

The Bold and the Creative (Part I): SEC Proposes to Rationalize Filer Status Framework and Extend Accommodations to Significantly More Registrants

On May 19, 2026, the U.S. Securities and Exchange Commission (the “SEC”) proposed wide-ranging rule amendments (i) to rationalize its existing filer status framework and extend scaled disclosures and other accommodations to many registrants (the “Filer Status Proposal”)¹ and (ii) to reform registered offerings by making certain existing accommodations more broadly available (the “Registered Offering Proposal”).² Additionally, on May 26, 2026, SEC Chairman Paul Atkins requested public comment on the modernization of the initial public offering (“IPO”) process and related rules (the “IPO Rules Request for Comment”).³

This Client Alert focuses on the Filer Status Proposal. For discussion of the Registered Offering Proposal and the IPO Rules Request for Comment, as well as overarching takeaways from all these SEC rulemaking activities, please refer to our companion memo titled “The Bold and the Creative (Part II): SEC Proposes Significant Registered Offering Reforms Designed to Incentivize Companies to Go and Stay Public and Seeks Public Comment on Further Modernization” (the “Part II Memo”).

FILER STATUS PROPOSAL

The Filer Status Proposal would notably (i) consolidate the current multi-tiered filer status framework into two primary categories, *i.e.*, large accelerated filers and non-accelerated filers; (ii) amend the large accelerated filer definition so that it applies to only the largest registrants; (iii) extend to non-accelerated filers most of the scaled disclosure and other accommodations currently only available to smaller reporting companies and emerging growth companies; and (iv) grant a sub-category of the

smallest non-accelerated filers longer periodic report filing deadlines. The proposed changes would not apply to foreign private issuers (“FPIs”) that elect to comply with the rules and use the forms designated for FPIs.

Overview of Proposed Amendments

The current filer status framework includes three tiers of filers based principally on public float⁴ and seasoning,⁵ *i.e.*, large accelerated filers (“LAFs”), accelerated filers (“AFs”) and non-accelerated filers

(“NAFs”).⁶ These tiers determine reporting deadlines and the availability of any scaled disclosure accommodations.

The current filer status framework also includes two further categories that are based on a mix of criteria that may overlap with one or more filer tiers, *i.e.*, smaller reporting companies (“SRCs”),⁷ which benefit from scaled financial and non-financial disclosure requirements, and emerging growth companies (“EGCs”),⁸ which benefit from various accommodations intended to lower the costs of registration and reporting for smaller newly public companies.

Over the years, the filer status framework has grown in complexity, with registrants often subject to multiple statuses associated with a non-intuitive patchwork of accommodations and requirements.

The Filer Status Proposal would streamline filer statuses and extend many of the existing scaled disclosures and other accommodations to a broader set of registrants.⁹ To that end, the Filer Status Proposal notably contemplates:

- **Consolidating filer statuses into two primary categories.** The Filer Status Proposal would categorize filers as either LAFs or NAFs.
 - The proposal would eliminate the existing intermediate AF status and the separate and partially overlapping SRC status. While the EGC status would persist, as it was established by statute through the Jumpstart Our Business Startups (JOBS) Act, the Filer Status Proposal would render it largely redundant for U.S. domestic issuers by extending most EGC accommodations to all NAFs. This is particularly significant for growth companies that might otherwise “age out” of EGC status—currently, companies lose EGC eligibility on the earliest of (i) the last day of the fiscal year following the fifth anniversary of their IPO, (ii) when annual gross revenues exceed \$1.235 billion, (iii) when they become an LAF, or (iv) when they have issued more than \$1 billion in non-convertible debt over a three-year period.

- **Amending the LAF definition to limit LAF status to the largest registrants and increase status stability.** The proposed revisions to the LAF definition would include:
 - **Increasing the public float threshold to \$2 billion.**¹⁰ The public float threshold for becoming an LAF would increase almost threefold from its current level of \$700 million.
 - **Lengthening the public float calculation window to 10 trading days.** A registrant would calculate its public float based on the average of its stock price over the last 10 trading days of the second quarter of its fiscal year, rather than based on a single-day measurement on the last business day of the second fiscal quarter.
 - **Requiring the public float threshold to be met for two consecutive years.** A registrant would only change filer status from NAF to LAF or vice versa after being above or below the \$2 billion public float threshold for two consecutive fiscal years. This two-year test would replace the existing bifurcated entry (\$700 million) and exit (\$560 million) LAF thresholds.
 - **Extending the seasoning period to 60 consecutive calendar months.** The seasoning requirement, or the minimum period a registrant must have been subject to reporting obligations under the Securities Exchange Act of 1934 (the “Exchange Act”) before it can qualify as an LAF, would increase to 60 consecutive calendar months from 12 consecutive calendar months. For IPO candidates, this extended seasoning period is among the most significant proposed changes: it would create a guaranteed five-year “on-ramp” during which newly public companies would automatically qualify for NAF accommodations—including exemption from the auditor attestation requirement relating to internal control over financial reporting (“ICFR”) and scaled executive compensation disclosure—regardless of how rapidly their market capitalization grows post-IPO.

