

[Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION—U.S.: Duty to update once again potentially coming to a theater \(Supreme Court\) near you, \(Apr. 24, 2026\)](#)

Securities Regulation Daily Wrap Up

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By [Mark S. Nelson, J.D.](#)

Much of the cert-stage briefing has focused on whether the Robinhood case is a better vehicle than two similar cases dropped by the justices last term.

Companies faced with liability for allegedly failing to update SEC filings to disclose risks have thus far wanted very badly to get the relevant legal questions before the Supreme Court but, like the protagonists in many classic movie scripts, they are having a hard time getting what they want. Robinhood Markets, Inc. asked the justices to clarify initial public offering (IPO) risk disclosures under the Securities Act and Regulation S-K, while the plaintiff in that case, Vinold Sodha, recently urged the justices to refrain because the Ninth Circuit supposedly got things right and more factual development is needed by the district court. Thus far, no amici have weighed in on Sodha's side, although three groups have urged the justices to take the case, arguing that there is no duty to update and/or that allowing the Ninth Circuit opinion to stand would raise the costs of conducting IPOs and ultimately reduce the number of companies going public ([Robinhood Markets v. Sodha](#), No. 25-944 (U.S. Apr. 23, 2026)).

Already a reality? The case arose from Robinhood's IPO filings with the SEC, which made certain disclosures about its financial prospects but in the context of significant recent voluminous meme stock trading, as well as alleged flight from the firm's trading platform. According to plaintiff Sodha, Robinhood had a duty to update its various SEC filings to reflect that warned-of future risks had already materialized.

The Ninth Circuit reversed the district court's dismissal of Sodha's Securities Act Section 11(a) and Regulation S-K Item 303 claims against Robinhood. The result was that the case would be remanded to the district court for additional findings consistent with the Ninth Circuit panel majority's opinion.

With respect to Item 105 of Regulation S-K, the risk factor disclosure section of a company's SEC filings, the Ninth Circuit affirmed dismissal of the complaint. Said the panel majority: "To be sure, presenting past harms as contingent future risks may be misleading, and may be actionable under Section 11's 'misleading' prong. However, mischaracterizing a past harm as a future risk cannot, standing alone, violate Item 105."

Questions presented. The first question presented is whether the misleading-omissions prong of Securities Act Section 11(a) can be violated by a failure to disclose material, intra-quarter financial data without an inquiry into whether the omission rendered any affirmative statement misleading.

According to Sodha, the Ninth Circuit's opinion was not at odds with several other circuit courts regarding the separation of questions about materiality and the duty to disclose. Sodha's brief described the panel majority thus: "...in the context of Plaintiffs' allegations regarding Robinhood's duty to disclose, and the particular statements and alleged omissions, that inquiry converged with the materiality inquiry."

Sodha also argued that Robinhood was confused about the scope of Supreme Court precedent regarding omissions. Robinhood had argued that a precedential case found no liability for pure omissions. But Sodha argued that the Supreme Court in that case said only that liability would not obtain for pure omissions and did not hold that half-truths are permitted.

"As the Ninth Circuit explained," said Sodha, "this case involves classic half-truths: Robinhood affirmatively reported its Q1 2021 financial results in its offering documents, along with selected Q2 data and future

projections, creating an impression of continued explosive growth, while simultaneously withholding other Q2 data that showed a dramatic reversal.”

With respect to the second question presented, whether an issuer violates Item 303 of Regulation S-K—and thus Section 11(a)’s required-statements prong—by failing to disclose and quantify interim financial data before quarterly reporting deadlines, Sodha argued that what Robinhood actually wanted was for the Supreme Court to engage in a form of error correction.

According to Sodha, neither Robinhood nor other circuit courts deny that a duty to update trends may exist in some circumstances. Thus, Sodha asserted that Robinhood was asking the justices to correct lower court findings about whether some development was a “‘trend[],’ ‘event[]’ or ‘uncertain[t]y’ that needed to be disclosed.” Sodha reiterated that such an inquiry “is unwarranted.”

Sodha also argued that Robinhood incorrectly seeks to have the justices impose a temporal requirement for evaluating “trends” and “uncertainties” under Item 303. Sodha asserted that the absence of any durational component to Item 303 claims would not open the flood gates to future litigation.

“Nowhere in the regulation’s language is there any reference to or requirement of a specific duration,” said Sodha. “The Ninth Circuit noted this lack of a precise rule for duration and pointed out that other securities regulations, in contrast, do contain them.”

Vehicle issue. Sodha’s response also raised the possibility that the interlocutory procedural stance of the case presents a vehicle issue significant enough to justify denial of certiorari. According to Sodha, the Supreme Court should wait for the district court to address factual issues on remand in light of the legal standards articulated by the Ninth Circuit. Moreover, Sodha argued that the case otherwise does not present any issues that demand urgent resolution by the justices.

In its petition for certiorari, Robinhood anticipated that a vehicle issue may be present by arguing that the interlocutory stance of the case was not a barrier to the Supreme Court hearing the case. Robinhood characterized the questions presented as purely legal in nature and, thus, ripe for adjudication without any further factual development by the lower courts. Robinhood also expressed concern that, without a timely decision by the justices, companies may face “settlement pressure” if lower courts rule against them based on flawed legal standards that historically have diverged across federal appeals courts, leaving businesses with a confused understanding of when liability may attach.

The case is [No. 25-944](#).

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Companies: Robinhood Markets, Inc.

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