

Annual Report and Shareholder Meeting Season and Other Recent SEC Developments

This memorandum summarizes key U.S. Securities and Exchange Commission (“SEC”) and stock exchange regulatory filing deadlines, new disclosure requirements and general tips and guidance for both U.S. domestic issuers and for foreign private issuers (“FPIs”) in anticipation of the upcoming 2025 annual reporting and shareholder meeting season.

Filing Deadlines

Please see the following tables for important deadlines. Dates in the tables below are for companies which use the calendar year end (December 31) as their fiscal year end.

U.S. Domestic Issuer Annual Report (Form 10-K)		
Large Accelerated Filer ¹	60 days after end of fiscal year	March 3, 2025 ²
Accelerated Filer ³	75 days after end of fiscal year	March 17, 2025 ⁴
Non-Accelerated Filer	90 days after end of fiscal year	March 31, 2025
Extension	15 additional calendar days by filing a Form 12b-25 no later than one business day after the applicable Form 10-K deadline	

U.S. Domestic Issuer Proxy Statement		
If proxy statement information is incorporated by reference into Part III of the Form 10-K	120 days after end of fiscal year to either file Proxy Statement or amend Form 10-K to incorporate the information	April 30, 2025

¹ Generally, an issuer having a public float of \$700 million or more as of the last business day of its most recently completed second fiscal quarter.

² Carried over to Monday, March 3, 2025 because March 1, 2025 is a Saturday.

³ Generally, an issuer having a public float of \$75 million or more, but less than \$700 million, as of the last business day of its most recently completed second fiscal quarter.

⁴ Carried over to Monday, March 17, 2025 because March 16, 2025 is a Sunday.

Foreign Private Issuer Annual Report (Form 20-F) and Canadian MJDS Issuer Annual Report (Form 40-F)		
Foreign Private Issuer	Four months after end of fiscal year	April 30, 2025
Canadian FPIs using the multi-jurisdictional disclosure system (“MJDS”)	Same day that Canadian annual report is filed in Canada	

Foreign Private Issuer Proxy Statement
FPIs are exempt from SEC, Nasdaq Stock Market LLC (“Nasdaq”) and New York Stock Exchange (“NYSE”) rules governing the solicitation of proxies. However, both Nasdaq and the NYSE require FPIs to hold an annual shareholders meeting, unless home country rules differ from such rules, in which case FPIs may follow such rules. Both Nasdaq and the NYSE permit FPIs to follow their home country rules regarding proxy solicitation as long as the FPI discloses that it is doing so, either on its website or in its Form 20-F.

New Annual Report Requirements and Other SEC Updates

1. Insider Trading Policy Disclosure

In 2022, the SEC adopted [final rules](#) requiring companies to disclose their insider trading policies. The new insider trading rules require companies to disclose whether they have adopted insider trading policies relating to “the purchase, sale, and other dispositions of the registrant’s securities by directors, senior management and employees” (or by the company for domestic issuers). If so, the rules require a description of these policies and procedures. If a company has not adopted such insider trading policies, it must explain why it has not done so. The principal executive and financial officers of the company also must certify to the accuracy of the disclosures.

For companies with a fiscal year ending on December 31, the new insider trading rules require domestic companies filing an annual report on Form 10-K to respond to Item 10 and FPIs filing an annual report on Form 20-F to respond to Item 16J, each requiring companies to disclose their insider trading policies and to file their insider trading policies for the last completed fiscal year as an exhibit to their annual report on Form 10-K or Form 20-F.

If the registrant’s insider trading policy is included in its code of ethics, filing the code of ethics as an exhibit satisfies the insider trading rules.

The below table summarizes whether Inline XBRL tagging is required for the insider trading disclosure in a company's annual report.

Form	New Requirement	Rule	Inline XBRL Required?
10-K	Item 10 (Item 408(b) of Regulation S-K)	Disclose company's insider trading policies	Yes
10-K	Exhibit 19	File insider trading policy as an exhibit to Form 10-K	No
20-F	Item 16J	Disclose company's insider trading policies	Yes
20-F	Exhibit	File insider trading policy as an exhibit to Form 20-F	No

For a more in-depth discussion of these insider trading rules, and for domestic companies disclosing a 10b5-1 plan pursuant to Item 9B of Form 10-K (disclosure of information required by Item 408(a) of Regulation S-K), please see our Annual Report and Shareholder Meeting Season Client Alert from 2023 [here](#).