- **Creating an NAF status with broad disclosure scaling and other accommodations.** The Filer Status Proposal would formally establish a new filer status for NAFs, which would include all registrants that are not LAFs. Under this status, registrants would benefit from the following accommodations, which are currently available only to SRCs and EGCs:¹¹

- **SRC scaled disclosure accommodations.** NAFs would be able to rely on existing scaled disclosure accommodations, including under:

- Regulation S-K:* in respect of qualitative disclosures such as the description of business, management’s discussion and analysis (“MD&A”) and numerous executive compensation requirements, including the ability to omit the compensation discussion and analysis and certain table disclosures;¹² and
- Regulation S-X:* in respect of quantitative disclosures, such as including only two years of audited financial statements instead of three.

- **EGC accommodations.** With some exceptions,¹³ NAFs would also benefit from the accommodations currently available to EGCs, including:

- no ICFR auditor attestation:* an exemption, without a sunset date so long as NAF status eligibility lasts, from the requirement to have the registered public accounting firm that prepares or issues a registrant’s financial statement audit report attest to, and report on, management’s assessment of the effectiveness of ICFR under Section 404(b) of the Sarbanes–Oxley Act of 2002 (the “Sarbanes–Oxley Act”);¹⁴
- reduced executive compensation disclosures and votes:* exemptions, without a sunset date so long as NAF status eligibility lasts, from

pay ratio disclosure, pay-versus-performance disclosure and shareholder advisory votes on executive compensation; and

- delayed accounting standards adoption:* the ability, for the first five years after initial SEC registration, to defer compliance with new or revised financial accounting standards issued by the Financial Accounting Standards Board until private company compliance dates.¹⁵

Please see [Appendix A](#) for more information about proposed NAF disclosure scaling and other accommodations under Regulation S-K and other Exchange Act rules. Please see [Appendix B](#) for more information about proposed NAF financial statements scaling and accommodations under Regulation S-X.

- **Creating a small non-accelerated filer (“SNF”) sub-category with extended reporting deadlines.** The Filer Status Proposal would create a new sub-category of NAFs for registrants reporting total assets of \$35 million or less as of the end of each of their two most recent second fiscal quarters. SNFs would be granted:

- **an additional 30 days to file Form 10-K,** extending the deadline to 120 days after fiscal year end from 90 days for other NAFs; and
- **an additional 5 days to file Form 10-Q,** extending the deadline to 50 days after fiscal quarter end from 45 days for other NAFs.

Frequently Asked Questions

1. **Would periodic report filing deadlines change for LAFs and NAFs (other than SNFs)?**

No. The filing deadlines for LAFs and NAFs would remain as they are under current rules, with the exception of the extended deadlines for SNFs, as set out below:

Category of Filer	Calendar Days after the Period End	
	Annual Report on Form 10-K	Quarterly Report on Form 10-Q
Large Accelerated Filer (LAF)	60 days	40 days
Non-Accelerated Filer (NAF)	90 days	45 days
Small Non-Accelerated Filer (SNF)	120 days	50 days

2. Would a registrant lose its NAF status and related accommodations if its public float exceeded \$2 billion at any time during the first five years after its IPO?

No. The Filer Status Proposal’s 60-calendar-month seasoning window means that newly public companies would benefit from scaled disclosure requirements and other accommodations for a minimum of five years regardless of the size of their public float, revenues or assets during that “on-ramp” period. The SEC has asked for public comment on whether the very largest new registrants should nevertheless be required to comply with LAF requirements sooner.

Please see our Part II Memo for a discussion of the proposed removal of public float as a criterion for Form S-3 eligibility under the Registered Offering Proposal.

3. If the Filer Status Proposal is adopted, could a registrant potentially benefit from the accommodations of the new NAF status immediately?

