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8 Things to Know Right Now



Here's our latest edition of our monthly feature – a quick snapshot of recent developments:

1. Here's the [video archive](#) for the recent webcast—"[Proxy Season Roundtable – What You Need to Know Now](#)"—featuring Perkins Coie's own Allison Handy, Kelly Reinholdtsen and Broc Romanek and Proxy Analytics' Steve Pantina. Also see [our blog](#) with some "way-too-early" proxy season stats.
2. Hot off the press! Our popular [Client Update](#) regarding the upcoming proxy season. This [Client Update](#) highlights some of the most significant rule changes, guidance, institutional investor areas of focus, and trends for public companies to consider in preparing annual report and proxy statement disclosures in 2024.
3. It's that time of the year as the SEC revealed its [latest Reg Flex Agenda](#). The answer to the first question on everyone's mind is that the estimated date for final climate risk disclosure rules is by April – but remember that is merely an estimate.

And since the SEC already has delayed adoption of this rule by more than a year since it first started predicting it would act, it's hard to say what will really happen. This [brief statement](#) from SEC Chair Gary Gensler about the Reg Flex Agenda doesn't provide any further color on what could happen. Here's [our blog](#) about what else the Reg Flex Agenda told us.

4. We have some [recent guidance](#) from Corp Fin, the Department of Justice and the FBI related to the SEC's new cybersecurity disclosure rules adopted back in July ([this blog](#) covers what those rules require).

In the new rules, there is a narrow, time-limited exception to the Item 1.05 Form 8-K disclosure requirement for material cybersecurity incidents if the US Attorney General determines that immediate disclosure would pose a substantial risk to national security or public safety and notifies the SEC of such

determination in writing. This [new guidance](#) explains the process and parameters of this limited exception.

5. Corp Fin Director Erik Gerding has provided an [informative statement](#) on the cybersecurity disclosure rules, with insight on how the rules evolved from the proposed to final formulations and what is – and is not – required. Erik's statement is worth noting because of its comprehensive nature and the importance of the topic given that a new rule is taking effect.
6. Here are some [interesting insights](#) about the evolution of the audit committee from a group of in-house practitioners.
7. Corp Fin issued a [staff report](#) on the accredited investor definition, as Dodd-Frank directs the SEC to review the accredited investor definition as it relates to natural persons every four years to determine whether the definition should be modified or adjusted. The report is sort of a non-event since it doesn't make any recommendations about the accredited investor definition. It only welcomes public comment.
8. Here's the intro from this [Client Update](#): "Key portions of the Corporate Transparency Act (CTA) will take effect on January 1, 2024, requiring an estimated 30 million "reporting companies" to disclose to the federal government information and documentation about the entities' beneficial owners and keep that information current.

By broadly requiring entities to identify the individuals that own or control them and also giving the act some teeth—civil and criminal penalties may be imposed on anyone who willfully violates the CTA or causes another to violate the act—Congress intended for the CTA to help prevent bad actors from using the anonymity that is provided by corporate vehicles for illicit purposes.

Not all entities, however, will be required to report beneficial ownership information. Many large companies have presumed that they do not need to evaluate the CTA because they will be able to take advantage of the "large operating company" exemption (among other exemptions that may exclude them from reporting requirements).

These companies often overlook that these exemptions are highly nuanced and typically apply on an entity-by-entity basis rather than to a group of affiliated companies. In many corporate families, there will be entities within an enterprise that do not qualify for an exemption and are subject to the CTA's beneficial ownership reporting requirements. Moreover, even if an exemption applies to an entity when the reporting obligations take effect, it may not in the future, in which case the newly nonexempt entity would be obligated to report beneficial ownership information to the Financial Crimes Enforcement Network (FinCEN), the bureau within the U.S. Department of the Treasury charged with enforcing the act. The bottom line is that every company needs to conduct an entity-by-entity analysis of the application of the CTA.

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