

Section 16 Reporting by Insiders of SEC-reporting Foreign Private Issuers: CANADA IS EXEMPT!

March 6, 2026 – Cross-Border Counselor
by Kimberley R. Anderson

Good news! The SEC has issued exemptive relief under the Holding Foreign Insiders Accountable Act (the HFIAA). For those of you focused on more important things in life, like Major League Baseball's opening day later this month, let us give you a brief recap of the HFIAA. The HFIAA was signed into law on December 18, 2025 and it subjected directors and officers of foreign private issuers to beneficial ownership and transactional reporting with the SEC if the issuer's securities are registered under Section 12(b) or 12(g) of the Exchange Act of 1934. Reporting commences on March 18, 2026, but the SEC was permitted to issue exemptive relief. More detail about the HFIAA is available [here](#).

Today the SEC issued an [exemptive order](#). We will get into more detail below, but directors and officers of Canadian foreign private issuers will not be subject to Section 16 reporting if they are subject to, and comply with, reporting under SEDI.

Canada was not the only jurisdiction to receive exemptive relief. "Qualifying jurisdictions" include: Canada, Chile, the European Economic Area, the Republic of Korea, Switzerland, and the United Kingdom. The exemptive relief is available to directors and officers of a foreign private issuer that is either (i) incorporated or organized in a qualifying jurisdiction and subject to a qualifying regulation of the same jurisdiction or (ii) incorporated or organized in a qualifying jurisdiction but subject to a qualifying regulation of a different jurisdiction. A list of "qualifying regulations" is contained in the exemptive order but it consists of reporting regulations in each of the qualifying jurisdictions.

In order to be eligible for the exemption, the issuer needs to be organized in a qualifying jurisdiction and be subject to the qualifying regulations in its own or another of the qualifying jurisdictions. If a foreign private issuer is organized in a non-qualifying jurisdiction, the insider will not be eligible for the exemption even if the insider is subject to a qualifying regulation. For example, if the insider of a UK entity is subject to SEDI reporting then the insider is eligible for the exemption. But, if an insider of a BVI company is subject to SEDI reporting then the insider is not eligible for the exemption and must

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start reporting with the SEC on March 18, 2026.

The exemption contained the following conditions for directors or officers seeking to rely on it:

- The insider must report their transactions in the issuer's securities as set forth under the qualifying regulation to which they are subject; and
- Any report filed pursuant to a qualifying regulation is made available in English to the general public within no more than two business days of its public posting.