

Market Trends 2022/23: Cybersecurity-Related Disclosures

A Practical Guidance® Practice Note by Anna T. Pinedo, Gonzalo Go, and Kevin F. Winnie,
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This practice note provides guidance on the disclosure of cybersecurity risks and incidents that public companies should include in their offering materials and periodic reports filed with the Securities and Exchange Commission (SEC). The practice note explains the SEC's focus and rulemaking activities on cybersecurity issues, such as the 2018 interpretive guidance on disclosing material cybersecurity risks and incidents, and the 2023 final rules on enhancing and standardizing cybersecurity disclosure. The practice note also discusses some examples of cybersecurity-related disclosures in different sections of the documents, such as the risk factors, business, and management's discussion and analysis (MD&A) sections. The examples highlight how companies may provide detailed and specific information on the nature and magnitude of cybersecurity risks or prior incidents, the actual or potential harms and costs of a cyber breach, the legal and regulatory requirements and implications, and the policies and procedures to address cybersecurity issues. Finally, the practice note offers some practical advice on how to prepare and enhance the required disclosures on cybersecurity risks and incidents, taking into account the materiality, completeness, and accuracy of the information, as well as the balance between providing sufficient details and safeguarding sensitive information.

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Anna Pinedo is a partner in Mayer Brown's New York office. She concentrates her practice on securities and derivatives. Anna represents issuers, investment banks/financial intermediaries and investors in financing transactions, including public offerings and private placements of equity and debt securities, as well as structured notes and other hybrid and structured products.

She works closely with financial institutions to create and structure innovative financing techniques, including new securities distribution methodologies and financial products. She has particular financing experience in certain industries, including technology, telecommunications, healthcare, financial institutions, REITs and consumer and specialty finance. Anna has worked closely with foreign private issuers in their securities offerings in the United States and in the Euro markets. She also works with financial institutions in connection with international offerings of equity and debt securities, equity- and credit-linked notes, and hybrid and structured products, as well as medium term note and other continuous offering programs.

In the derivatives area, Anna counsels a number of major financial institutions acting as dealers and participants in the commodities and derivatives markets. She advises on structuring issues as well as on regulatory issues, including those arising under the Dodd-Frank Act. Her work focuses on foreign exchange, equity and credit derivatives products, and structured derivatives transactions. Anna has experience with a wide range of transactions and structures, including collars, swaps, forward and accelerated repurchases, forward sales, hybrid preferred stock and off-balance sheet structures. She also has advised derivatives dealers regarding their Internet sites and other Internet and electronic signature/delivery issues, as well as on compliance matters.

Anna regularly speaks at conferences and participates in panel discussions addressing securities law issues, as well as the securities issues arising in connection with derivatives and other financial products. She is co-author of the leading capital markets treatise, *Corporate Finance and the Securities Laws*, published by Wolters Kluwer (sixth ed., updated 2020, 2022); co-author of *A Deep Dive Into Capital Raising Transactions*, published by the International Financial Law Review (IFLR) (2020); co-author of *JOBS Act Quick Start* (IFLR), 2013; updated 2014, 2016); contributor to *OTC Derivatives Regulation Under Dodd-Frank: A Guide to Registration, Reporting, Business Conduct, and Clearing* (Thomson Reuters, first ed. 2014, second ed. 2015, third ed. 2016, fourth ed. 2017, 2020-2021 ed.); co-author of *Considerations for Foreign Banks Financing in the US* (IFLR, 2012; updated 2014, 2016); co-author of *Liability Management: An Overview* (IFLR, 2011, updated 2015); co-author of *Structuring Liability Management Transactions* (International Financial Law Review, 2018); co-author of *Covered Bonds Handbook*, published by Practising Law Institute (PLI) (2010, updated 2012-2014); co-author of the treatise *Exempt and Hybrid Securities Offerings*, published by PLI (2009, second ed. 2011, updated 2014, third ed. 2017, fourth ed. 2022); and co-author of *BNA Tax and Accounting Portfolio: SEC Reporting Issues for Foreign Private Issuers* (BNA Accounting Policy and Practice Series, 2009, second ed. 2012, third ed. 2016, fourth ed. 2020). Anna is also a contributing author to *Broker-Dealer Regulation* (2011, second ed. 2012, updated 2020), published by PLI. She co-authored «The Approaches to Bank Resolution,» a chapter in *Bank Resolution: The European Regime* (Oxford University Press, 2016). Anna contributed to *The Future of Bank Funding and Capital: Solutions for Issuers, Opportunities for Investors* (IFR Market Intelligence, 2009). Additionally, Anna co-authored «The Ties that Bind: The Prime-Brokerage Regulation,» a chapter in *Global Financial Crisis* (Globe Law and Business, 2009); «The Law: Legal and Regulatory Framework,» a chapter in *PIPEs: A Guide to Private Investments in Public Equity* (Bloomberg, 2006); and «The Impact Security: Reimagining the Nonprofit Capital Market,» a chapter in *What Matters: Investing in Results to Build Strong, Vibrant Communities* (Federal Reserve Bank of San Francisco and Nonprofit Finance Fund, 2017). Anna is a contributor to PLI's «BD/IA: Regulation in Focus» blog.

Anna is a member of the American Bar Association's (ABA) Committee on the Federal Regulation of Securities, a member of the subcommittee on Disclosure and Continuous Reporting, chair of the subcommittee on Securities Registration, chair of the subcommittee on Annual Review, and a member of the task force on the future of securities regulation.

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The International Financial Law Review (IFLR) Americas named G as Rising Star for 2023. The "VAALCO - TransGlobe merger" he assisted in was shortlisted by IFLR Americas as 2023 M&A Deal of the Year. The 2023 IFLR1000 guide ranked G as "Rising Star" in the United States and New York for "Capital Markets: Debt" and "Capital Markets: Equity."

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Kevin earned his JD from Fordham University School of Law, where he served as the Managing Editor of the Fordham Urban Law Journal. He earned his BA, with honors, from Wesleyan University.

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