2. EDGAR Next

In September 2024, the SEC adopted changes to EDGAR Next, and the SEC's Beta version of EDGAR Next became available to help prepare companies for the changes. The Beta version will remain open until December 19, 2025.

On March 24, 2025, enrollment will begin for EDGAR Next. Filers will have six months to enroll before the compliance deadline and then an additional three months after that to come into compliance. The compliance deadline for EDGAR Next is September 15, 2025, but existing filers may continue to enroll until December 19, 2025. After September 15, 2025, existing filers will not be able to make filings until they enroll in EDGAR Next.

The enrollment period for EDGAR Next ends on December 19, 2025. After December 19, 2025, submission of an amended Form ID is required to request access to existing accounts.

Please see the SEC's Infographic summarizing the transition to EDGAR Next [here](#).

3. Inline XBRL

Starting July 31, 2025, all filers will be required to use Inline XBRL in their filing fee information and filing fee exhibits. Large Accelerated Filers were previously required to submit their fee data in Inline XBRL as of July 31, 2024. Inline XBRL enables documents to be both machine-readable and human-readable, making it easier to review a filing's data in context.

Annual reports on Form 10-K, Form 20-F and Form 40-F must include a cover page and financial statement information in Inline XBRL. Companies should ensure they are tagging with Inline XBRL when required in their 2025 filings. Notably, companies should make sure their insider trading policies (Items 9B and 10 on Form 10-K and Item 16J on Form 20-F) and cybersecurity policies (Item 1C on Form 10-K and Item 16K on Form 20-F) are filed in Inline XBRL in addition to the other items that require Inline XBRL.

Current SEC Disclosure Priorities

Please find below a review of selected SEC Disclosure Priorities for the 2024 fiscal year. Please note that this overview does not constitute all of the SEC's Disclosure Priorities and instead highlights key priorities.

1. Climate-Related Disclosure Rules

On March 6, 2024, the SEC adopted [new rules](#) “to enhance and standardize climate-related disclosures.” However, in April 2024, the SEC [stayed](#) implementation of these rules in light of the pending judicial review of petitions challenging them in the U.S. Court of Appeals for the Eighth Circuit, and the future of these rules remains uncertain. As adopted, the rules would have required registrants (including FPIs) to disclose climate-related information in their annual reports and in the notes to their annual audited financial statements. Large Accelerated Filers and Accelerated Filers would be subject to an additional requirement to disclose greenhouse gas emissions data for their most recent fiscal year and prior fiscal years. These new climate-related disclosures may subject registrants to liability for misrepresentations or omissions.

Although the SEC stated its intention to defend these rules in its order issuing the stay, there is considerable uncertainty that the new U.S. presidential administration and presumptive new Chairman Atkins will take this position. Seward & Kissel will be monitoring the climate change rules for new developments throughout the government transition.

We remind companies, however, that, notwithstanding the doubt about implementation of the new climate change rules, disclosure related to the impact of climate change still is a priority of the SEC staff, and existing SEC guidance, including both a [2010 interpretive release](#) and a 2021 [sample comment letter](#) on disclosure of the impact and risk of climate change (including concepts of materiality), continues to apply, and companies should be aware that the SEC continues to monitor such disclosure.

For a more in-depth overview of these rules, please refer to our Client Alert found [here](#).

2. Cybersecurity

In 2023, the SEC adopted new rules to enhance and standardize disclosure of cybersecurity risks and incidents by public companies that are subject to the reporting requirements of the Securities Exchange Act of 1934 (“Exchange Act”).

