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# Hot Topics for the 2025 Annual Report on Form 10-K

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# Agenda

- New Administration and SEC Priorities
- Risk Factors
- Artificial Intelligence
- Crypto
- Cybersecurity
- Climate Change
- Financial Reporting
- Filer Status Determinations
- Director and Officer Questionnaires

# New Administration and SEC Priorities

# The SEC is Open for Business

- The SEC, under Chairman Paul Atkins, has signaled a different approach to disclosure and different priorities than the previous administration
- Commissioner Hester Peirce spoke about the need for materiality-based disclosure that relates directly a company's business, and disclosure for the purpose of informing investors, rather than providing information for other purposes
  - “We all have special interests but endeavoring to stuff them all into securities filings undermines the reason we have such documents in the first place. The best course is for all of us to retreat to a place where materiality from the perspective of the reasonable investor is the sine qua non for disclosures. [...]Materiality-based disclosure is one of the foundational strengths of the American securities regulatory regime. Although in some instances such disclosure may incidentally address the concerns of some special interest groups, important societal concerns are better addressed by political institutions and civil society”
- SEC's spring 2025 regulatory agenda matches this “deregulatory” approach, including the “Rationalization of Disclosure Practices”

# Risk Factors

# Risk Factors

- Material factors that make investment in a company speculative or risky
- SEC Chairman Paul Atkins recently stressed need to tailor risks to the specific company so that investors know what is important. “Firms have risk-averse lawyers who ‘dump the kitchen sink in’ [...] It’s become a repository for too much [...] It’s not serving investors well”
- Take a fresh look at complete set of risk factors for annual report
  - Any updating needed?
  - Any new risk factors to add?
- Avoid describing risk only in hypothetical terms if a material event of that nature has occurred
- If the risk factor discussion exceeds 15 pages, a risk factor summary of not more than two pages is needed

## Risk Factors (cont'd)

The Internal Audit Foundation surveyed Chief Audit Executives and heads of internal audit from March 2024, through May 2024, receiving 3,544 responses globally, including 418 in North America, to identify the top 5 risks faced by their organization

| Last Year's Risk |                                            | Current Year's Risk |                                            | Risk Expectations in 3 Years |                                            |
|------------------|--------------------------------------------|---------------------|--------------------------------------------|------------------------------|--------------------------------------------|
| 1                | Cybersecurity 73%                          | 1                   | Cybersecurity 73%                          | 1                            | Cybersecurity 69%                          |
| 2                | Human capital 51%                          | 2                   | Business continuity 51%                    | 2                            | Digital disruption (including AI) 59%      |
| 3                | Business continuity 47%                    | 3                   | Human capital 49%                          | 3                            | Business continuity 47%                    |
| 4                | Regulatory change 39%                      | 4                   | Digital disruption (including AI) 39%      | 4                            | Human capital 42%                          |
| 5                | Digital disruption (including AI) 34%      | 5                   | Regulatory change 38%                      | 5                            | Climate change/environment 39%             |
| 6                | Financial liquidity 32%                    | 6                   | Market changes/competition 32%             | 6                            | Regulatory change 37%                      |
| 7                | Market changes/competition 32%             | 7                   | Financial liquidity 31%                    | 7                            | Geopolitical uncertainty 31%               |
| 8                | Geopolitical uncertainty 30%               | 8                   | Geopolitical uncertainty 30%               | 8                            | Market changes/competition 30%             |
| 9                | Governance/corporate reporting 27%         | 9                   | Governance/corporate reporting 25%         | 9                            | Financial liquidity 25%                    |
| 10               | Supply chain (including third parties) 26% | 10                  | Organizational culture 24%                 | 10                           | Supply chain (including third parties) 24% |
| 11               | Organizational culture 26%                 | 11                  | Fraud 24%                                  | 11                           | Governance/corporate reporting 22%         |
| 12               | Fraud 24%                                  | 12                  | Supply chain (including third parties) 23% | 12                           | Fraud 21%                                  |
| 13               | Communications/reputation 21%              | 13                  | Climate change/environment 23%             | 13                           | Organizational culture 20%                 |
| 14               | Climate change/environment 19%             | 14                  | Communications/reputation 20%              | 14                           | Communications/reputation 15%              |
| 15               | Health/safety 11%                          | 15                  | Health/safety 11%                          | 15                           | Health/safety 10%                          |
| 16               | Mergers/acquisitions 6%                    | 16                  | Mergers/acquisitions 6%                    | 16                           | Mergers/acquisitions 9%                    |