Yes. If the Filer Status Proposal is adopted as proposed, a registrant would be permitted to complete an assessment of its new filer status at any time after effectiveness of the final rules (but no later than the day prior to the last day of the fiscal year in which the final rules go into effect). In connection with this initial assessment, the registrant would test its public float and, if applicable, total assets, in respect of the two fiscal years immediately preceding the date of effectiveness of the final rules.¹⁶

A registrant that qualifies as an NAF after its initial filer status assessment could begin relying on the scaling and other accommodations available to NAFs in its next Securities Act of 1933 (the “Securities Act”) or Exchange Act filing. Similarly, a registrant that meets the proposed SNF requirements would be able to avail itself of the extended filing deadlines in its next Form 10-Q or Form 10-K filing made after the initial assessment is completed.

4. Could an NAF choose to comply with some or all LAF requirements on a voluntary basis, despite available exemptions?

Yes. Although the Filer Status Proposal would relieve new NAFs of a number of obligations currently applicable to LAFs, these accommodations would be permissive rather than mandatory. Companies should carefully evaluate whether relying on scaled disclosures aligns with their investor relations strategy and capital markets positioning.

For example, the Filer Status Proposal notes that a registrant could voluntarily obtain an ICFR auditor attestation if it believes doing so would be viewed favorably by investors. In addition, registrants might consider that without the feedback mechanism of the shareholder advisory votes on compensation, investors unhappy with a registrant’s compensation program may be more likely to target compensation committee members in director elections.

Some of the reasons flagged by the Filer Status Proposal as to why registrants might continue to provide disclosures on a voluntary basis include:

- for continuity with existing reporting and disclosure management processes;
- out of concern over the capital market implications of scaled disclosure;
- in response to market pressures and investor expectations as a signal of their commitment to transparency; or
- to manage legal risk concerns.

5. **Would FPIs that meet the applicable criteria be able to avail themselves of the NAF accommodations?**

No, unless they report on domestic forms and in U.S. GAAP. FPIs that elect to comply with the rules and use the forms designated for FPIs (including annual reports on Form 20-F or Form 40-F) benefit from existing FPI-specific accommodations. Additionally, those FPIs are not currently eligible for the scaled disclosure requirements available to SRCs. As a result, as a general matter, the Filer Status Proposal does not contemplate extending the new filer status framework to those FPIs.

Notably, an FPI that reports on Form 20-F or Form 40-F would continue to be subject to the existing threshold applicable for the ICFR auditor attestation requirement, *i.e.*, having a public float of \$75 million or more as of the last business day of the FPI's most recently completed second fiscal quarter, unless it qualifies as an EGC. Unlike calculations pursuant to the new LAF and NAF statuses, the public float calculation used by FPIs for this purpose would not be based on a 10-trading day window.

Nevertheless, the Filer Status Proposal would make the following changes to Form 20-F:

- **amend Item 4A (Unresolved Staff Comments)**, to impose on all registrants filing on Form 20-F (including the non-accelerated filers that are currently exempt from this requirement) the requirement to disclose material unresolved comments received at least 180 days before a registrant's fiscal year end, in line with a corresponding amendment to Item 1B of Form 10-K; and
- **amend Item 11 (Quantitative and Qualitative Disclosures about Market Risk)**, to exempt "[r]egistrants that would otherwise not meet the requirements to be large accelerated filers" from providing quantitative and qualitative disclosure about market risk, in line with the corresponding accommodation currently provided under this Item to FPIs that qualify as SRCs. In light of the higher LAF public float threshold, this might increase the number of FPIs that can avail themselves of this exemption.

NEXT STEPS

- **Consider participating in the comment process.** The comment period for the Filer Status Proposal will end on July 20, 2026. We encourage clients to share their views or relevant data with the SEC. Cravath is available to assist clients that wish to make comment submissions.
- **Assess potential benefits that could accrue if the Filer Status Proposal is adopted.**
 - **Existing registrants** might consider (i) whether they would qualify for NAF status and therefore newly benefit from scaled disclosure and other accommodations if the Filer Status Proposal is adopted; and (ii) if so, whether and to what extent they would wish to take advantage of those accommodations in light of existing practices, transaction-specific financial statement staleness considerations and stakeholder expectations.
 - **Companies contemplating going public** should factor into their cost-benefit assessments the possibility of being eligible for the five-year on-ramp with scaled disclosure and other accommodations that would apply if the Filer Status Proposal is adopted, as compared to the more limited applicability of the accommodations currently available to SRCs and EGCs.
- **Continue monitoring other SEC regulatory developments.** The SEC has multiple rulemaking projects underway. Registrants should stay informed. We encourage clients to contact us for further guidance.

