Cooley

August 5, 2026

Vanessa Countryman
Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File Nos. CLL-16 and S7-2026-17; Cooley LLP Comment Letter on Modernizing Registered Offering Rules, Securities Act Communications Rules, Form S-3 Eligibility, and Compensatory Equity Resale Provisions

Dear Ms. Countryman:

We are writing to comment on the registered offering, Securities Act communications, Exchange Act reporting, and compensatory equity rulemaking efforts of the Securities and Exchange Commission (which we refer to in this letter as the "SEC" or the "Commission"). We thank the Commission for the opportunity to provide these comments and applaud its efforts to examine whether the current regulatory framework can be modernized to facilitate capital formation, preserve the delivery of material information to investors, and reduce unnecessary friction in the public offering process.

Cooley LLP represents thousands of emerging, growth-stage, and large-cap companies (as well as the investment vehicles which fund them) operating at the forefront of technology, life sciences, and other cutting-edge industries. With nearly 1,400 lawyers in 19 offices across the globe, our various practice groups have jointly advised companies and underwriters on more than 1,000 public offerings since 2016, as well as ongoing public company disclosures and corporate governance matters, giving us a unique perspective on the practical implications of the Commission's rules for market participants.

Background principles and rationale

The Securities Act communications rules are intended to protect investors from being solicited through incomplete or misleading information while a registered offering is pending. In practice, however, several provisions of the current framework have become difficult to administer in the context of modern initial public offerings ("IPOs"), including due to real-time media cycles, social media, broad digital distribution channels, and the necessity for increased ordinary course communications with employees, customers, suppliers, and partners. These provisions can delay or chill communications that investors and other market participants would benefit from receiving, creating unnecessary friction for communications that are already subject to antifraud liability and are reviewed by issuer and underwriter gatekeepers.

Our recommendations are guided by four principles:

- First, once an IPO issuer has publicly filed a Form S-1, the issuer should be able to easily and efficiently update investors and the broader market on the proposed offering so long as the issuer assumes the liability associated with a free writing prospectus.
- Second, certain conditions that limit the ability of issuers to rely on existing rules for releasing ordinary course communications during the offering process should be eliminated as they are both outdated and do not serve the purpose of protecting investors.
- Third, the resale treatment of compensatory equity in connection with IPOs should reflect the economic reality of the award and the substantial public disclosure already available to the market.

- Fourth, expanded access to Form S-3 shelf registration should not be undermined by technical reporting foot faults or disqualifications that are disproportionate to the relevant conduct, particularly where the issuer remains current, investors have access to filed information, and narrower remedies would address the same compliance concern.

We respectfully recommend the Commission consider the following:

1. Expand Rule 433's utility after an IPO issuer has publicly filed its Form S-1.

Rule 433 has been an important and useful modernization tool because it permits issuers and offering participants to use free writing prospectuses ("FWPs") after a registration statement has been filed, subject to filing, legend, and other conditions. For IPO issuers, however, the rule remains unnecessarily constrained by the requirement that the filed registration statement include a price range before certain FWPs may be used, even though media FWPs under Rule 433(f) are not subject to the same price-range condition.[1]

We recommend that the Commission eliminate the price-range requirement for IPO companies that seek to rely on Rule 433 after the IPO issuer has publicly filed its Form S-1. Once the Form S-1 is publicly available, investors have access to the issuer's principal disclosure document, and the incremental investor-protection value of conditioning an issuer FWP on the presence of a price range is limited. At the same time, the condition can materially impede useful communications during the public phase of an IPO, particularly where a company needs to respond promptly to market developments or provide ordinary course business information before the price range has been included.

a. Use FWPs to respond to adverse third-party developments and provide ordinary course updates.

The Commission should permit an IPO issuer that has publicly filed its Form S-1 to use an issuer FWP to respond to adverse developments initiated by third parties, including a recent lawsuit, media report, analyst discussion, or public allegation that the issuer believes is inaccurate or incomplete. The same framework should permit ordinary course business updates that are relevant or meaningful to investors but do not require the issuer to refile its full registration statement. In these circumstances, a filed FWP can provide a transparent, public, and readily accessible method for communicating the update to investors, while a full registration statement amendment may unnecessarily obscure the relevant updates.

