Public Company Insights

SEC Proposes Redefining Accelerated Filers

QUICK TAKE: Under an SEC proposal published in the Federal Register on May 29, 2019, smaller reporting companies who qualify as accelerated filers but have annual revenue below $100 million would be recategorized as non-accelerated filers. That status would extend filing deadlines and relieve these companies of the requirement to obtain an integrated audit under Sarbanes-Oxley section 404(b).

The public comment period remains open until July 29, 2019. Click here to submit comments electronically, or email rule-comments@sec.gov.

The Full Story

A year ago, public companies that have less than $700 million in public float and less than $100 million in revenue on their most recent annual audited statements were added to the definition of smaller reporting companies (SRCs) by the Securities and Exchange Commission (SEC). One effect of this change was to create a group of companies that are both SRCs and accelerated filers. As accelerated filers, they have shorter filing deadlines and are required to obtain auditor attestation on the effectiveness of their internal controls over financial reporting (ICFR) under Sarbanes-Oxley section 404(b).

The new SEC proposal is designed to reduce reporting burdens on companies who qualify as SRCs and have annual revenues of less than $100 million. As SRCs and non-accelerated filers, these companies must still maintain adequate ICFR (SOX 404[a]) but will not be required to obtain an auditor's report and attestation on the effectiveness of those controls. In addition, as non-accelerated filers, these issuers will have 45 days to file quarterly financial reports and 90 days to file annual reports.

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Companies who currently have revenues above $100 million should note that an 80% exit threshold applies to the SRC revenue test, as well as to public float thresholds. The *Federal Register* proposal states:

> *...[A]n issuer that initially determines it does not qualify as an SRC because its annual revenues are $100 million or more cannot become an SRC until its annual revenues fall below $80 million.*

Summary of Changes

The following table summarizes who will be affected (shaded lines), and how:

Public Float	Annual Revenue	Current Status	Proposed Status	SOX 404(b)?
<$75 million	N/A	SRC and non-accelerated filer	SRC and non-accelerated filer	No
<$75 million to <$250 million	<$100 million	SRC and accelerated filer	SRC and non-accelerated filer	No
$75 million to <$250 million	>$100 million	SRC and accelerated filer	SRC and accelerated filer	Yes
$250 million to <$700 million	<$100 million	SRC and accelerated filer	SRC and non-accelerated filer	No
$250 million to <$700 million	>$100 million	Accelerated filer	Accelerated filer	Yes
>$700 million	N/A	Large accelerated filer	Large accelerated filer	Yes

What is an SRC?

As of September 10, 2018, a company can qualify as an SRC if it has either:

- Public float of less than $250 million OR
- Less than $100 million in annual revenues AND
  - no public float or
  - public float of less than $700 million

These SRCs are allowed to make scaled disclosures appropriate to their smaller size. For example, they can make less extensive narrative disclosures, and they only have to submit two years of audited financial statements, instead of three.

The current SEC proposal does not change any of those qualifications or reporting requirements. It only changes which SRCs may qualify as non-accelerated filers.

Changing Status: Exit Thresholds

Recognizing that smaller public companies may experience significant volatility in both revenue and public float, the SEC has also established criteria for moving from one category to another. However, merely dropping below the boundary between non-accelerated and accelerated filer is not enough; instead, an issuer must reach separate "exit thresholds" in order to exit a given filer status. These are the new proposed exit thresholds:

- The public float threshold for exiting accelerated filer status will rise to $60 million, and for exiting large accelerated filer status to $560 million. The new thresholds correspond with the SRC definition, which is 80% of the corresponding entrance threshold.

- An SRC with public float below $250 million but annual revenue over $100 million would become a non-accelerated filer once its revenue dropped below $100 million.

- A company that didn't qualify as an SRC would not become a non-accelerated filer unless its public float were below $560 million and its annual revenue below $80 million.

Need to Know More?

Both existing SRCs and companies considering an IPO should consider this proposed rule in their planning. If you have questions about whether or how this proposal could affect your company, contact Alyssa Martin, CPA, Weaver's national strategy leader for large market and public entities.

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