

Section 16 Reporting Requirements Expanded to Directors and Officers of Foreign Private Issuers Effective March 18, 2026

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Directors and officers of foreign private issuers take note: unless the SEC exempts you, you will be required to report beneficial ownership and transactions in your company's registered equity securities to the SEC, and your first report is due on March 18, 2026. On December 18, 2025, President Trump signed into law the **National Defense Authorization Act** (NDAA), expanding reporting requirements under **amended Section 16(a) of the Exchange Act of 1934** to directors and officers of foreign private issuers whose securities are registered under Section 12(b) or 12(g) of the Exchange Act of 1934. This includes, among others, issuers of securities traded on the NYSE, NYSE American or Nasdaq.

While issuers often prepare filings on behalf of their directors and officers, the filings are ultimately the responsibility of the insiders. We recommend that foreign private issuers train their insiders on these reporting obligations, assist them in obtaining Edgar filing codes, have powers of attorney executed that permit the issuers to make the filings on the insider's behalf, and make the initial filings as well as subsequent filings going forward.

For Section 16(a) purposes, directors include all members of the board of directors. Officers include those individuals covered under Rule 16a-1(f), which will in some instances require issuers to make a determination on which individuals serve a policy making function.

For current directors and officers of a foreign private issuer, their Form 3s will be due on March 18, 2026, reporting their beneficial ownership in the company's registered equity securities. For directors and officers appointed after March 18, 2026, the Form 3 is due within 10 calendar days of becoming an insider. While shareholders holding more than 10% of shares outstanding for domestic issuers are subject to reporting requirements, that is not the case for foreign private issuers.

Subsequently, insiders make reports on Form 4 or Form 5 for most types of transactions,

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including market purchases or sales, gifts, and compensatory transactions such as the receipt of stock awards and the exercise of stock options.

Form 4s are due within two business days of the transaction's execution. Form 5s are filed within 45 days of each fiscal year end to report previously unreported transactions that otherwise would have been reportable on Form 4 or that were exempt from Form 4 reporting. Furthermore, the foreign private issuer is obligated to provide the reports on its corporate website not later than the end of the business day following filing.

The NDAA allows the SEC to exempt any person or security subject to "substantially similar requirements" in a foreign jurisdiction, but it is currently unclear under what circumstances the SEC would apply this exemption. The NDAA provides that the SEC issue final regulations to carry out the amendments not later than March 18, 2026, 90 days after the date of enactment of this Act.

Exemptions from Section 16(b) and Section 16(c) will remain in place for insiders of foreign private issuers. Section 16(b) permits issuers to recover "short-swing" profits that insiders realize upon conducting opposite-way transactions in the issuer's equity security (i.e., a sale followed by a purchase or a purchase followed by a sale within six months of each other). Section 16(c) prohibits insiders from engaging in short sales of the issuer's equity securities, meaning the sale of securities that the seller does not own or any sale of securities that are not delivered within twenty days after the sale.

By eliminating the Section 16(a) reporting exemption, Congress intends to deter trading in US equity securities on the basis of insider information, since the reports allow investors and regulators to monitor insider transactions.