

2025 Annual Reminders: Securities Filings (Schedule 13D / Form 13F / Schedule 13G Filings, Form 13H Annual Update Filings), Privacy Notices and Policy Updates, Form ADV Updating Amendment Requirements

Insights

January 27, 2025

Valued Clients:

We are writing to remind you of several important deadlines that are approaching.

- The deadline for making certain initial, annual and amended securities filings for the year ended December 31, 2024 is **Friday, February 14, 2025**.
- In addition, if you are subject to the California Consumer Privacy Act, which was modified by the California Privacy Rights Act in 2023 (the “CPRA”), then you are required to review and update your firm privacy policies and provide an annual privacy notice to your employees, contractors and investors that are California resident natural persons.
- Finally, if your firm has previously filed a Form ADV, then you are required to file an annual updating amendment to such Form ADV by the deadline of **Monday, March 31, 2025**.

Accelerated Deadlines for Schedule 13D and Schedule 13G Filings

As outlined in our previous [*PubCo and Funds Insight*](#), the SEC adopted final rules in October 2023 accelerating the filing deadlines for both initial Schedule 13D and Schedule 13G filings and amendments to previously filed Schedule 13D and Schedule 13G filings. Compliance with these shortened filing deadlines was required for Schedule 13D beginning on February 5, 2024, and for Schedule 13G beginning on September 30, 2024.

Please note that, among other changes, these new rules require an initial Schedule 13D to be filed within five business days of the triggering event and an amendment to a previously filed Schedule 13D to be filed within two business days of the triggering event.

Under the new rules, an initial Schedule 13G for investors relying on the exempt investor exemption must be filed within 45 calendar days after the end of the calendar quarter of the triggering event. An initial Schedule 13G for investors relying on the passive investor exemption must be filed within five business days of the triggering event. Please refer to our [*PubCo and Funds Insight*](#) for detailed explanations of the exempt investor and passive investor exemptions.

Does Your Firm Need to Make a Schedule 13G or Schedule 13D Filing?

In general, your firm may need to file an initial Schedule 13G by February 14, 2025 if on December 31, 2024 your firm owned more than five percent of an issuer, including of an issuer that went public in Q4 2024. The calculation generally includes all shares owned by all of your firm's funds, general partner entities, and managers of such general partner entities. As noted above, as a result of the final SEC rules accelerating the filing deadlines for initial Schedule 13G filings, if your firm, for example, owned more than five percent of an issuer on September 30, 2024, including of an issuer that went public prior to September 30, 2024, your initial Schedule 13G may have been due on November 14, 2024.

You will need to file an amendment to a previously filed Schedule 13G if there has been a material change in the facts reported on the previously filed Schedule 13G since the date of such filing, including a more than one percent change in ownership. Certain significant changes in ownership percentages may trigger a more immediate amendment requirement to a previously filed Schedule 13G. Please refer to the [*Summary of New Schedules 13D and 13G Filing Deadlines by Investor Category*](#) for an outline of applicable filing deadlines.

Amendments to a previously filed Schedule 13D must be made within two business days after any material change in previously reported information. A material change includes, *but is not limited to*, a material change in beneficial ownership percentage.

The acquisition or disposition of beneficial ownership of securities in an amount equal to one percent or more of an issuer's securities is deemed to be a material change, however acquisitions or dispositions of less than one percent may also be material, depending upon the facts and circumstances.

The Division of Corporation Finance of the United States Securities and Exchange Commission (the "SEC") has been closely monitoring compliance with the accelerated Schedules 13D and 13G filing deadlines and begun to issue comment letters to filers. In addition, enforcement of untimely beneficial ownership reporting under Sections 13 and 16 continues to be a priority for the SEC's Division of Enforcement. There have been a number of wide-ranging enforcement actions directed at late filings, including most recently charges were announced in 2023 and in 2024 against numerous officers, directors and greater than five percent shareholders of public companies for alleged failures to timely file beneficial ownership reports regarding their holdings and transactions in public company securities, including on Schedules 13D and 13G. The charges stem from an ongoing enforcement initiative launched by the SEC in 2014 that deploys data analytics to target late beneficial ownership reporting.

Does Your Firm Need to Make a Form 13F Filing?

