

SEC Expands Accommodations for Issuers Submitting Draft Registration Statements

March 5, 2025

On March 3, 2025, the staff of the Division of Corporation Finance of the Securities and Exchange Commission (the “SEC”) announced that it will further expand the accommodations available for issuers to submit draft registration statements for nonpublic review. These expanded accommodations are designed to facilitate capital formation and reflect the SEC’s continued efforts to streamline the registration process for issuers while ensuring appropriate safeguards for investors.

Background. In 2012, the Jumpstart Our Business Startups Act established a confidential submission and review process for draft registration statements in connection with initial public offerings of Emerging Growth Companies (“EGCs”). In 2017, the SEC expanded this process to all IPO issuers and other issuers in limited circumstances to submit draft registration statements for nonpublic review under certain conditions.

Enhanced Accommodations. The SEC’s March 3, 2025 announcement further broadens the scope of its nonpublic review process through the following key changes:

- **Expanding review of initial registration statements.** In addition to its review of registration statements under the Securities Act of 1933, as amended (the “Securities Act”) and Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the SEC will now permit issuers to submit for nonpublic review initial registration statements on Forms 10, 20-F or 40-F under Exchange Act Section 12(g). Consistent with the pre-existing framework, initial registration statements, along with any related amendments, may remain confidential until 15 days prior to any road show or 15 days prior to the registration statement’s requested effective date, as applicable. The SEC will also continue its practice of publicly releasing staff comment letters and issuer responses on EDGAR no sooner than 20 business days following the registration statement’s effective date.
- **Removing time constraints on review of subsequent draft registration statements.** The SEC historically limited nonpublic review of draft registration statements to a 12-month period following the effective date of the issuer’s initial

Securities Act registration statement or an issuer's initial Exchange Act Section 12(b) registration statement. The SEC will now permit nonpublic review of subsequent draft registration statements for any offering under the Securities Act or registration of a class of securities under either Section 12(b) or Section 12(g) of the Exchange Act regardless of when the issuer became subject to Section 13(a) or 15(d) Exchange Act reporting requirements. Issuers submitting subsequent draft registration statements for nonpublic review must publicly file their registration statement and nonpublic draft submission on EDGAR at least two days preceding the requested effective time and date. Notwithstanding these changes, the SEC will continue to limit its nonpublic review of subsequent draft registration statements to the initial submission. Issuers responding to staff comment should therefore do so via a public filing rather than a revised draft registration statement.

- **Expanding review to include de-SPAC transactions.** The SEC will allow issuers to submit registration statements in connection with de-SPAC transactions for nonpublic review as if such registration statements were an initial Securities Act registration statement where the SPAC is the surviving entity, provided the co-registrant target would otherwise be independently eligible to submit a draft registration statement.
- **Special considerations for Foreign Private Issuers.** Instead of electing to submit draft registration statements under these new accommodations, Foreign Private Issuers will have the option to follow the procedures available to EGCs (if they so qualify), or they can follow alternative guidance issued in the SEC's [2012 statement](#).
- **Allowing issuers to omit underwriter(s) from initial draft registration statements.** The SEC will permit issuers to omit the underwriter name(s) from initial registration statements where such information would otherwise be required by Items 501 and 508 of Regulation S-K, provided such information is included in subsequent submissions and public filings.

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We are available to discuss these updates and other considerations related to the registration statement review process.

Please do not hesitate to contact us with any questions.



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