

Capital Markets & Securities

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Section 16(a) Compliance for Foreign Private Issuers: Final Rules Adopted and March 18 Deadline Approaching

By [James O'Grady](#), [Daniel L. Forman](#), [Kate Basmagian](#), [Steven M. Skolnick](#), [Sarah Cole](#), and [Daniel C. Porco](#)

What You Need To Know:

- Each foreign private issuer (FPI) director and officer must file an initial Form 3 on EDGAR by 10 p.m. ET on March 18, 2026, even if they have no beneficial ownership to report.
- Current directors and officers of FPIs without EDGAR credentials must submit Form ID applications immediately—processing can take at least six business days, and volume-related delays are expected.
- To date, exemptive relief has been granted for certain limited jurisdictions, as described further in the post-publication update below.

**** UPDATE ****

After initial publication, on March 5, 2026 the SEC issued additional guidance providing exemptive relief for directors and officers of FPIs, provided those individuals are subject to similar reporting requirements in certain specified jurisdictions. Qualifying jurisdictions include Canada, Chile, the European Economic Area, the Republic of Korea, Switzerland and the United Kingdom. Notably, certain jurisdictions with insider ownership reporting regimes—including Israel, Australia, Japan, Hong Kong and Singapore—were not included, although the SEC indicated it may add additional jurisdictions in the future.

To rely on this relief, insider transactions must be publicly disclosed under the local laws of the qualifying jurisdiction, and the disclosure must be made accessible in English within two business days of its initial publication. Importantly, if an employee of an FPI qualifies as an “officer” under SEC reporting rules but is not required to report in its home jurisdiction, this exemptive relief would not be available, and that employee would remain subject to the new SEC rules. As a practical matter, for directors and officers of an FPI that is not dual-listed in its foreign jurisdiction, this exemptive relief generally would not apply.

If you would like to discuss how these requirements may affect your company, please contact your usual Lowenstein Sandler LLP attorney or the authors of this alert.

Summary

In our prior [client alert](#), we reported on the enactment of the Holding Foreign Insiders Accountable Act¹ (HFIAA), which extends Section 16(a) insider reporting obligations under the Securities Exchange Act of 1934 (Exchange Act) to directors and officers of FPIs.

The Securities and Exchange Commission (SEC) recently adopted final implementing rules. With the March 18 effective date now two weeks away, this update covers key developments since the time of our initial alert and provides an action checklist for FPIs and their directors and officers.

SEC Adopts Final Implementing Rules

The final rules, adopted on Feb. 27, 2026, make the technical amendments necessary to implement the HFIAA, including changes to Rules 3a12-3(b) and 16a-2 under the Exchange Act and adjustments to Forms 3, 4, and 5 to accommodate FPI filers.

The final rules do not go beyond the statutory mandate. Accordingly, as discussed in our prior client alert, only certain FPI insiders—directors and officers, but not 10 percent or greater beneficial owners—will be subject to Section 16(a) reporting. All FPI insiders (as well as 10 percent or greater beneficial owners) remain exempt from Section 16(b) short-swing profit liability and Section 16(c) prohibitions on short sales.

In a statement accompanying the final rules, SEC Chairman Paul Atkins noted that staff is evaluating whether to recommend exemptions for FPI insiders in jurisdictions with “substantially similar” reporting requirements under foreign law. No exemptions have been granted or proposed, and all FPIs should prepare for full compliance regardless of home-country requirements.

Key Compliance Points

The following highlights certain practical considerations:

10 p.m. ET deadline. All Section 16 forms must be filed electronically on EDGAR in English and XML format by 10 p.m. ET on the applicable due date. For existing FPI directors and officers, the initial Form 3 is due March 18. A Form 3 must be filed even if the director or officer has no beneficial ownership. A Form 4 must be filed within two business days after any purchase of, sale of, or other transaction in FPI securities, subject to limited exceptions.

First-time individual disclosure. For many FPI insiders, these will be the first public filings of their individual equity holdings, which historically were reported only on an aggregate basis on Form 20-F. All covered directors and officers must now individually report holdings and transactions—including equity compensation grants, exercises, vestings, and shareholdings in controlled entities—regardless of size. FPIs will need to collect and reconcile this data from multiple sources in advance of March 18.

Section 16 beneficial ownership. Beneficial ownership under Section 16 can differ from beneficial ownership reported on Schedules 13D and 13G. Section 16 encompasses indirect holdings through family members, trusts, partnerships, and other entities where the insider has or shares a pecuniary interest. FPIs should work with counsel to identify all reportable interests.

Enforcement risk. The SEC has recently targeted late or missing Section 16 filings in enforcement sweeps, including actions against companies that undertook to manage filings on behalf of insiders. The SEC may also require FPIs to disclose delinquent filings in their annual report on Form 20-F, consistent with existing domestic issuer requirements.

Recommended Action Items

FPIs that have not already done so should immediately take the following steps:

- **Identify Section 16 officers.** Confirm which officers qualify under Rule 16a-1(f), including any person who performs a policymaking function. These may differ from officers disclosed on Form 20-F.
- **Enroll in EDGAR Next.** Submit notarized Form ID applications for all directors and officers lacking EDGAR credentials. Each filer needs individual credentials—they cannot use the issuer’s codes. Verify that existing credentials are enrolled in EDGAR Next.
- **Establish filing procedures and obtain powers of attorney.** Retain outside counsel or a financial printer for XML-formatted filings. Execute powers of attorney authorizing a designated person to file on each insider’s behalf.

- **Set up broker notification channels.** Implement preclearance or prompt-reporting procedures and establish alerts keyed to the two-business-day Form 4 deadline.
- **Compile beneficial ownership data.** Identify all equity securities each insider beneficially owns, including indirect holdings. Reconcile data from equity plan administrators, transfer agents, and individual insiders.
- **Update insider trading policies.** Revise compliance protocols to incorporate the Section 16(a) reporting requirements and filing deadlines.
- **Conduct insider training.** Establish programs to educate directors and officers on reporting obligations, the distinction between Section 16 and Section 13(d)/13(g) beneficial ownership, and consequences of noncompliance.
- **Monitor SEC developments.** Watch for potential exemptive relief for jurisdictions with substantially similar requirements. Any exemptions would likely come after March 18.

If you'd like to discuss how these requirements may affect your company or need assistance preparing for the March 18 compliance deadline, please contact your usual Lowenstein Sandler LLP attorney or any of the authors of this alert.

¹ The Holding Foreign Insiders Accountable Act was enacted on Dec. 18, 2025, as part of the National Defense Authorization Act for Fiscal Year 2026.

Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

JAMES O'GRADY

Partner

T: 646.414.6849

jogrady@lowenstein.com

DANIEL L. FORMAN

Partner

T: 212.419.5904

dforman@lowenstein.com

KATE BASMAGIAN

Partner

Chair, ESG Practice

T: 646.414.6941

kbasmagian@lowenstein.com

STEVEN M. SKOLNICK

Partner

Chair, Capital Markets and Securities Practice

Vice Chair, Transactions & Advisory Group

T: 973.597.2476

sskolnick@lowenstein.com

SARAH COLE

Senior Counsel

T: 646.414.6958

scole@lowenstein.com

DANIEL C. PORCO

Counsel

T: 646.414.6811

dporco@lowenstein.com

NEW YORK

PALO ALTO

ROSELAND

SALT LAKE CITY

SAN FRANCISCO

WASHINGTON, D.C

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