We recognize that, under the current framework, an FWP is not treated as part of the registration statement for purposes of Section 11, although it remains subject to Section 12(a)(2) and other antifraud provisions.[2] We recommend that the Commission revise Rule 433, or adopt a related rule, to allow an issuer to designate specified issuer FWPs in this limited context as updating the Section 11 package, in addition to the Section 12 package, without requiring a pre-effective amendment to the Form S-1. This approach would not reduce investor protection. To the contrary, it would channel important updates into a filed, liability-bearing communication that is reviewed by the issuer, underwriters, counsel, auditors, and other advisors serving as gatekeepers, rather than incentivizing delay or overuse of formal amendments for discrete updates.

b. Use FWPs to update deal mechanics before pricing.

The Commission should similarly allow filed issuer FWPs to update the Section 11 package for deal mechanics before pricing, including changes to the price range, changes to the size of the offering, or comparable matters arising from investor feedback during the roadshow. Requiring a pre-effective amendment for these updates can introduce unwieldy timing friction at precisely the point in an IPO when the market is moving quickly and investors are providing feedback. A filed FWP that clearly identifies the update and is delivered or otherwise made available to investors should be sufficient, provided that the final prospectus continues to include the required final pricing and offering information.

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1 See 17 C.F.R. § 230.433(a), (b)(2), (d), and (f), available at https://www.ecfr.gov/current/title-17/section-230.433.

2 See Securities Offering Reform, Securities Act Release No. 33-8591 (July 19, 2005), 70 Fed. Reg. 44722 (Aug. 3, 2005), available at https://www.sec.gov/files/rules/final/33-8591.pdf.

As an alternative, the Commission could expand Rule 430A so that it covers more than final pricing information and encompasses the categories of information described above. Rule 430A already reflects the principle that certain pricing-dependent information may be omitted from the prospectus at effectiveness and provided later through a Rule 424(b) prospectus or post-effective amendment for purposes of satisfying the requirement under Section 5(b)(2) to provide a Section 10(a)-compliant prospectus to purchasers of an issuer's securities.[3] Extending that principle to limited pre-pricing updates made through a filed communication would better align the rules with how IPOs are marketed and priced, while preserving investor access to the information that is material to an investment decision.

2. Modernize Rule 163A.

Rule 163A provides a safe harbor from Section 5(c) for certain communications made by or on behalf of an issuer more than 30 days before the filing of a registration statement, but only if the communication does not reference a securities offering and the issuer takes reasonable steps within its control to prevent further distribution or publication during the 30 days immediately before filing.[4] These conditions are difficult to apply in hindsight and do not reflect modern communication channels, where statements may be indexed, forwarded, reposted, quoted, or republished by third parties long after the issuer's initial communication.

We recommend that the Commission eliminate or shorten the 30-day requirement. The current 30-day line can be hard to administer because offering timelines frequently change, including as a result of market conditions, confidential submission review timing, financial statement availability, and investor feedback. If the Commission eliminates the 30-day requirement, the filing date of the Form S-1 should serve as the administrable date for the safe harbor, so that issuers and their advisors can evaluate communications against a clear and objective standard.

We also recommend eliminating the requirement that a communication not refer to a securities offering if the communication is made before the issuer's initial confidential submission of its Form S-1. Before the initial confidential submission, a generic reference to a possible offering does not, by itself, create the same investor-protection concerns as a solicitation during the public offering process. Antifraud liability, reputational incentives, and ordinary offering diligence remain meaningful safeguards against misleading statements.

The Commission should also eliminate the requirement that the issuer take "reasonable steps within its control" to prevent further distribution or publication. The standard is vague and impractical because issuers generally cannot control search engines, social media posts, forwarded emails, media quotations, or other third-party dissemination once a communication has been made. A safe harbor should not turn on whether an issuer can prove, after the fact, that it adequately prevented republication by persons outside its control.

Finally, the Commission should make Rule 163A available to underwriters. The current exclusion of offering participants that are underwriters or dealers creates an unnecessary mismatch between the communications regime and the practical role underwriters play in preparing, reviewing, and advising on offering-related communications. Underwriters should be permitted to rely on the same safe harbor, subject to the same conditions, because their involvement can improve the quality and discipline of communications rather than undermine investor protection.

