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SEC Adopts Final Rules Implementing the Holding Foreign Insiders Accountable Act and Announces Exempted Jurisdictions

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In our February 20, 2026 client alert titled "New Reporting Obligations for Directors and Officers of Foreign Private Issuers," we outlined the Holding Foreign Insiders Accountable Act (HFIAA) and the new reporting requirements under Section 16(a) of the Exchange Act for the officers and directors of foreign private issuers ("FPIs") registered with the SEC. The new requirements are scheduled to be effective on March 18, 2026.

On February 27, 2026, the U.S. Securities and Exchange Commission adopted final rule and form amendments to implement the HFIAA, which largely track the statute. The SEC then issued an exemptive order on March 5, 2026 exempting from the new requirements officers and directors of FPIs organized in jurisdictions that impose similar requirements as those imposed in Section 16(a), as expressly authorized under the HFIAA. The exemptive order provides welcome relief for many FPIs.

Under the final rules adopted by the SEC:

- The exemption from Section 16(a) reporting for directors and officers of FPIs previously in Rule 3a12-3 under the Exchange Act has been eliminated. Consistent with the HFIAA, the officers and directors of FPIs remain exempt from Section 16(b) "short-swing profit" disgorgement obligations and the limitations on short sales in Section 16(c).
- Like the directors and officers of U.S. domestic issuers, FPIs with a class of equity securities registered under Section 12 of the Exchange Act must now file Section 16(a) reports with the SEC (i.e., Forms 3, 4, and 5), unless the FPI is organized in one of the jurisdictions exempted by the SEC, as noted below.
- Unlike for U.S. domestic issuers, beneficial owners of more than 10 percent of any class of the registered equity securities of a FPI remain exempt from Section 16, including the reporting requirements in Section 16(a).

The March 5 exemptive order grants an exemption from the new Section 16(a) reporting requirements to directors and officers of FPIs incorporated or organized in, and subject to specified disclosure regimes of, the following jurisdictions:

- Canada;
- Chile;
- The European Economic Area (consisting of the 27 member states of the European Union, Iceland, Lichtenstein, and Norway);
- The Republic of Korea;
- Switzerland; and
- The United Kingdom.

In order to rely on the exemption, directors and officers must report their transactions under their jurisdiction's disclosure regime and ensure reports are publicly available in English within two business days of posting.

For directors and officers in non-exempted jurisdictions, the HFIAA's statutory compliance date remains March 18, 2026, and covered insiders must begin making Section 16 filings on or before that date. FPIs organized in one of the exempted jurisdictions should evaluate the exemptive order and the existing transaction reporting obligations of their officers and directors.

For more details on the background and practical implications of the HFIAA and the new reporting obligations, please refer to our original client alert. In addition, the SEC has published a list of frequently asked questions regarding the HFIAA, available here.

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