APPENDIX A

REGULATION S-K AND EXCHANGE ACT RULES

This table summarizes the scaled disclosures and other accommodations that would be available to NAFs under Regulation S-K and other Exchange Act rules pursuant to the Filer Status Proposal.

		Item	NAF Scaling / Accommodation
Regulation S-K	101	Description of business	Less detailed business development description than is required for LAFs
	105	Risk factors	Disclosure not required in Form 10-K and Form 10-Q
	201	Market price of and dividends on the registrant's common equity and related stockholder matters	Performance graph disclosure not required (except for NAFs that are investment companies)
	302	Supplementary financial information	Disclosure not required
	303	MD&A of financial condition and results of operations	Two-year MD&A disclosure instead of three-year lookback for LAFs
	305	Quantitative and qualitative disclosures about market risk	Disclosure not required
	308	Internal control over financial reporting	Auditor attestation report not required
	402	Executive compensation	<ul style="list-style-type: none"> • Three named executive officers instead of five • Two years of summary compensation table information instead of three • Compensation discussion and analysis not required • Grants of plan-based awards table not required • Option exercises and stock vested table not required • Pension benefits table not required • Nonqualified deferred compensation table not required • Compensation policies and practices related to risk management not required • Golden parachute disclosure not required • Pay ratio disclosure not required • Pay-versus-performance disclosure not required
	404	Transactions with related persons, promoters and certain control persons	<ul style="list-style-type: none"> • Same thresholds for disclosure as for LAFs • Description of policies and procedures for review, approval or ratification of related party transactions not required
	407	Corporate governance	<ul style="list-style-type: none"> • Audit committee financial expert disclosure not required in first year • Compensation committee interlocks and insider participation disclosure not required • Compensation committee report not required
601	Exhibits	Statements regarding computation of pay ratios not required	
Exchange Act	Rule		NAF Scaling / Accommodation
	13q-1	Disclosure of payments made by resource extraction issuers	Disclosure not required
	14a-21	Shareholder advisory votes	Exempt from requirement to conduct shareholder advisory votes (say-on-pay, frequency of say-on-pay, and golden parachute compensation)

APPENDIX B
REGULATION S-X

Table I below summarizes the accommodations available to NAFs under Regulation S-X by identifying the Articles of Regulation S-X that would not be applicable to NAFs.

Table II below provides more detail about the accommodations available to NAFs by showing which Rules of Article 3 of Regulation S-X (General Instructions as to Financial Statements) would be adapted or made inapplicable under Article 8 of Regulation S-X (currently, Financial Statements of Smaller Reporting Companies), which is the principal Article that would contain the requirements applicable to the financial statements of NAFs going forward.

TABLE I

		Article	NAF Scaling / Accommodation
Regulation S-X	3	General Instructions as to Financial Statements	Generally not applicable – <i>see</i> Table II below
	4	Rules of General Application	<ul style="list-style-type: none"> • Not applicable, except for: <ul style="list-style-type: none"> ○ Rule 4-01(a) (<i>Form, order, and terminology</i>) <ul style="list-style-type: none"> • via proposed Rule 8-01(b)(4) ○ Rule 4-08(g) (<i>Summarized financial information of subsidiaries not consolidated and 50% or less owned persons</i>) <ul style="list-style-type: none"> • but using a 20% threshold instead of a 10% threshold • via proposed Rule 8-01(b)(5) ○ Rule 4-08(n) (<i>Accounting policies for certain derivative instruments</i>) <ul style="list-style-type: none"> • via proposed Rule 8-01(b)(2) ○ Rule 4-10 (<i>Financial accounting and reporting for oil and gas producing activities</i>) <ul style="list-style-type: none"> • via proposed Rule 8-01(b)(3)
	5	Commercial and Industrial Companies	Not applicable
	6	Registered Investment Companies	Not applicable
	6A	Employee Stock Plans	Not applicable
	7	Insurance Companies	Not applicable
	9	Bank Holding Companies	Not applicable
	10	Interim Financial Statements	Not directly applicable, but similar requirements in Rule 8-03, with potential for slightly more condensed disclosure
	11	Pro Forma Financial Information	Same as LAF, as required by Rule 8-05, but pro forma financial information may be presented in a slightly more condensed format
	12	Form and Content of Schedules	Not applicable
	15	Acquisitions of businesses by a shell company (other than a business combination related shell company)	Not directly applicable, but Article 15 permits compliance with rules in Article 8 when financial statements for a business qualifying as an NAF are required by Article 15

