

[Securities Regulation Daily Wrap Up, SECURITIES OFFERINGS—SEC proposes to expand shelf registration, preempt state requirements, \(May 20, 2026\)](#)

Securities Regulation Daily Wrap Up

By Anne Sherry, J.D.

Chairman Atkins said the reform pairs with a proposal to simplify reporting requirements to establish the foundation of his Make IPOs Great Again agenda.

The SEC [proposed](#) amendments to facilitate capital formation by making shelf offerings available to more issuers, extending the reach of benefits currently reserved for WKSIs, and expanding the ability to incorporate information by reference into Form S-1. The amendments would also preempt state securities law registration and qualification requirements for registered offerings of unlisted securities (*Registered Offering Reform*, [Securities Act Release No. 11418](#) (May 20, 2026)).

The [proposed amendments](#) would make conforming changes for entities that use Form N-2 and would permit broad-based advertising for certain insurance products.

Chairman Atkins [said](#) the proposal “would address impediments, which result from outdated SEC rules, to public companies’ ability to conduct registered offerings quickly.”

Shelf offerings. A keystone of the proposal is its revision of Form S-3’s eligibility criteria to enable a greater number of public companies to conduct shelf offerings. Atkins said that the shelf registration process has been successful for larger companies and that the proposal would make it more widely available by eliminating the eligibility requirements related to seasoning and public float.

Commissioner Hester Peirce explained that the eligibility criteria were established in an age when investors received paper prospectuses. “Given the ubiquity of internet usage and thirty years of mandated electronic filings, the speed of information dissemination no longer seems a valid reason to curtail access to short-form registration statements,” she wrote in a [statement](#).

The proposing release states that the SEC wants to expand the benefits of Form S-3 only as consistent with investor protection. Accordingly, the proposed amendments would retain the “Current in Exchange Act Reporting” and “Timely in Exchange Act Reporting” requirements and would prohibit blank-check companies, shell companies other than business-combination-related companies, and issuers in a penny-stock offering from using Form S-3.

Not just WKSIs. The amendments would also extend registration and offering communication accommodations currently reserved for “well-known seasoned issuers” to a broader set of issuers. Nearly all of the benefits currently enjoyed by WKSIs would be available to domestic public companies, regardless of their maturity or size. These benefits include automatic shelf registration, the ability to omit certain information from the base prospectus, and greater flexibility with respect to pre- and post-filing communications.

The proposal would also modify the registration, communication, and offering process for certain business development companies and registered closed-end investment companies that register securities on Form N-2, broadening their access to shelf offerings and the enhanced registration and communication benefits.

Federal preemption. To mitigate the costs and complexity of conducting a registered offering, the proposed

amendments would preempt state securities law registration and qualification requirements for all registered offerings. Currently, federal preemption applies to offerings of securities listed on a national exchange, but it does not apply to registered offerings of unlisted securities. The proposed amendment would redefine “qualified purchaser” under Securities Act Section 18(b)(3) to preempt state requirements over such offerings.

In a [statement](#), Commissioner Mark Uyeda said that the move would “limit unnecessary regulatory duplication by preempting the need to obtain, in certain cases, registration and qualification from dozens of individual state securities regulators, where the investor protection benefits may not be commensurate with the corresponding regulatory hurdles to raising capital.”

Advertising. The SEC also proposes to allow insurance companies to use Rule 482 for broad-based advertising. Rule 482 permits registered investment companies to advertise to investors without including a statutory prospectus. The proposal would permit a registered non-variable annuity issuer to engage in broad-based advertising without needing to satisfy Form S-3’s eligibility requirements or adhere to prospectus delivery requirements.

The release explains that a consistent framework is appropriate because non-variable annuities are registered on the same form as variable annuities, so investors have access to similar information regardless of type.

Modernizing Form S-1. Finally, the amendments would expand the ability to incorporate information by reference into Form S-1. Currently, only issuers that have filed an annual report for the most recent year can incorporate information filed before the effective date of the registration statement, while only smaller reporting companies can incorporate information to be filed later. The proposal removes those restrictions and allows all issuers to incorporate backwards or forwards, as long as they meet Form S-1’s requirements to incorporate by reference.

Comments. Comments on the proposal are due 60 days after publication in the *Federal Register*.

This is [Securities Act Release No. 11418](#).

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