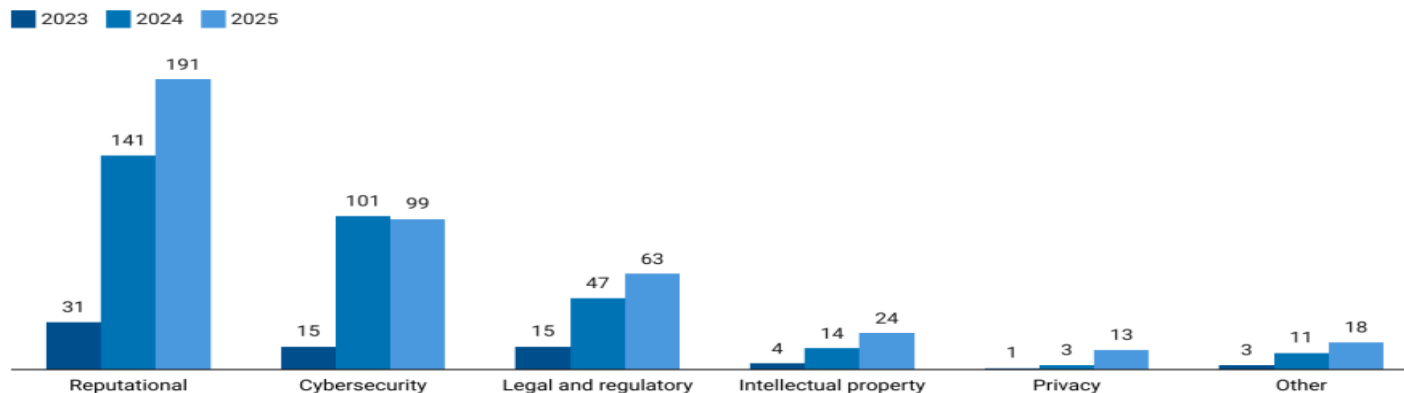
Results from the Internal Audit Foundation Risk in Focus North America survey conducted from March 21, 2024, through May 20, 2024

## Risk Factors (cont'd)

- Risks related to artificial intelligence, including risk assessment and risks related to use in business and operations
  - A survey by the Center for Audit Quality of 2025 10-Ks filed by S&P 500 companies as of June 2025 found that 448 companies, or 90%, mentioned artificial intelligence, usually in risk factors<sup>(1)</sup>

### Most AI risks relate to reputational, cybersecurity, or regulatory concerns

Number of S&P 500 companies disclosing AI-related risk in Form 10-K, by risk category, 2023–2025



Note: 2025 data are current as of August 15, 2025. Some companies disclose more than one AI risk.

Source: The Conference Board/ESGAUGE, 2025

(1) See The Center for Audit Quality, <https://www.thecaq.org/sp-500-and-ai-reporting>



## Risk Factors (cont'd)

- Risks posed by inflation, rising interest rates and potential recession
- Risks related to digital assets
  - The CAQ found that 47 companies, or 9%, mentioned digital assets, usually in risk factors<sup>(2)</sup>
  - Disclosure included regulatory risks (esp. based on evolving landscape), market volatility, and technological risks associated with digital assets (esp. with regard to rapidly evolving and changing technology and ability to adapt and compete)
- Cybersecurity and data privacy continue to be a hot-button for the SEC
- Geopolitical risks, including supply chain disruptions due to conflict in the Middle East, and Russia/Ukraine conflict
- Risks or impacts of U.S. government shutdown, especially for companies doing substantial business with the government or otherwise engaging in similar activities

(2) See The Center for Audit Quality, <https://www.thecaq.org/sp-500-and-digital-asset-reporting>

## Risk Factors (cont'd)

- Risks related to tariffs and/or other changes in or uncertainty with regard to trade policy
  - Out of appx. 880 Form 10-Qs filed by from Fortune 500 companies from April-August 2025, “nearly 90% mentioned tariff- and trade-related concerns,” almost twice the number from the same period in 2024<sup>(3)</sup>
  - Risk factors focused on uncertainty/unknown potential impacts of tariffs, potential for increased costs, including for regulatory compliance, supply chain risks and changes in strategy to mitigate risk, including addressing risks that were already happening
- Risks related to economic environment and effect of volatility
- Risks related to delisting, especially in light of Nasdaq’s 2025 rule amendment to accelerate delistings for companies that fail to meet minimum bid price requirements