TABLE II

Article 3 Rules		NAF Scaling / Accommodation in Article 8
3-01	Consolidated balance sheets	Similar requirements
3-02	Consolidated statements of comprehensive income and cash flows	Two years of income statements rather than three years Two years of cash flow statements rather than three years
3-03	Instructions to statement of comprehensive income requirements	Not applicable
3-04	Changes in stockholders' equity and noncontrolling interests	Two years of changes in stockholders' equity statements rather than three years
3-05	Financial statements of businesses acquired or to be acquired	Form and content requirements may permit slightly more condensed interim financial statements
3-06	Financial statements covering a period of nine to twelve months	Same requirement
3-09	Separate financial statements of subsidiaries not consolidated and 50% or less owned persons	Not applicable
3-10	Financial statements of guarantors and issuers of guaranteed securities registered or being registered	Same requirement
3-11	Financial statements of an inactive registrant	Not applicable
3-12	Age of financial statements at effective date of registration	Slightly different criteria for date of effectiveness of registration statement or mailing date of proxy statement
3-13	Filing of other financial statements in certain cases	Similar requirement
3-14	Special instructions for financial statements of real estate operations acquired or to be acquired	Form and content requirements may permit slightly more condensed interim financial statements
3-15	Special provisions as to real estate investment trusts	Not applicable
3-16	Financial statements of affiliates whose securities collateralize an issue registered or being registered	Two years of financial statements rather than three years
3-17	Financial statements of natural persons	Not applicable
3-18	Special provisions as to registered management investment companies and companies required to be registered as management investment companies	Not applicable
3-19 (as proposed)	Special provisions as to business development companies ("BDCs") and face-amount certificate companies that are NAFs	<ul style="list-style-type: none"> • Limited to BDCs or face-amount certificate companies that are NAFs • Two years of financial statements rather than three years
3-20	Currency for financial statements	Not applicable
3A-02	Consolidated financial statements of the registrant and its subsidiaries	Not applicable
3A-03	Statement as to principles of consolidation or combination followed	Not applicable

