

Memorandum

Updates Regarding Section 16 and Foreign Private Issuers

March 6, 2026

SEC Issues Order Exempting Certain Jurisdictions From Section 16(a) Reporting Requirements and Other Updates

As addressed in our prior [client memo](#), the “Holding Foreign Insiders Accountable Act” (the “HFIAA”), which was enacted on December 18, 2025 as part of the National Defense Authorization Act for Fiscal Year 2026, requires the directors and officers of foreign private issuers (“FPIs”) to make filings under Section 16(a) of the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”).

Under the HFIAA, the U.S. Securities and Exchange Commission (“SEC”) was required to issue new rules or amend current rules to implement the HFIAA by March 18, 2026. The HFIAA also gave the SEC the power to exempt any person, security or transaction subject to substantially similar requirements in a foreign jurisdiction. On February 27, 2026, the SEC issued amended rules to implement the HFIAA and on March 5, 2026, the SEC issued an order exempting certain persons from qualifying jurisdictions from the Section 16(a) reporting requirements.

As a reminder, any directors and officers of FPIs not exempt under the SEC’s order must begin making Section 16(a) filings in the U.S. beginning on March 18, 2026. Applicable FPIs should ensure that they have obtained the necessary SEC EDGAR filing codes for their directors and officers by such date and have taken any other steps necessary to comply with such obligations by such date as discussed in our January client memo linked above.

This memorandum summarizes the SEC’s exemptive order and rule amendments.

Section 16 Exemptive Order

On March 5, 2026, the SEC issued an [order](#) granting an exemption from Section 16(a) for directors and officers of certain FPIs incorporated or organized in a “qualifying jurisdiction” regulated by a “qualifying regulation,”¹

¹ The qualifying regulations are: (i) Canada’s National Instrument 55-104—Insider Reporting Requirements and Exemptions (supported by National Instrument 55-102—System for Electronic Disclosure by Insiders (SEDI) and companion policies), (ii) Articles 12, 17, and 20 of the Chilean Securities Market Law (Ley de Mercado de Valores, Ley No. 18,045) and General Rule (Norma de Carácter General) No. 269, (iii) Article 19 of the European Union Market Abuse Regulation (Regulation (EU) No. 596/2014, as amended by Regulation (EU) No. 2024/2809) (including, as applicable, implementing legislation and regulations adopted by the European Union’s member states) and as incorporated into the domestic law of each European Economic Area state (“EU MAR”), (iv) Article 173 of the Republic of Korea Financial Investment Services and Capital Markets Act and Article 200 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act, (v) Article 56 of the Listing Rules and implementing directives of SIX Swiss Exchange as approved by the Swiss Financial Market Supervisory

subject to certain conditions described below. The qualifying jurisdictions are:

- Canada;
- Chile;
- the European Economic Area (including the 27 member states of the European Union as well as Iceland, Liechtenstein and Norway);
- the Republic of Korea;
- Switzerland; and
- the United Kingdom.

The exemption granted by the order is subject to the following conditions:

- **Reporting requirement:** Any director or officer (as defined under Section 3(a)(7) of the Exchange Act and Rule 16a-1(f) of the Exchange Act, respectively) seeking to rely on the exemption is required to report their transactions in issuer securities pursuant to the applicable qualifying regulation. This includes any person who performs significant policy-making functions for the issuer (who would be an “officer” required to file Section 16 reports under Section 16(a)), whether or not such person would be considered a “reporting person” under the applicable foreign regime.
- **English availability:** Reports must be publicly available in English within two business days. If the online system of the regulator or listing venue does not allow English filings, the issuer can post reports on its own website.

Any director or officer who does not satisfy the above conditions is still required to file reports under Section 16(a) of the Exchange Act. The intention is to ensure that anyone who would otherwise have been reporting under Section 16(a) absent the exemptive order is making such filings under applicable qualifying regulations.

The SEC may exercise its right to reassess and/or modify the order if there are any changes to any qualifying regulations or other relevant changes are deemed material such that any qualifying regulation is no longer substantially similar to the Section 16(a) requirements.

The SEC also stated that it may exercise its exemptive authority to exempt directors and officers of FPIs in other jurisdictions that set forth requirements substantially similar to the Section 16(a) requirements. Any such relief would be granted in a separate order.

Authority, and (vi) Article 19 of the United Kingdom Market Abuse Regulation (Regulation (EU) No. 596/2014), as it forms part of United Kingdom domestic law pursuant to the European Union (Withdrawal) Act 2018.

Section 16 Rule Amendments

In addition to the Exemptive Order, on February 27, 2026, the SEC issued [amended rules](#) to implement the HFIAA. The rules were mainly technical in nature to provide that:

- FPI directors and officers are now subject to the Section 16(a) filing requirements but not Section 16(b) of the Exchange Act (the short swing profit rules) or Section 16(c) of the Exchange Act (the prohibition on short sales); and
- FPI ten percent beneficial owners remain exempt from Section 16.

The SEC also amended Forms 3, 4 and 5 to include an optional field for a foreign trading symbol, a postal code and a country code as part of the reporting person's address.

Importantly, the release also confirmed that rules that require U.S. domestic registrants to disclose late or known missed Section 16 filings to be disclosed in their annual report and proxy statement do not apply to FPIs, although it is possible that the SEC may further amend such rules in the future.

Key Takeaways

FPIs incorporated or organized in exempted jurisdictions should confirm that they are subject to a qualifying regulation and meet all of the other conditions described herein. This includes ensuring that any directors and officers of such FPI that would have been subject to making filings in the U.S. under Section 16(a) of the Exchange Act are making required filings under the applicable qualifying regulation. Any person not meeting the above conditions is still required to make Section 16(a) filings in the U.S.

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