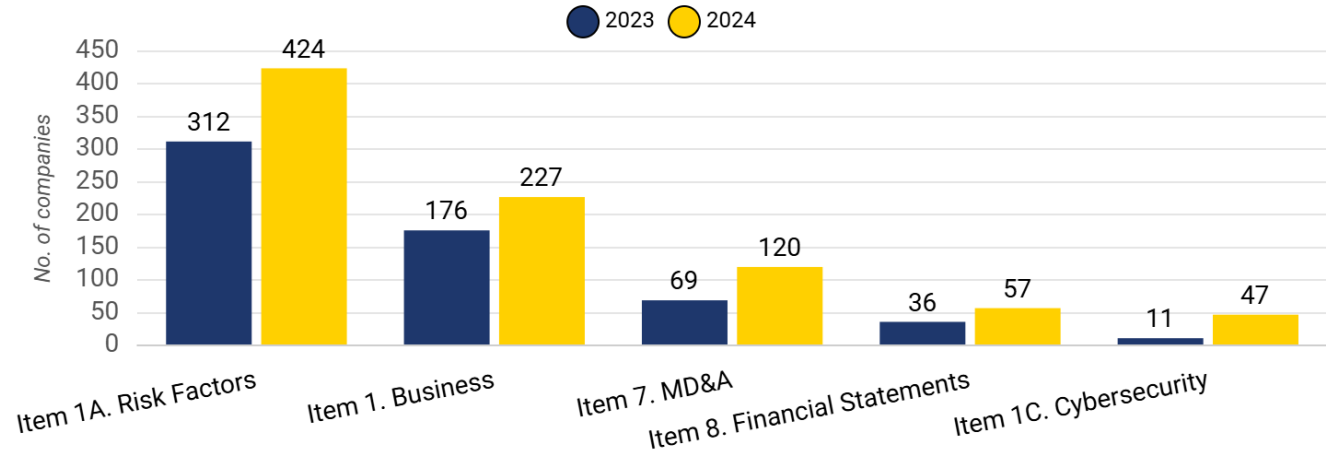
(3) See KPMG, [Effects of tariffs on SEC quarterly disclosures](#)

# Artificial Intelligence

# AI Disclosure and Use

- There has been a significant uptick the number of companies discussing AI in their annual reports
- While disclosure mainly focuses on risks, companies are increasingly discussing AI in other areas, including MD&A; financial statements; description of business; cybersecurity; and forward-looking statements

Section of 10-K AI is Mentioned



## AI Disclosure and Use (cont'd)

- While the use of AI continues to increase, it is important to consider the ongoing human role in analyzing output and maintaining appropriate related disclosure controls and procedures
- Boards increasingly focused on AI—sometimes this responsibility is within a single committee, but more often is a matter for the entire board
- Consider whether the disclosure:
  - clearly defines what it means by artificial intelligence;
  - provides tailored (not boilerplate) disclosures about material risks and the impact the technology is reasonably likely to have on its business and financial results; and
  - Includes a reasonable basis for its claims when discussing artificial intelligence prospects

## AI Disclosure and Use (cont'd)

- Description of Business: Disclosure of use of AI and integration into existing products and/or internal operations; discussion of existing and potential regulations
- MD&A: Investment in AI-related products or AI-related acquisitions; use of AI-related technology in internal operations and/or to provide information about governance and risk management
- Financial Statements: According to the CAQ, “AI-related mentions in the financial statements increased by more than 50% from the prior year,” including footnote disclosure about AI-related acquisitions, description of business and/or operating segments and significant accounting policies