In general, your firm may need to file a Form 13F if, on the last trading day of any month in 2024, related funds in your firm held more than \$100,000,000 of "Section 13(f) Securities." An official list of Section 13(f) Securities is published by the SEC on a quarterly basis, but in general the list primarily includes U.S. exchange-traded stocks (e.g., NYSE, AMEX, NASDAQ), shares of closed-end investment companies, and shares of exchange-traded funds (ETFs). Please note that the test of \$100,000,000 in public securities generally includes *all* public securities (and not just of any one public company security) owned by related funds.

Does Your Firm Need to Make a Form 13H Filing?

In general, if your firm has previously filed a Form 13H with the SEC your firm is required to file an annual update by February 14th. If your firm has not previously filed a Form 13H with the SEC, please be reminded that your firm is required to file an initial Form 13H if your firm had aggregate transactions in exchange-listed securities equal to or greater than: (i) 2 million shares or \$20 million during any calendar day, or (ii) 20 million shares or \$200 million during any calendar month. If your firm meets this "large trader" test, your firm needs to report such status with the SEC on a Form 13H *promptly* after reaching such trading level (under normal circumstances, within 10 days of such transaction(s)) and may voluntarily file a Form 13H ahead of crossing such threshold. In addition, to the extent that your firm has previously filed a

Form 13H with the SEC but has not effected any transactions meeting or exceeding the “large trader” test in the previous full calendar year and you do not expect to do so in the coming calendar year, you may consider filing for *inactive status*. After filing for *inactive status*, no further Form 13H filings are due unless and until your firm subsequently effects any transactions that reach or exceed the “large trader” test (at which point your firm would need to make a filing to reactivate your “large trader” status). Accordingly, we encourage you to use this opportunity to review your large trader status and continue to monitor the threshold test throughout the year.

CPRA Annual Privacy Notice

If you are subject to the CPRA, you are required to send an updated annual Privacy Notice to your employees, contractors and investors who are California resident natural persons. The annual Privacy Notice should be updated and distributed at the same time each year. Due to the changes incorporated into the CPRA in 2023, these annual notices now require more extensive disclosures than what was previously required under the California Consumer Privacy Act. Please be advised that electronic transmission of the annual Privacy Notice is acceptable if that is a standard form of correspondence with your employees, contractors or investors. You will also need to provide California job applicants with an Applicant Privacy Notice, which can be included as a link in your online job postings.

Businesses subject to the CPRA are also required to make available a “Notice at Collection,” which is, in effect, a shortened privacy policy identifying specific privacy practices. This Notice at Collection must be posted at or prior to the point of collection of any personal information, such as by pop-up when an individual accesses a website. We also encourage you to review the use of cookies and other tracking technologies on your website to make sure you are providing all required disclosures and, if applicable, getting necessary consents. Generally, most firms that have operations in California are subject to the CPRA, with some exceptions for small firms. If you do not know if you are subject to the CPRA or what changes to your privacy notices and website are required to meet the new CPRA requirements, please contact the Gunderson attorney with whom you regularly work on fund governance matters. We can also provide you with Employee and Applicant Privacy Notices tailored for your firm.

Form ADV Initial Filing and Annual Update

If your firm is raising or has raised its first fund, you are required to file your initial Form ADV with the SEC or applicable state securities regulator within sixty (60) days of your initial closing on investors in that fund. If your firm has previously filed a Form ADV, please note that you are required to file an annual updating amendment to

such Form ADV within ninety (90) days after the end of your fiscal year. For clients with a traditional December 31 fiscal year-end, the annual updating amendment to your Form ADV must be filed **by Monday, March 31, 2025**, although we recommend that you make the filing in advance of the deadline.

Please contact the Gunderson Dettmer attorney with whom you regularly work on fund governance matters if you have any questions. If you would like us to analyze your public holdings and recent transactions and prepare any initial or amended Schedules 13D or 13G or Forms 13F, or a Form 13H for your firm this year, please let us know and provide information regarding your firm's relevant holdings. In addition, we encourage our clients to consult with us at the time of any transactions in publicly traded securities to determine if there are any immediate securities filing obligations. As you may remember from prior years, all Schedules 13D and 13G and Form 13F filings, including amendments, and Form 13H filings, including annual updates, must be filed electronically through the SEC's EDGAR filing system.

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