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New Section 16(a) Reporting Obligations for Foreign Private Issuers

March 2, 2026

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Section 16 Reporting Obligations for FPIs

- Section 16(a) reporting applies to FPI directors & officers **starting March 18, 2026**
- What is Section 16(a) under the Exchange Act?
 - Section 16 requires directors and officers of FPIs to report transactions in the company's securities to the SEC
- What is the purpose of Section 16 reporting?
 - Promote transparency, prevent insider trading, and ensure fair markets/build investor confidence

Section 16 Reporting for FPIs: Who Must File?

Officers

President, CEO, CFO, COO, and Chief Accounting Officer or controller

Policy-Makers: Vice Presidents in charge of major business units, divisions, or functions (like sales or finance)

Other Key Personnel: Anyone else performing similar policy-making functions, regardless of title

Also includes those sharing the same household with reporting persons and those for whom reporting persons are considered to control transactions in the company's securities, for example, spouses and minor children

Section 16 Reporting for FPIs: Who Must File? *(cont'd)*

Directors

Definition of “director” in Section 3(a)(7) of the Exchange Act: “any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated”

FPIs should use this definition and conduct a factual determination—especially important where an FPI has a two-tier board structure, with a supervisory, or non-management, board and a management board

May be broader than Form 20-F, where the term “board of directors” generally refers only to the supervisory, or nonmanagement, board

Also includes those sharing the same household with reporting persons and those for whom reporting persons are considered to control transactions in the company’s securities, for example, spouses and minor children

Section 16 Reporting for FPIs: What Must be Reported?

Ownership of equity securities

Restricted stock units and stock options, whether or not granted under an employee equity incentive plan

Purchases and sales on the open market or in private transactions

Indirect beneficial ownership of equity securities, such as securities owned by a trust or by a family member

Exercises and conversions of derivative securities

Gifts of securities

*The above is not a comprehensive list of reportable transactions

Section 16 Reporting for FPIs: What Must be Filed?



Form 3: initial statement of beneficial ownership filed by new directors or officers; filed within 10 calendar days of becoming a director or officer or, in connection with an IPO, on the day the Exchange Act registration statement is declared effective, which is generally the day of pricing. **Form 3 is due for all FPI officers and directors no later than March 18**

Form 4: filed by directors and officers when their holdings in the company's securities changes; filed within two business days after the transaction (e.g. a sale on Tuesday must be reported by 10:00 pm Eastern time on Thursday)

Form 5: filed to report any transactions not reported on Form 4; annual catch-all for any unreported or exempt transactions filed within 45 calendar days after the end of the company's fiscal year

Technical Reporting Guidance

- **Interaction with Section 16(b):** Exchange Act Rule 16a-3(g)(1) requires reporting persons to report “all transactions not exempt from section 16(b)” on Form 4, while Rule 16a-3(f)(1) requires reporting persons to report on Form 5 transactions not previously reported on Form 4 or eligible for deferred reporting, including certain transactions exempt from Section 16(b). Directors and officers of FPIs should not view these rules, or similar language in the Instructions to Forms 4 and 5, as exempting them from reporting transactions otherwise required to be reported by Section 16(a)
- **Transaction Codes:** Transaction Codes in the Instructions to Forms 4 and 5 will apply to the reporting of transactions by directors and officers of FPIs

Technical Reporting Guidance *(cont'd)*

- **New Field for Reporting Foreign Trading Symbols:** Forms 3, 4 and 5 now include an optional field (Box 3a. of Form 3 and Box 2a. of Forms 4 and 5) for a foreign trading symbol to allow for reporting a second trading symbol for FPIs with trading in both U.S. and non-U.S. markets
 - When a reporting person holds shares that are traded in both in U.S. and non-U.S. markets, he or she should include both trading symbols
 - When shares only have a foreign trading symbol, a reporting person should either enter (i) the foreign trading symbol in the first mandatory box (Box 3 of Form 3 and Box 2 of Forms 4 and 5) or (ii) “none” in the first box and the foreign trading symbol in the second box
- **New Fields for Postal Code and Country Code:** Forms 3, 4 and 5 now include optional fields for a postal code and a country code in the reporting person’s address
 - List of the country codes is available at <https://www.sec.gov/submitfilings/filer-support-resources/edgar-state-country-codes>

Section 16: Controls and Procedures

- Will the company file for reporting persons (note that this is the case for many domestic U.S. companies, although reporting persons are still responsible for ensuring that the company has the information necessary to file)? Consider a system for timely information sharing
- Consider adopting a policy to assist directors and officers, as well as their family and household members, in complying with reporting requirements
- Companies sometimes require mandatory pre-clearance of any transactions in company securities by directors, executive officers and their family members, prior to engaging in any transaction involving the company's securities
- Those subject to pre-clearance requirements must obtain clearance prior to entering into a Rule 10b5-1 trading plan. Transactions effected pursuant to the plan will not require further preclearance; however, they must be reported immediately to the company or its designee in order to timely file a required Form 4
- Include reminders in annual D&O questionnaires and provide trainings/opportunities for refreshers, especially since Section 16 compliance is new for FPIs

Section 16 Reporting for FPIs: What to Do Now

To begin as soon as possible: All officers and directors must complete a notarized Form ID, which enables them to file on EDGAR Next. The SEC is likely to take some time to process these forms given the likely volume, so timing is extremely important

Ensure that all delegations are made in EDGAR Next so that companies can file on behalf of reporting persons, if desired

Ensure that all directors and officers know their holdings, including indirect holdings and those of spouses and minor children, and are prepared to report on Form 3 by March 18

Develop controls and procedures to assist directors and officers in complying with their filing requirements

Provide training so that directors and officers are aware of reporting obligations and timing requirements

Resources

See our Legal Alerts & Blog Posts:

- [SEC Adopts Final Rule Amendments Requiring Section 16\(a\) Reporting for Officers and Directors of Foreign Private Issuers](#) (February 28, 2026)
- [2026 SEC Filing Deadlines and Financial Statement Staleness Dates](#) (December 22, 2025)
- [National Defense Spending Bill Expands Section 16\(a\) Disclosure Requirements to Foreign Private Issuers](#) (December 16, 2025)
- [2026 U.S. Annual Report and Proxy Season: It's Go Time!](#) (November 20, 2025)

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