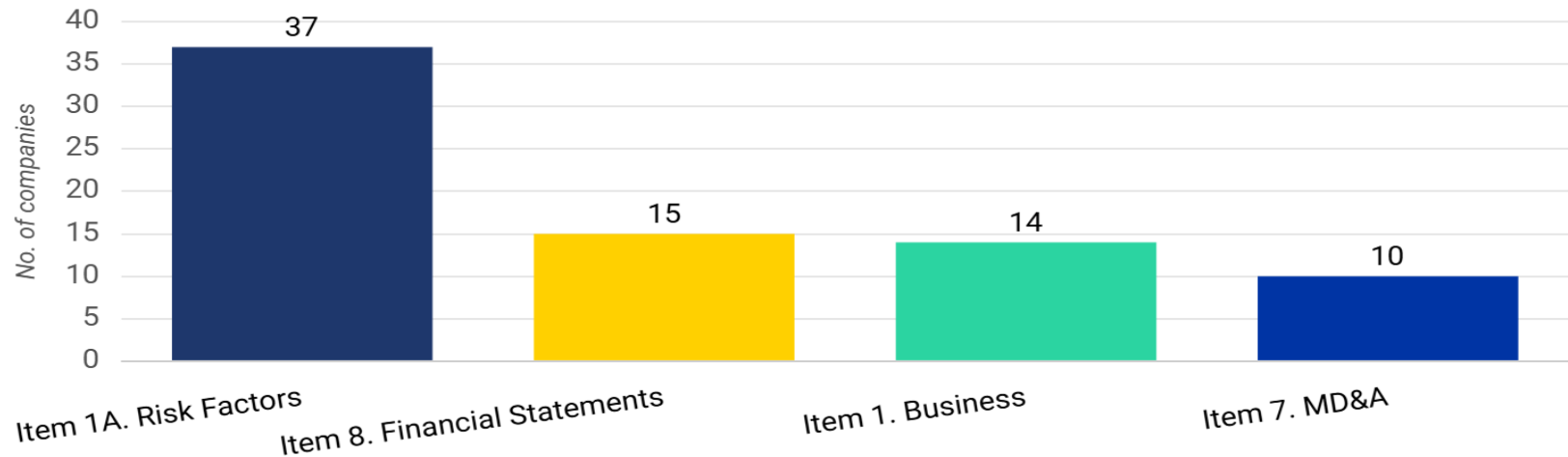
See The Center for Audit Quality, <https://www.thecaq.org/sp-500-and-ai-reporting>

# Crypto

# Crypto

The CAQ observed around 9% of S&P 500 companies mentioned digital assets in their 2024 10-K; more than 50% of these are in the financial services sector, with the rest generally operating in the areas of information technology, energy and utilities, and consumer discretionary

## Section of 10-K Digital Assets are Mentioned



2024



## Crypto (*cont'd*)

- In 2025, the SEC Staff published a number of Staff Statements on the application of the federal securities laws to different crypto assets, including an April 2025 Statement regarding Staff observations of disclosure provided in response to existing requirements
- Description of Business
  - Disclosure that specifically relates to the material aspects of the issuer's current or proposed business, rather than to crypto networks, crypto assets, or other technologies generally
  - Addresses the current stage of development of the business and clearly delineates any forward-looking or future plans of development
- Risk Factors
  - Risks relating to the issuer's current or planned business operations, such as risks relating to technology and cybersecurity
  - Risks relating to the security, including any unique characteristics of the security such as form, liquidity, supply, and custody

## Crypto (*cont'd*)

- Description of Securities
  - Rights, obligations, and preferences of the security including any rights that holders do not have; and the characteristics of the security, such as term, restrictions on transferability, whether the security can be loaned or pledged, etc.
  - Technical Specifications: The network or application associated with the security, whether and how the underlying code can be modified, and the technical requirements for holding and transferring the security
  - Supply: The rules governing the total supply of the security, such as whether the supply will be created at initial generation or continuously or from time to time and any ability to change the rules regarding generation
  - Whether the issuer intends to enter into any arrangements with market makers or similar firms to distribute and/or provide liquidity for the security and the terms of such arrangement
  - If the issuer's business involves crypto assets that themselves are not securities, whether offered as part of or subject to an investment contract or otherwise, similar disclosures, if material, may be relevant to the section of the registration or offering statement discussing the issuer's business

## Crypto (*cont'd*)

- Directors, Executive Officers, and Significant Employees
  - Certain trusts – such as the spot crypto exchange-traded products – have a sponsor with directors and executive officers who perform functions similar to directors or executive officers of the trust. In these cases, disclosure has been provided with respect to the directors or executive officers of the sponsor. Disclosure may also be required of any fees paid to the third party for performing such functions
- Exhibits
  - Issuers must file as an exhibit any instrument defining the rights of security holders; to the extent that the rights, preferences, and obligations of holders of the securities are memorialized in smart contract(s) or otherwise programmed into the code of a network or application, filings include as an exhibit the code of the smart contract(s) and/or the network or application, with updates to the exhibit in response to subsequent changes in such code

