

Impact of the Government Shutdown on Public Reporting Companies

by Josh Erekson, Christopher L. Doerksen, Cam C. Hoang, Dan Lyman, David Marx, and Megan J. Penick

The federal government shutdown that commenced on October 1, 2025, will significantly limit operations at the Securities and Exchange Commission ("SEC"). During the shutdown, public companies must continue to meet all filing deadlines and compliance obligations. While EDGAR remains fully operational, the SEC Division of Corporation Finance has furloughed most staff and suspended nearly all review and guidance activities. On September 30, the Division of Corporation Finance issued this [Announcement](#) and these [FAQs](#).

1. EDGAR System and Filing Requirements

EDGAR remains fully operational during the shutdown.

Continuing Obligations:

- All periodic reports (Forms 10-K, 10-Q, 8-K) must be filed on time
- All filing deadlines under federal securities laws remain in effect
- Days during the shutdown count as "business days" for regulatory purposes
- All required reports, proxy materials, tender offer filings, Section 16 reports, and Schedules 13D/13G must be filed when due

Companies remain fully responsible for complete and accurate disclosure in all filings, regardless of the SEC's operational status.

2. SEC Staff Activities - Suspended

The Division of Corporation Finance will NOT be able to:

- Review or comment on any filings
- Issue no-action letters (including for shareholder proposals)
- Provide interpretive guidance or advice

Related People

- Josh Erekson
- Christopher L. Doerksen
- Cam C. Hoang
- Dan Lyman
- David Marx
- Megan J. Penick

Related Capabilities

- Capital Markets
- Government Enforcement & Corporate Investigations
- Corporate Governance & Compliance

- Declare registration statements or post-effective amendments effective
- Review preliminary proxy or information statements
- Respond to shareholder proposal exclusion requests under Rule 14a-8

Limited Exception: Starting October 1, limited staff will be available to answer questions relating to emergency filing relief and fee calculations by contacting CFEmergency@sec.gov.

3. Capital Markets and Offerings

Companies That Can Proceed:

- **Well-Known Seasoned Issuers (WKSIs):** Can continue offering activity as Form S-3/F-3 registration statements are automatically effective upon filing
- **Companies with Effective Shelf Registration Statements:** Can proceed with offerings through prospectus supplements

Companies Facing Challenges:

- **Non-WKSIs without effective shelf registration statements:** Cannot obtain accelerated effectiveness of new registration statements
- **Traditional IPOs:** Significantly impacted as SEC staff cannot declare registration statements effective

Alternative Path - 20-Day Automatic Effectiveness: Companies may file registration statements without a delaying amendment (or remove existing delaying amendments) to allow effectiveness after 20 days by operation of Section 8(a) of the Securities Act. However, this approach carries significant risks:

- Not available for offerings relying on Rule 430A (which requires declared effectiveness)
- SEC may request re-insertion of delaying amendment if operations resume during the 20-day period
- SEC may review post-effectiveness and could request amendments or issue stop orders
- Antifraud and liability provisions apply equally

Form 10 Registrations: Become effective automatically 60 days after filing and must be withdrawn before that deadline if effectiveness should be avoided.

Rule 462(c) Relief: For offerings that missed the 15-business-day pricing window under Rule 430A, companies may file a post-effective amendment under Rule 462(c) to restart the 15-day clock.

4. Proxy Season Considerations

Shareholder Proposal No-Action Requests:

- Division will not respond to Rule 14a-8(j) no-action requests during the shutdown

- Companies should continue to timely submit such requests
- Rule 14a-8 does not require waiting for staff response before excluding proposals
- **Risk:** Excluding proposals without staff concurrence creates enforcement risk and may trigger negative proxy advisor recommendations

Preliminary Proxy Statements:

- Should continue to be filed at least 10 calendar days before definitive materials are sent to shareholders
- Division will not review during shutdown but may review after operations resume

RECOMMENDED ACTION ITEMS

Immediate Actions:

1. **Verify EDGAR Access:** Ensure all necessary EDGAR access codes and passwords are current and accessible given constrained support during the shutdown
2. **Review Filing Calendar:** Confirm all upcoming filing deadlines and prepare materials accordingly
3. **Assess Capital Markets Plans:**
 - Companies planning offerings should evaluate shelf registration status
 - Consider whether transactions can proceed under existing effective registration statements
 - Assess viability and risks of 20-day automatic effectiveness path if necessary

During Shutdown:

1. **Continue All Required Filings:** Maintain strict compliance with all periodic reporting and other filing requirements
2. **Monitor Proxy Matters:** Continue to submit shareholder proposal no-action requests while understanding responses will be delayed
3. **Document Disclosure Decisions:** Exercise heightened care in preparing all filings given inability to obtain staff guidance
4. **Track Government Status:** Monitor congressional developments to anticipate resumption of SEC operations

When Operations Resume:

1. **Expect Delayed Responses:** SEC staff will have significant backlogs requiring time to process
2. **Prepare for Retroactive Reviews:** Division may review proxy materials and other filings submitted during the shutdown
3. **Address Pending No-Action Requests:** Follow up on shareholder proposal matters as needed

While the government shutdown significantly limits SEC staff availability, public companies face no relief from filing obligations or disclosure responsibilities. Companies should proceed with all required filings, exercise heightened diligence in disclosure decisions, and carefully evaluate transaction timing and alternatives in light of limited

staff support. Companies with planned capital markets transactions should consult with outside counsel to assess available options and associated risks.

The Division of Corporation Finance has indicated only emergency filing relief will be available during the shutdown through CFEmergency@sec.gov.