Regulation S-X

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- 1 “Enhancement of Emerging Growth Company Accommodations and Simplification of Filer Status for Reporting Companies” (2026), Release Nos. 33-11419; 34-105515, available at [Federal Register: Enhancement of Emerging Growth Company Accommodations and Simplification of Filer Status for Reporting Companies](#).
 - 2 “Registered Offering Reform” (2026), Release Nos. 33-11418; 34-105513, available at [Federal Register: Registered Offering Reform](#).
 - 3 Remarks at the Stanford Rock Center for Corporate Governance, Chairman Paul S. Atkins (May 26, 2026), available at [SEC.gov | Remarks at the Stanford Rock Center for Corporate Governance](#).
 - 4 Under current rules, public float is calculated based on the aggregate worldwide market value of the voting and non-voting common equity held by a registrant’s non-affiliates. Registrants must reevaluate their filer status annually, at the end of their fiscal year, by assessing their public float as of the last business day of their most recently completed second fiscal quarter. See [Rule 12b-2 \(Accelerated filer and large accelerated filer\)](#).
 - 5 Under current rules, seasoning refers to whether an issuer has been subject to the requirements of s. 13(a) or s. 15(d) of the Exchange Act for a period of at least 12 calendar months. An issuer must also have filed at least one annual report pursuant to s. 13(a) or s. 15(d) of the Exchange Act. See [Rule 12b-2 \(Accelerated filer and large accelerated filer\)](#).
 - 6 Under current rules:
 - an LAF means an issuer after it first meets the following conditions as of the end of its fiscal year: (i) has a public float of \$700 million or more; (ii) has been subject to the requirements of s. 13(a) or s. 15(d) of the Exchange Act for a period of at least 12 calendar months; (iii) has filed at least one annual report pursuant to s. 13(a) or s. 15(d) of the Exchange Act; and (iv) is not eligible to use the requirements for smaller reporting companies under the revenue test of the SRC definition;
 - an AF means an issuer after it first meets the same conditions as an LAF as of the end of its fiscal year, except that it has a public float of \$75 million or more, but less than \$700 million; and
 - an NAF, while not statutorily defined, is an issuer that is neither an LAF nor an AF.See [Rule 12b-2 \(Accelerated filer and large accelerated filer\)](#).
 - 7 Under current rules, an SRC means an issuer that is not an investment company, an asset-backed issuer or a majority-owned subsidiary of a parent that is not a smaller reporting company and that: (i) had a public float of less than \$250 million; or (ii) had annual revenues of less than \$100 million and either: (x) no public float; or (y) a public float of less than \$700 million. Whether an issuer is an SRC is determined on an annual basis. See [Rule 12b-2 \(Smaller reporting company\)](#).
 - 8 Under current rules, an EGC means an issuer that had total annual gross revenues of less than \$1,235,000,000 (periodically adjusted) during its most recently completed fiscal year. An issuer remains an EGC until the earliest of: (i) the last day of the fiscal year of the issuer during which it had total annual gross revenues of \$1,235,000,000 or more (periodically adjusted); (ii) the last day of the fiscal year of the issuer following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act; (iii) the date on which such issuer has, during the previous three-year period, issued more than \$1,000,000,000 in non-convertible debt; or (iv) the date on which such issuer is deemed to be an LAF. See [Rule 12b-2 \(Emerging growth company\)](#).
 - 9 The SEC estimates that the Filer Status Proposal would result in 1,721 additional registrants being newly eligible to qualify as NAFs, with an estimated total of 4,825 NAFs qualifying as NAFs under the proposal. However, not all types of registrants could benefit equally from the proposal. FPIs that elect to comply with the rules and use the forms designated for FPIs would not be subject to the proposed LAF and NAF definitions or be eligible for corresponding scaled disclosures and other accommodations. Asset-backed issuers, which are subject to a separate disclosure regime under Regulation AB, would also be excluded from the new framework. Business development companies and face-amount certificate companies would benefit from only a subset of the accommodations proposed to be extended to NAFs.
 - 10 The SEC estimates that this threshold would result in 1,146 registrants, or 19.2% of existing Exchange Act reporting companies, being LAFs, as compared to 35.4% today. Notably, registrants that currently meet this proposed LAF threshold represent approximately 93.5% of total market public float. In contrast, registrants that meet the current large accelerated filer definition represent 98.8% of total market public float today.
 - 11 Conversely, the Filer Status Proposal would impose on all registrants (including NAFs) the requirement to disclose the substance of material, unresolved SEC staff comments received at least 180 days before a registrant’s fiscal year end on Form 10-K or Form 20-F. This requirement currently applies only to LAFs and AFs.
 - 12 Of note, while the SEC is extending existing SRC accommodations to all NAFs, the SEC has proposed removing rather than extending to NAFs the more rigorous related-party transaction disclosure requirements currently applicable to SRCs under Item 404(d) of Regulation S-K.
 - 13 The Filer Status Proposal would not extend to NAFs the accommodation available to EGCs to exclude a nonpublic draft registration statement from being produced in response to a Freedom of Information Act request. Additionally, the SEC is not proposing to extend certain Public Company Accounting Oversight Board (“PCAOB”)-related accommodations, such as the exemption from the communication of “critical audit matters” (PCAOB Auditing Standard 3101.05b) and the exemption from mandatory audit firm rotation rules and auditor discussion and analysis requirements beyond statutory EGCs.
 - 14 While NAFs would no longer be subject to the ICFR auditor attestation requirement pursuant to Section 404(b) of the Sarbanes-Oxley Act, 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 registrant'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 must obtain an understanding of ICFR as part of its risk assessment procedures.

- 15 The election of whether to defer or not defer compliance with new or revised financial accounting standards would be irrevocable once made.
- 16 The revised LAF definition describes criteria as they apply to "an issuer that is not currently a large accelerated filer" and to "an issuer that is currently a large accelerated filer" separately, with the latter being eligible to lose LAF status only when its public float has been less than \$2 billion for each of two consecutive fiscal years. However, for purposes of the initial assessment under the new rules, current registrants would not consider their filer status prior to effectiveness of the final rules. Therefore, an existing LAF with a public float that has been \$2 billion or more for two consecutive years could still be eligible to lose LAF status (*i.e.*, report as an NAF) if it has not been public for 60 calendar months.

Nevertheless, a registrant that was an LAF prior to the proposed amendments and would continue as an LAF after the initial assessment after effectiveness of the final rules would be permitted to continue to conduct say-on-pay and say-on-pay frequency votes on its existing schedule, notwithstanding proposed Instruction 3 to Rule 14a-21 that would require such votes in the first solicitation subject to Rule 14a-21 that a registrant conducts after becoming an LAF.

Please feel free to contact us if we can provide further information.

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