The SEC has indicated that cybersecurity will also be one of its disclosure priorities for [2024](#) in light of last year's adoption of new cybersecurity rules requiring public companies to disclose their cybersecurity processes, threats, risks, and incidents in their annual and periodic reports. Annual disclosure of a company's cybersecurity risk management, strategy, and governance is required in a registrant's annual Form 10-K or Form 20-F. For domestic companies, the new cybersecurity disclosures are required by Item 1C of Form 10-K. For FPIs, the cybersecurity disclosures are required by Item 16K in Form 20-F. Both domestic and foreign issuers' cybersecurity annual report must be tagged in Inline XBRL. The SEC also mandates periodic reporting in Forms 8-K and 6-K requiring a company to disclose any "material cybersecurity incident."

For more information, please refer to our Client Alert found [here](#).

3. Segment Reporting Disclosures for FPIs reporting in U.S. GAAP

The [statement](#) by Director Erik Gerding of the SEC's Division of Corporation Finance in June 2024 notes that segment reporting compliance with the Financial Accounting Standards Board's (FASB) new [Final Accounting Standards Update \("ASU"\)](#) will be an area of the SEC's focus for the 2024 fiscal year.

In 2023, FASB issued a new ASU relating to segment disclosure requirements. The new ASU applies to all public entities who report in U.S. GAAP and are required to disclose segment information in accordance with Topic 280.

The new ASU requires public entities to report incremental segment information in their annual reports for fiscal years beginning after December 15, 2023. The ASU also requires disclosures on an interim basis within fiscal years beginning after December 15, 2024.

4. Non-GAAP Financial Measures

In Director Gerding's June 2024 [statement](#) on disclosure review, he noted that non-GAAP measures will be an area of focus for this year's annual reporting season. Companies that utilize non-GAAP financial measures, or make changes to their non-GAAP financial measures between periods, should review the [SEC's 2022 C&DI on Non-GAAP Financial Measures](#) to ensure they are in compliance.

5. Russia-Ukraine Conflict

In 2022, the SEC released [guidance](#) on disclosure of the direct or indirect impact of the Russia-Ukraine conflict. Pursuant to this guidance, companies are advised to report:

(1) direct or indirect exposure to Russia, Belarus, or Ukraine through their operations, employee base, investments in Russia, Belarus, or Ukraine, securities traded in Russia, sanctions against Russian or Belarusian individuals or entities, or legal or regulatory uncertainty associated with operating in or exiting Russia or Belarus, (2) direct or indirect reliance on

goods or services sourced in Russia or Ukraine or, in some cases, in countries supportive of Russia, (3) actual or potential disruptions in the company's supply chain, or (4) business relationships, connections to, or assets in, Russia, Belarus, or Ukraine.

The SEC specifically pointed out the heightened cybersecurity risks, supply chain issues and market volatility for trading prices of commodities that companies face as a result of the Russia-Ukraine conflict as areas likely to necessitate disclosure. Companies should continue to disclose such information on their 2024 annual reports if they or their customers or counterparties have been impacted directly or indirectly by this conflict.

6. Middle East Conflict

The SEC has not yet issued guidance for how companies should disclose any impacts of the conflict in the Middle East. However, some companies have been reporting the operational risks they are facing as a result of the conflict.

Companies should consider following the guidance the SEC provided for the Russia-Ukraine Conflict and disclose direct or indirect material impact that the company faces as a result of the Middle East conflict. As with last fiscal year's annual reporting season, companies should continue to evaluate how the conflict has impacted their financial statements, earnings, and operations and adjust the disclosure in its annual reports regarding the conflict's impact as necessary. As with the Russia-Ukraine conflict, companies also should consider any material impact on their customers and counterparties.

7. Sanctions

The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") continues to enforce sanctions against certain foreign jurisdictions and regimes, and individuals engaging in harmful activities. As OFAC continues to enforce sanctions and update its sanctions list, companies should ensure they have compliant sanctions policies, and, if a company is doing business with a sanctioned entity or individual, it should consider whether it must disclose such information.

8. China-Based Companies

In 2023, the SEC focused on monitoring disclosures of China-Based Companies, defined as companies "based in or with a majority of their operations in the People's Republic of China." In Director Gerding's June 2024 [statement](#), he explained that companies continue to face material risks from the People's Republic of China ("PRC") government intervening in or exercising control over their operations in the PRC. As a result, the SEC is likely to continue its focus on China-Based Companies and companies' disclosures relating to material risks due to PRC intervention.