# Cybersecurity Disclosure

## Cybersecurity – Process Disclosure under Reg S-K

- In 2023, the SEC adopted final rules aimed at standardizing and enhancing disclosure relating to cybersecurity incidents and risk management processes.

| Final Rule                       | What to disclose                                                                                                                                                                                                                                                                                                                      |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item 106(b) of Regulation S-K    | Describe: <ul style="list-style-type: none"> <li>• processes, if any, to identify, assess and manage cybersecurity risks;</li> <li>• whether any risks from cybersecurity threats have materially affected or are reasonably likely to materially affect business strategy, results of operations, or financial condition.</li> </ul> |
| Item 106(c)(1) of Regulation S-K | Describe the Board of Directors' oversight of cybersecurity risk.<br><br>Registrants need <i>not</i> disclose information about the frequency of board discussions of cybersecurity or information about any director expertise in the field.                                                                                         |
| Item 106(c)(2) of Regulation S-K | Describe management's role in assessing and managing material risks from cybersecurity threats.                                                                                                                                                                                                                                       |

## Cybersecurity – Disclosure Trends

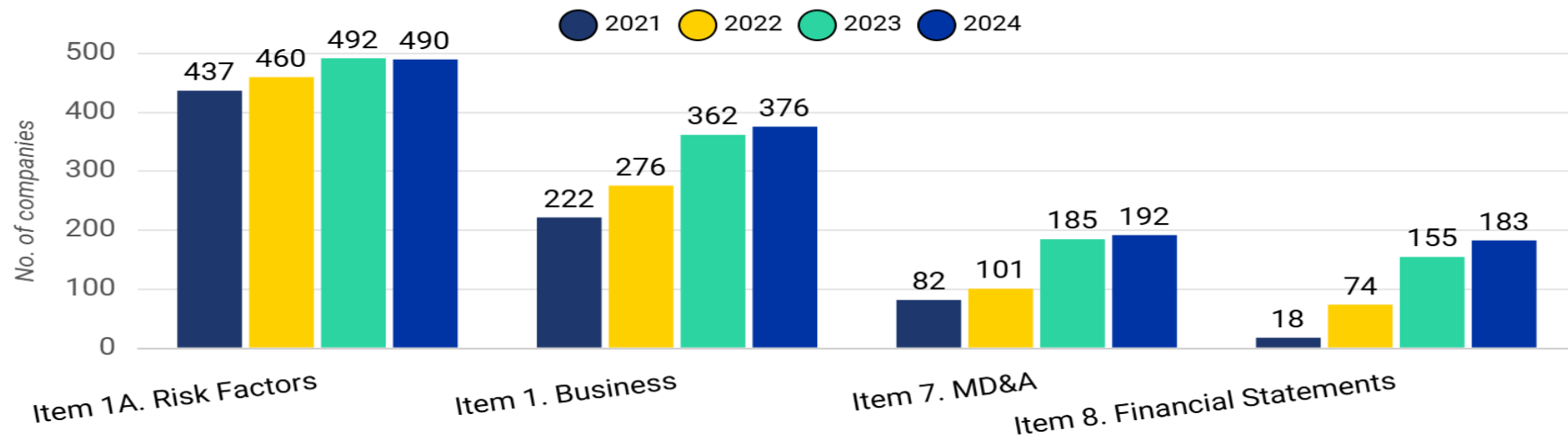
- Item 106 of Regulation S–K and Item 16K of Form 20–F required beginning with annual reports for fiscal years ending on or after 12/15/23; XBRL tagging required for fiscal years ending on or after 12/31/24
- SEC Staff selectively reviewing Form 10-K cybersecurity disclosure as part of its annual review process and have issued a limited number of comments on Form 10-K cybersecurity disclosure. Topics include:
  - whether and how the company’s processes for assessing, identifying, and managing material risks from cybersecurity threats have been integrated into the overall risk management system or processes
  - whether the company engages assessors, consultants, auditors or other third parties in connection with its processes for assessing, identifying and managing material risks from cybersecurity threats
  - Discussion of the relevant expertise of members of management involved in assessing and managing the company’s material risks from cybersecurity threats
- SEC Staff commentary warning against boilerplate disclosure

# Climate Change Disclosure

# Climate-Related Disclosure

The CAQ observed that most S&P 500 companies mentioned climate-related information in their 10-K, with the number of companies remaining consistent at 494 companies in 2023 and 2024

