 404(a).
- **Create new "small non-accelerated filer" (SNF) subcategory.** A new SNF subcategory for NAFs with total assets of $35 million or less as of the end of each of their two most recent second fiscal quarters would benefit from extended filing deadlines: 120 days for Form 10-K (rather than 90 for other NAFs) and 50 days for Form 10-Q (rather than 45 for other NAFs).
- **Establish universal disclosure of material unresolved staff comments.** The proposal would extend to all registrants, including NAFs, the obligation to disclose material unresolved SEC staff comments in annual reports where specified conditions are met, a requirement currently applicable only to AFs, LAFs and well-known seasoned issuers. In proposing this change, the SEC noted that as its contemporaneous proposed reforms to the securities offering process would make the ability to conduct shelf offerings – which often incorporate by reference information from the issuer's reports – available to significantly more issuers, including NAFs, investors should be aware of the substance of any material unresolved comments.

The proposal would not expressly change:

- **Annual requirement to analyze filer status.** Companies would continue to assess filer status annually, as of the last day of their fiscal year.
- **Requirements for audited financials and annual ICFR assessment.** As noted under the proposal, NAFs would remain subject to the SEC's rules under Section 404(a), which require management to establish, state its responsibility to establish and maintain, and provide its assessment of, the company's ICFR. NAFs would also continue to be required to obtain a financial statement audit by a registered public accounting firm in which the auditor is required to obtain an understanding of ICFR as part of its risk assessment procedures.
- **EGC status.** The proposal does not alter the statutory designation for EGC status. However, relying on the EGC designation to unlock discrete accommodations would become less relevant, because the proposal would extend most EGC accommodations to NAFs.
- **EGC confidentiality privileges.** The SEC does not have authority to extend the statutory confidentiality privilege under Section 6(e)(2) of the Securities Act, which allows EGCs to exclude nonpublic draft registration statements and related correspondence from being produced in response to Freedom of Information Act requests. Non-EGC NAFs can continue to use Rule 83 procedures for confidential treatment of draft registration statements.

Who would be affected

The proposal would affect all domestic public companies currently filing periodic reports with the SEC and companies planning an initial public offering (IPO). The benefits would be most apparent in three scenarios:

- **The mid-cap "step down":** Companies presently classified as AFs (public floats between $75 million and $700 million), and companies classified as SRCs, EGCs, and many companies with public floats between $700 million and $2 billion presently classified as LAFs, would transition to NAF status if the proposal is adopted as drafted – in many cases gaining access to scaled disclosures and relief from the Section 404(b) auditor attestation requirement not currently available to them.
- **The large-cap IPO:** Newer public companies with fewer than 60 months of Exchange Act reporting history would be NAFs regardless of public float size – a meaningful change for large-cap issuers that have recently completed IPOs.
- **The SNF:** A company with $35 million or less in total assets (tested over its two most recent second fiscal quarters) would gain breathing room for periodic report deadlines.

The SEC indicated that if the proposed amendments were in place today, 19.2% of current public companies would be LAFs (compared to 35.4% currently), and 80.8% would be NAFs. A total of 17.9% of public companies (or 22.2% of NAFs) would be small NAFs.

The following categories of issuers would generally be excluded from the LAF/NAF framework under the proposal:

- **Asset-backed issuers,** which are subject to the separate Regulation AB regime.
- **Foreign private issuers** using FPI-specific forms, such as Form 20-F, for whom existing thresholds would generally remain in place (the $75 million public float threshold for the ICFR auditor attestation under Form 20-F is proposed to remain, absent EGC status).

Open questions and areas for comment

The proposal raises several interpretive and policy questions on which the SEC has invited comment, and that may attract significant attention from practitioners and issuers, including:

- Whether the proposed $2 billion LAF threshold and the two-year and 60-month eligibility criteria are appropriately calibrated.
- Whether there should be a mechanism for automatically adjusting the $2 billion LAF threshold, and, if so, what the mechanism should be.
- How the transition framework should operate for companies currently occupying intermediate categories, including AFs.
- Whether the broad extension of scaled disclosures to NAFs is appropriate given the simultaneous elimination of the SRC category.
- Whether further conforming amendments are warranted with respect to foreign private issuers.
- Whether to add an accommodation for special purpose acquisition companies (SPACs) that would permit a new seasoning period to begin when a business combination between a SPAC and a private operating company occurs.
- The appropriate boundary conditions and measurement dates for the SNF subcategory.
- How NAFs should practically implement the expanded material unresolved staff comment disclosure obligation.