9. Inflation & Interest Rates

Director Gerding advised companies in his June 2024 [statement](#) to avoid using boilerplate disclosure when discussing inflation. Instead, companies are encouraged to discuss particularized risks and the specific impacts a company has faced as a result of inflation. We expect that the SEC will also be focusing on interest rate risk and liquidity risk as a result of the recent banking industry market disruptions. Companies should disclose risks they are facing from high interest rates.

10. Artificial Intelligence & Crypto Assets

Companies' use of artificial intelligence ("AI") is another SEC disclosure priority. In Director Gerding's June 2024 [statement](#), he indicated that AI is being used by many companies in their annual reports. The SEC will be looking to see if companies unambiguously define AI and how it is used to improve a company's operations, financial condition and future prospects. Again, companies are encouraged to avoid boilerplate disclosures, instead specifying in their disclosures the material risks and impact AI has on the business and its financial condition pursuant to the company's current or proposed use of AI.

The SEC will likely also continue to monitor and examine registrants in the crypto market given the crypto market's volatility.

11. Section 13(d) and 13(g) Beneficial Ownership Reporting

In 2023, the SEC issued its final rules modernizing beneficial ownership reporting under Sections 13(d) and 13(g) of the Exchange Act, and they are now in effect. The rule changes accelerated the filing deadlines for initial and amended reports on Schedules 13D and 13G, clarified Schedule 13D's disclosure requirements for derivative securities, expanded the timeframe within a given business day to file Schedules 13D and 13G, and required that Schedule 13D and 13G disclosures must be filed using a new 13D/G-specific XML structured, machine-readable data language.

For more information, please refer to our Client Alert [here](#).

Reminders from Prior Annual Reporting Seasons

1. Issuer Repurchases of Equity Securities

In 2023, the U.S. Court of Appeals for the Fifth Circuit vacated the SEC's Share Repurchase Disclosure Modernization Rule. The rule required companies to disclose quantitative and narrative information related to an issuer's repurchase of the company's shares.

Although the SEC's new requirements under the Share Repurchase Disclosure Modernization Rule will not take effect as a result of the court's order, issuers will still need to disclose their purchases of equity securities pursuant to the previous rules. Domestic issuers must make these disclosures in Item 5 of Form 10-K pursuant to

Item 703 of Regulation S-K (and they also have quarterly reporting requirements under Item 2(c) of Part II of Form 10-Q). FPIs must make their disclosures in Item 16E of Form 20-F.

For more information about the vacated rule, please see our Client Alert [here](#).

2. **Disclosure of Grants of Stock Options and Equity Awards Around Release of Material Nonpublic Information (“MNPI”)**

In the SEC’s 2022 insider trading rule updates, it adopted new Item 402(x) of Regulation S-K. For a company’s annual report, Item 402(x) requires domestic registrants (but not FPIs) to disclose their “policies and practices related to the grant of certain equity awards close in time to the release of” MNPI. Disclosure is required for the policies and practices particularly for how the board makes determinations on the timing of options awarded around the time of the release of MNPI.

A registrant that awarded options to a named executive officer four business days before to one business day after the company filed a Form 10-Q, Form 10-K or Form 8-K disclosing MNPI must report additional information in a tabular format. In the disclosure table, the company must report the percentage change in the market price of the securities underlying the award from one trading day before to one trading day after the disclosure of MNPI.

Disclosure is required in Item 11 of Form 10-K for an annual report and in Item 8 of Schedule 14A for a proxy statement.

The Item 402(x) disclosure is required to be tagged in Inline XBRL.

3. **Executive Compensation Clawback Rule**

December 1, 2023 marked the compliance deadline for issuers with securities listed on a national securities exchange to adopt clawback policies for erroneously awarded, incentive-based, executive compensation. These clawback policies must be filed as an exhibit to the annual report (either on Form 10-K for domestic issuers, Form 20-F for FPIs or Form 40-F for MJDS companies).