3. Eliminate Rule 174 and clarify when IPO communications restraints end.

We recommend that the Commission eliminate Rule 174. The dealer prospectus delivery framework served a purpose in an earlier market structure, but it has become less meaningful in light of EDGAR availability, final prospectus filing practices, and the access-equals-delivery framework under Rule 172.[5] Maintaining Rule 174 continues to create practical uncertainty around publicity and communications after an IPO has priced, even when

3 See 17 C.F.R. § 230.430A, available at https://www.ecfr.gov/current/title-17/section-230.430A.

4 See 17 C.F.R. § 230.163A, available at https://www.ecfr.gov/current/title-17/section-230.163A.

5 See 17 C.F.R. §§ 230.172 and 230.174, available at https://www.ecfr.gov/current/title-17/section-230.172 and https://www.ecfr.gov/current/title-17/section-230.174.

investors have access to the final prospectus and aftermarket communications remain subject to Rule 10b-5 and other antifraud provisions.

If the Commission eliminates Rule 174, it should also adopt a clear rule providing that restraints on issuer communications are lifted once the underwriting syndicate breaks, which we understand to occur when orders are confirmed. At that point, the distribution-related rationale for communications restrictions is substantially diminished. The issuer should be able to speak in the ordinary course about its business, including on the day of the IPO, without needing to analyze whether each statement must be filed as an FWP. The continued application of Rule 10b-5 would remain an important protection against materially false or misleading statements.

The Commission should consider providing related guidance on when a distribution in the IPO context is complete for purposes of Regulation M. A rule or interpretive position that links completion of the distribution to the point at which all orders are confirmed and the syndicate breaks would provide a clear and administrable standard for issuers, underwriters, and counsel. Such guidance would be particularly useful because Regulation M itself continues to operate against the backdrop of the federal securities laws' antifraud and antimanipulation provisions.[6]

This clarification would also eliminate the need to file FWPs in situations like Bloom Energy, where the company filed an FWP after its IPO to address and clarify statements appearing in a media article. Communications of that type would remain subject to Rule 10b-5 and other antifraud liability, but they would not need to be forced into the FWP filing framework solely because they were made in close proximity to the IPO.[7]

4. Revise Rules 169 and 168 to better reflect ordinary course communications.

Rule 169 provides a non-exclusive safe harbor for certain regularly released factual business information by non-reporting issuers, while Rule 168 provides a similar safe harbor for reporting issuers that extends to certain forward-looking information. Both rules are subject to conditions concerning the type of information released and the issuer's prior practice, and Rule 169 also requires that the information be intended for use by customers, suppliers, or other persons in non-investor capacities.[8] These limitations are increasingly difficult to apply in a market where a single communication can be read simultaneously by customers, suppliers, employees, partners, analysts, investors, and media outlets.

We recommend that the Commission eliminate Rule 169's restriction on forward-looking information and expand Rule 169 to allow IPO issuers to release forward-looking information as currently provided under Rule 168. Many ordinary course business statements can be characterized as forward-looking in some respect, including statements about product launches, hiring plans, customer demand, industry trends, clinical timelines, regulatory milestones, or strategic priorities. The practical consequence is that issuers may avoid useful ordinary course communications, even when the statements do not refer to an offering and would be subject to antifraud liability if materially misleading.

The Commission should also remove the requirement that Rule 169 communications be "intended for" customers, suppliers, or other non-investors. The lines between customers, suppliers, commercial partners, employees, and investors have blurred, and the channels through which those audiences receive information often overlap. We believe the better administrable test is whether the communication mentions a potential securities offering. If it does not, and if it is otherwise an ordinary course business communication, the issuer should not lose the safe harbor merely because investors may also receive or review the information.

Relatedly, the Commission should provide comfort that a company may speak at an investor conference, industry conference, or comparable public forum, provided the spokesperson does not speak about a securities offering. Investor and industry conferences can involve ordinary course business discussions, including product, industry, operating, and strategic updates, and investors and analysts often attend those forums because they provide the

6 See 17 C.F.R. § 242.100, available at https://www.ecfr.gov/current/title-17/section-242.100.

7 See Bloom Energy Corporation, Issuer Free Writing Prospectus (July 27, 2018), filed pursuant to Rule 433, Registration Statement No. 333-225571, available at https://www.sec.gov/Archives/edgar/data/1664703/000119312518229785/d571586dfwp.htm.

