



SEC Update

July 31, 2025

This is a commercial communication from Hogan Lovells. See note below.

SEC staff updates guidance on Section 13 beneficial ownership reporting rules

The SEC's Division of Corporation Finance recently issued 18 revised Compliance and Disclosure Interpretations (C&DIs) relating to Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G under the Exchange Act. This regulatory scheme requires beneficial owners of more than 5% of a class of voting equity securities registered under Exchange Act Section 12 to report their ownership and related information on either a Schedule 13D or a Schedule 13G. The filings inform the market about acquisitions of securities that could allow filers to control or influence control over an issuer.

As discussed in the *SEC Updates* we issued on **November 6, 2023** and **September 12, 2024**, the SEC recently shortened the filing deadlines for initial and amended Schedule 13D and 13G reports. In the same October 2023 release, the agency published guidance regarding the appropriate legal standard for determining whether multiple persons constitute a "group" required to file ownership reports. The revised C&DIs conform the Division's existing interpretations to the rule changes and guidance.

Although the C&DIs are not rules, regulations, or statements of the Commission, they offer important direction by the staff on how to comply with the beneficial ownership reporting requirements. Beyond the initial filing and amendment updates, few substantive changes were made to the prior C&DIs.

Links to the text of the C&DIs (including comparisons to the prior versions) are available [here](#).

Staff guidance in C&DIs

The 18 C&DIs that were revised fall within questions numbered from 101.01 through 110.06 on the SEC's website under "Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G Beneficial Ownership Reporting."

Schedule 13G filing for holders owning securities before Section 12(g) registration

The Division updated one C&DI to state that a security holder who owned over 5% of a class of an issuer's voting equity securities before registration of the class under Exchange Act Section 12(g) "must" file a Schedule 13G to report its ownership following registration of the securities under Section 12 (rather than merely being "eligible to" file a Schedule 13G), and is not required to file on Schedule 13D, if the security holder had not added any securities to its holdings since the effective date of registration. (Question 101.01)

Clarification of acquisition of securities by a "group"

The SEC's guidance on group formation expressed in its release is based primarily on the language of Sections 13(d)(3) and 13(g)(3) stating that two or more persons constitute a group if they act as a partnership, syndicate, or "other group" for purposes of acquiring, holding, or disposing of securities of an issuer.

One updated C&DI mirrors the SEC's view that group formation does not require an "express agreement" among two or more persons to act together, since those persons may agree informally or take concerted action without an express agreement to do so. The staff changed a C&DI addressing whether several major shareholders might be deemed to form a group if they retained an investment adviser to persuade an issuer to revise its strategy for a contemplated rights offering. The new C&DI revises the characterization of the group's actions from stating that they "agreed to act together" as a group to stating that, by making the "joint decision" to retain the adviser, they "acted

as a group for the common purpose or goal of holding their securities.” (Question 107.01)

The staff further clarified that when a group is formed by shareholders who are parties to a voting agreement, the group is treated as a new “person” for purposes of Section 13(d)(1) and is deemed to have acquired beneficial ownership of the shares beneficially owned by its members “due to the agreement among its members and corresponding operation of Rule 13d-5(b).” (Question 105.06)

Transfer of securities owned by a group member to its Schedule 13G-filer parent

A revised C&DI addresses a situation where one member of a “group” consisting of three entities filing on Schedule 13G transfers securities constituting 6% of a registered class to its parent company, which is an existing Schedule 13G filer that has not acted as a group with the other members of the group.

Under the updated guidance, the parent is only required to file an amended Schedule 13G within 45 days after the end of the calendar quarter in which the subsidiary transferred the securities “if becoming the direct beneficial owner of the transferred securities constitutes a material change in the information the parent previously disclosed.” This clarifies the prior C&DI, which did not state that the parent was a Schedule 13G filer, and applies to these circumstances the new Schedule 13G amendment rule, which requires amendment of a Schedule 13G filing if there is a “material change” to previously filed information. (Question 103.06)

Filing obligation for inadvertent purchases over 5%

A revised C&DI without a substantive change continues to provide that a 4.9% holder who inadvertently acquires over 5% of an outstanding class of Section 12-registered securities due to a broker error (even if the holder immediately sells below the 5% threshold) is “deemed” to have acquired beneficial ownership subject to a reporting obligation, and “must” file a Schedule 13D, or, if eligible to do so, a Schedule 13G. (Question 101.06)

Other changes

Updated triggers and deadlines for initial filings and amendments

Most of the other revisions to the C&DIs are updates to reflect the amended (and accelerated) filing

triggers and deadlines for initial and amended reports on Schedule 13D (Questions 103.10; 104.03; 104.04; 104.06; 104.07; 105.01; 110.03; 110.04; 110.06) and Schedule 13G (Questions 101.01; 103.01; 103.06; 103.09; 104.02).

Updated cross-references to Exchange Act sections and SEC rules

Some of the revised C&DIs updated statutory citations and references to rules. (Questions 101.06; 104.06; 105.06; 107.01) In addition, Question 104.01 changes the prior reference to “agreement” to “arrangement” to match the language in the C&DI with that of the text of Rule 13d-101, and Question 104.02 adds the word “material” to reflect that amendments to Schedule 13G filings are no longer required for “any change” in the information previously reported, but only for a “material change.”

Looking ahead

The revised C&DIs mostly implement technical changes to the staff’s prior guidance to conform with the current Regulation 13D-G rules. The updated guidance, however, serves as a reminder to investors of the importance of timely and accurate reporting of information about their holdings and transactions in public company securities. The recent SEC enforcement actions discussed in the *SEC Update* we issued on **November 13, 2024** demonstrate the SEC’s continuing scrutiny of compliance with the beneficial ownership reporting requirements.

This SEC Update is a summary for guidance only and should not be relied on as legal advice in relation to a particular transaction or situation. If you have any questions or would like any additional information regarding this matter, please contact your relationship partner at Hogan Lovells or any of the lawyers listed in this update.

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