On the cover pages to the annual Form 10-K, Form 20-F or Form 40-F, companies must review and check the applicable clawback boxes. The clawback checkboxes ask:

1. If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.
2. Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant’s executive officers during the relevant recovery period pursuant to §240.10D-1(b).

The above boxes need to be checked if they apply. If applicable, the company must disclose the clawback action in Inline XBRL in Item 11 (pursuant to Item 402(w) of Regulation S-K) of Form 10-K for domestic issuers, in Item 6F of Form 20-F for FPIs and pursuant to paragraph 19 of General Instruction B on Form 40-F.

Domestic companies must also disclose any clawback actions taken in their proxy statements pursuant to Item 8 of Schedule 14A requiring the information requested in Item 402 of Regulation S-K.

We expect that compliance with the new clawback rules will be a priority of the SEC in its review process this year.

For more information, please refer to our clawback policy memorandum [here](#).

4. Board Diversity

On December 11, 2024, the U.S. Court of Appeals for the Fifth Circuit vacated the SEC's approval of Nasdaq's board diversity rules. The diversity rules mandated that companies listed on the Nasdaq Global Market or Nasdaq Global Select Market disclose whether they had at least two diverse board members, or explain why they did not. Nasdaq's board diversity rules also required disclosure of a company's diversity matrix.

The court [held](#) that, in approving Nasdaq's diversity rule, the SEC "failed to justify its determination that Nasdaq's Board Diversity Proposal is consistent with the requirements of the Exchange Act." Accordingly, companies now will not be required to disclose such information in their annual reports.

Nasdaq has stated that it does "not intend to seek further review" of the decision, and the SEC has stated that it is "reviewing the decision and will determine next steps as appropriate."

5. Electronic Filing of "Glossy" Annual Reports

In 2022, the SEC adopted amendments that require companies to file their glossy annual reports. Glossy annual reports are given to a company's shareholders when the company solicits proxies for a shareholder meeting where directors will be elected pursuant to Regulation 14A of the Exchange Act. The name originates from the fact that these annual reports are typically printed on glossy paper. Many companies use their annual Form 10-K to comply with Regulation 14A, and "wrap" the report with a glossy cover page.

Pursuant to the SEC's mandate, companies must remember to file their glossy annual reports with the SEC in PDF format using EDGAR Form ARS via its EDGAR system. The PDF must have the same graphics, styles of presentation and text size, placement, color and offset for disclosure, as does the annual report sent to shareholders.

Rule 14a-16(b) under the Exchange Act requires companies also to post a copy of their annual report to at least one website other than EDGAR.

The SEC requires that companies that qualify as FPIs submit any glossy annual reports electronically in PDF format via EDGAR on their Form 6-K.

6. Rule 144 Filings

In 2022, the SEC issued [amendments](#) requiring companies subject to Sections 13 or 15(d) of the Exchange Act for sales of issuer securities to file Form 144 electronically.

To comply with the new rule, reporting persons are required to create an EDGAR account with unique filing codes in order to submit the XML-based fillable electronic Form 144 via EDGAR. Reporting persons seeking to obtain EDGAR codes in order to file a Form 144 electronically should note that it takes approximately one to two business days to receive such codes.

If you need assistance obtaining your EDGAR codes or with your Form 144 filing, please contact your Seward & Kissel attorney.

General Tips

Annual reporting season is also a good time to check on your status as a “well-known seasoned issuer” or “emerging growth company,” if applicable, and you should also consider addressing certain general corporate matters, such as nominations, new chairman, new committees/committee members, evaluating authorized share cap, amending or increasing total authorized shares under equity incentive plans, confirming the expiration dates of existing shelf registration statements or shareholder rights plans, etc.

Closing Thoughts

In the coming weeks, please be in touch with your Seward & Kissel attorney about next steps regarding the drafting and filing of 2024 annual reports and proxy statements, as well as any other general corporate matters. This is a good time to start planning who will prepare the different portions of your annual report as well as beginning conversations with your auditor.

If you have any questions regarding the foregoing, please contact one of the partners listed below or your primary Seward & Kissel attorney.



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