## Section of 10-K Climate is Mentioned





## Climate-Related Disclosure (cont'd)

- From 2024 to 2023, the CAQ observed the following changes in the substance of climate-related disclosure:
  - Approximately 16% fewer companies disclosed a net zero or carbon neutral commitment
  - Around 19% fewer companies disclosed a GHG emissions reduction goal
- Climate-related disclosure in the financial statements increased by about 18% in 2024; most common locations for disclosure were:



Significant accounting  
policies



Commitments and  
contingencies, and litigation



Debt or borrowing  
arrangements



Income taxes

- About 4% fewer companies reported using specific sustainability reporting standards or frameworks for their sustainability reports
- About 9% more companies mentioned the European Union Corporate Sustainability Reporting Directive and 3% more provided disclosure related to California state climate regulations

## Climate-Related Disclosure (cont'd)

- SEC rules directly addressing climate-related disclosure are subject to litigation, which is currently held in abeyance in the Eighth Circuit Court of Appeals until such time as the SEC reconsiders or renews its defense of the rules, which is extremely unlikely under the current administration
- As such, companies do not need to comply with these rules
- Current federal disclosure pursuant to SEC's 2010 climate change guidance
  - Principles-based approach for disclosure of material information
  - Impact of climate change legislation, regulation and international accords
  - Indirect consequences or opportunities of climate-related regulation
  - Physical impact of climate change on business and operations
  - Material expenditures for climate for climate-related projects and increases in compliance costs
- Coordinate disclosure in annual report, proxy statement and any sustainability report; carefully evaluate the accuracy and completeness of key company disclosures
- Consider:
  - Climate change risk and risk management
  - Plans and costs for climate change mitigation strategies in MD&A

## Climate-Related Disclosure (*cont'd*)

- Some states are moving ahead with regulations addressing disclosure of climate-based risks and greenhouse gas emissions (i.e., California, Illinois, Colorado)
- International Sustainability Standards Board global sustainability disclosure standards provide “disclosure requirements designed to enable companies to communicate to investors about the sustainability-related risks and opportunities they face over the short, medium and long term and “set out specific climate-related disclosure requirements for a company to disclose information about its climate-related risks and opportunities”
- Companies with EU operations, including U.S. domestic companies with operations there, must comply with the Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive, which require climate and sustainability reporting from 2025 onward

# Financial Reporting Issues

# Non-GAAP Disclosures

Non-GAAP continues to be a top area of focus for the SEC

- Top Staff comments include:

Potentially misleading  
non-GAAP financial  
measures

Undue prominence of  
non-GAAP financial  
measures compared  
with GAAP measures

Explaining why the  
use of a non-GAAP  
financial measure is  
helpful to investors

Reconciliation to the  
most directly  
comparable GAAP  
measure

Liquidity versus  
performance  
measures

Income tax effects of  
non-GAAP  
adjustments

# Critical Accounting Estimates

- The SEC has issued a number of comments on critical accounting estimates in recent years, along with other Regulation S-K Item 303 requirements
- Comments focus on the judgments used in making such estimates. Comments ask issuers to:

Discuss the types of assumptions underlying the most significant and subjective estimates and how those assumptions were determined

How much each estimate and/or assumption has changed over a relevant period

The sensitivity of the reported amount to the methods, assumptions and estimates underlying its calculation

# Segment Reporting

- Segment reporting is another SEC favorite topic, including ASU 2023-07, FASB's updated segment disclosure reporting requirements
- Registrants reporting a single segment: are you sure you don't have multiple segments?
  - Analyze operating segments and reporting segments. *Operating segments* are how an entity manages its business; must have available financial information and operating results regularly reviewed by the Chief Operating Decision Maker
  - An operating segment may become a *reportable segment* if it meets 10% of combined segment revenues. Two or more operating segments also may be combined if they are sufficiently similar
- Staff may request to see reports given to the CODM to understand how management evaluates segment performance; need to provide a facts-and-circumstances analysis

## Segment Reporting (cont'd)

- Other topics for Staff comments:
  - disclosures relating to reconciliation requirements;
  - significant segment expenses and other segment items;
  - how the Chief Operating Decision Maker uses the segment performance measure; and
  - whether a segment performance measure is also a non-GAAP financial measure