Observations and commentary

If the SEC's proposal is adopted, many existing public companies will become eligible for scaled disclosure accommodations that were not previously available to them, and newer public companies will benefit from an extended reporting on-ramp. If adopted, some potential impacts could include:

- **Consideration of voluntary auditor attestation.** Depending on the investor profile, companies that are no longer subject to the ICFR auditor attestation may consider voluntarily obtaining an ICFR auditor attestation to enhance the reliability of management's assessment of ICFR and improve the reliability of financial statements. Investors may still view the auditor's attestation as enhancing the quality of financial statements, which investors rely on in making investment and voting

decisions.

- **Adverse recommendations for compensation committee members.** Currently, in general, if a company includes a shareholder advisory say-on-pay vote, Institutional Shareholder Services (ISS) addresses its compensation-related recommendations to that proposal. However, if there is no say-on-pay proposal on the ballot, any adverse recommendations related to executive compensation are typically applied to compensation committee members. Without a say-on-pay proposal on the ballot for NAFs, more public company compensation committee members may find themselves subject to adverse recommendations related to executive compensation.
- **Modeling compliance costs for newly public companies.** Presently, a new public company could become an LAF after being an Exchange Act reporting company for 12 calendar months, thereby providing a new public company very little time to prepare for the additional requirements. A five-year on-ramp for every new public company, regardless of public float, would greatly help companies model the increased costs for company personnel, third-party advisors or service providers required to comply with nonscaled disclosure requirements, accelerated reporting deadlines and ICFR auditor attestation.
- **Impact on SNFs.** Although the extended filing deadlines proposed for SNFs would alleviate some timing pressure, the proposed deadlines could result in SNFs filing their 10-K, proxy statement and first quarter 10-Q within days of each other. SNFs may therefore still choose to file earlier than the extended deadline (or opt into semiannual reporting if semiannual reporting rules go into effect as proposed) to avoid managing concurrent workstreams.

Next steps

Comments on the proposed amendments should be received on or before July 20, 2026. Public companies, underwriters, auditors and other market participants with views on the proposal's scope, thresholds or transition mechanics should consider whether to submit comments during that period.

If adopted as proposed, the transition framework would require existing registrants to make an initial LAF/NAF status determination keyed to the fiscal year before the effective date of any final rules. The availability of NAF scaled disclosures, and SNF extended filing deadlines where applicable, would generally commence with the first filing following the effective date of the final rules and completion of that initial assessment. The proposing release provided the following examples:

- Assuming an August 1, 2027, effective date, if a calendar year-end registrant had public float of $2 billion or more for 2026 and 2025 (determined at the end of each of its second fiscal quarters for 2026 and 2025, respectively), and if it had been a reporting company for at least 60 consecutive calendar months as of December 31, 2026, then it would continue as an LAF, and would continue to be required to comply with the reporting requirements for LAFs in its next Securities Act or Exchange Act filing after the initial filer status assessment was performed.
- On the other hand, if the calendar year-end registrant were an LAF before effectiveness of final rules on August 1, 2027, but would not meet either the proposed public float or the seasoning requirement for LAF status as of December 31, 2026 (i.e., because its public float at the end of either of its two most recent second fiscal quarters was less than $2 billion and/or it had not met the 60-calendar month seasoning requirement), the reporting company could conduct its assessment as early as August 1, 2027, at which point it would become an NAF, and could begin scaling its disclosure and availing itself of the other accommodations available to NAFs beginning with its next Securities Act or Exchange Act filing made after the initial filer status assessment was completed. If this registrant had total assets of $35 million or less as of the end of each of its two most recent second fiscal quarters before December 31, 2026 (i.e., June 30, 2026, and June 30, 2025), then it would be an SNF, and could begin availing itself of the longer reporting deadlines for SNFs with its next periodic filing (i.e., the Form 10-Q for the fiscal quarter ended September 30, 2027).

Companies should consider modeling their likely status under the proposed rules, in order to anticipate changes to procedures and budgets if the rules are adopted. Companies should monitor the rulemaking for further developments and are encouraged to provide feedback on the proposal.

Cooley's corporate governance and securities regulation attorneys are available to discuss these issues. Reach out to your existing Cooley contact or email the Cooley capital markets team.

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