

Memorandum

SEC Provides Guidance Enabling IPO Issuers to Access the Market During a Government Shutdown

October 9, 2025

Following discussions with Simpson Thacher and other leading capital markets law firms, the staff of the Division of Corporation Finance of the Securities and Exchange Commission today published updated [guidance](#) concerning the staff's protocols during a government shutdown. The guidance indicates that the staff will not recommend enforcement action against issuers that rely on Rule 430A under the Securities Act of 1933 to omit pricing information from the form of prospectus filed as part of a registration statement during the shutdown, which goes effective, either during or after the shutdown, by operation of law pursuant to Section 8(a) of the Securities Act. Pursuant to Section 8(a), a registration statement filed without a delaying amendment becomes effective automatically on the twentieth day after filing. Rule 430A is the mechanism pursuant to which the offering price and other price-dependent information, which is customarily available only after a registration statement has become effective, is deemed retroactively to have been a part of the registration statement as of its original effective date upon the filing of a final prospectus that includes such information. In prior guidance, the staff had noted its view that Rule 430A would not be available for a registration statement that had not been declared effective by the staff.

The guidance reminds issuers that the liability and antifraud provisions of the federal securities laws apply to all registration statements, including those that go effective by operation of law pursuant to Section 8(a) of the Securities Act. Subject to an issuer's reliance on Rule 430A, such registration statement must also be final, *i.e.* it must include all information required by the form, including the price of the securities to be sold. During the shutdown, the SEC may issue a stop order under Section 8(d) of the Securities Act or take other emergency actions if necessary. Once the SEC resumes operations, the staff may request that an issuer amend its registration statement even after it has become effective by operation of Section 8(a).

Today's guidance, which is an update to the staff's shutdown protocols that were the subject of our earlier [Alert](#), is welcome news for many IPO issuers concerned that a protracted government shutdown could frustrate their capital plans. We commend the staff for an approach that allows such issuers timely access to the market in a manner consistent with the SEC's mandate for investor protection.

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