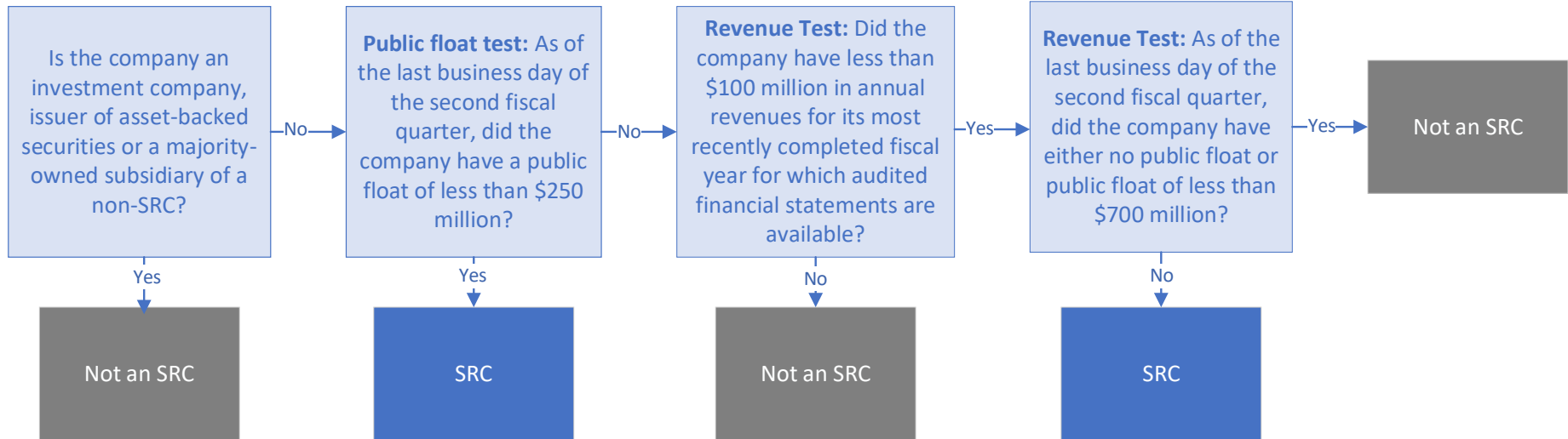


# Filer Status Determinations

## Filer Status Determinations

- On August 27, 2025, the SEC published Exchange Act Rules C&DI 130.05 regarding companies exiting smaller reporting companies ("SRC") status
- Pursuant to Rule 12b-2, an issuer can qualify as an SRC in two ways: a public float test or a revenue test
  - New CDI applies **only** to SRCs that qualify under the revenue test
  - An issuer must have (i) annual revenues of less than \$100 million and (ii) either no public float, or a public float of less than \$700 million, as of the determination date (last business day of its second fiscal quarter)

## Filer Status Determinations (cont'd)



## Filer Status Determinations (cont'd)

- If an issuer ceases to qualify as an SRC, it can continue reporting as an SRC, including relying on accommodations, until the beginning of its next fiscal year. This means the issuer is “eligible to use the requirements for smaller reporting companies under the revenue test” at the end of the current fiscal year, and as such, does not meet the conditions to be an accelerated filer or large accelerated filer, regardless of public float, for the next fiscal year
- Therefore, issuers failing to qualify as SRCs **on the revenue test** will begin their next fiscal year as non-accelerated filers and may still take advantage of the longer timeframe accorded to non-accelerated filers for annual and quarterly Exchange Act reports
- CDI does not apply to SRCs that qualify as such under the public float test. Further, it is possible to be an SRC under the public float test and simultaneously be an accelerated filer, if an issuer has (i) a public float of between \$75 million and \$250 million and (ii) annual revenues of \$100 million or more, such that the new guidance clearly reflects the interaction between the relevant definitions

# Director and Officer Questionnaires

## Director and Officer Questionnaires

- Director independence: Include close friendships or other close social ties with management among the material relationships about which information is gathered
- Director expertise: Gather information related to the board's skills in cybersecurity and/or artificial intelligence
- Beneficial ownership: Clarify the need to disclose margin loans or other pledges of issuer securities
  - Request confirmation that insiders have either not entered into or terminated any 10b5-1 or non-10b5-1 trading arrangements during the preceding fiscal year
  - Remind of the importance of filing Forms 3 and 4, as well as reporting late or missed transactions and to timely notify the company of changes in beneficial ownership

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