8 See 17 C.F.R. §§ 230.168 and 230.169, available at https://www.ecfr.gov/current/title-17/section-230.168 and https://www.ecfr.gov/current/title-17/section-230.169.

same business information that is relevant to customers, partners, and other market participants. A company should not be required to decline ordinary business speaking opportunities solely because the audience may include investors. In many cases, a company being forced to decline these ordinary course opportunities may itself be a signal to the market that the company is undertaking an IPO, particularly where declining an invitation would break from prior practice.

The Commission should also clarify that media interviews that are not offers do not fall under Rule 433(f) merely because the eventual article mentions a securities offering. Where the issuer can represent that it did not speak to the offering during the interview, the issuer should not be required to treat the article as a media FWP or file corrective materials solely because a journalist independently included offering-related context, which practice has become more prominent particularly with news coverage of the technology market.

Finally, we recommend loosening the timing and manner conditions in Rules 168 and 169 to account for customary business-related disclosure in the issuer's industry and the channels customarily used for those disclosures. A company should not be excluded from the safe harbor simply because it is making a particular communication for the first time when it previously had no occasion to make that communication. This is especially important for emerging companies, life sciences companies approaching new milestones, and technology companies whose channels for customer and ecosystem communications evolve as their products and markets mature.

5. Adopt a targeted safe harbor for employee, customer, and partner communications.

We recommend that the Commission adopt a new safe harbor providing that communications with employees, and appropriate communications with customers and partners, are exempt from Section 5 if specified legends are included and reasonable guardrails are satisfied. These audiences often require timely information to make employment, commercial, operational, and relationship decisions. The Securities Act should not unnecessarily chill those communications merely because an IPO is pending or contemplated.

The safe harbor should be designed to prevent a communication from being used as an impermissible offer or market-conditioning device. Appropriate guardrails could include requirements that the communication be directed to employees, customers, partners, or similar business audiences; not include offering terms; not solicit an investment decision or indications of interest; not instruct recipients to purchase securities; and include a clear legend stating that the communication is not an offer to sell or a solicitation of an offer to buy securities, that any offering will be made only by means of a prospectus, and, where applicable, that internal communications should not be forwarded outside the intended audience.

A rule of this type would address the practical concerns illustrated by the Groupon employee email correspondence. In that matter, a communication intended to preserve employee morale and address employee concerns was disseminated outside the company and then raised Section 5 questions.[9] A targeted safe harbor with legends and guardrails would allow companies to communicate responsibly with employees and other key business constituencies without opening a path for promotional communications that are designed to condition the market.[10]

6. Modernize Rule 144, Rule 701, and Form S-8 treatment for compensatory equity in IPOs.

The Commission should modernize the resale treatment of compensatory equity in the IPO context. The current framework can require newly public issuers to file resale registration statements on Form S-8, or to navigate other technical resale issues, even where investors already have the benefit of a final IPO prospectus, Exchange Act

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9 See Groupon, Inc., Response Letter to SEC Staff (Sept. 16, 2011) (submitted by Winston & Strawn LLP, counsel to Groupon, Inc.), available at https://www.sec.gov/Archives/edgar/data/1490281/000104746911008103/filename1.htm.

10 See Groupon, Inc., Response Letter to SEC Staff (Sept. 23, 2011) (submitted by Winston & Strawn LLP, counsel to Groupon, Inc.), available at https://www.sec.gov/Archives/edgar/data/1490281/000104746911008210/filename1.htm; Groupon, Inc., Response Letter to SEC Staff (Sept. 2, 2011) (submitted by Winston & Strawn LLP, counsel to Groupon, Inc.), available at https://www.sec.gov/Archives/edgar/data/1490281/000104746911007818/filename1.htm.

reporting will be forthcoming, and the securities were issued under employee equity arrangements rather than capital-raising transactions.[11]

a. Revisit the date of sale position for RSUs.

We recommend that the Commission revisit the Staff position that, for a restricted stock unit ("RSU") award relying on Rule 701, the date of sale is the date the RSU is granted.[12] For RSUs, the more appropriate date of sale should be the date the applicable conditions are satisfied and the RSUs settle. Until settlement, the employee or other service provider does not hold the underlying shares and does not have any of the economic rights associated with the underlying shares. Relatedly, the practical resale issues that arise in the IPO context relate to the shares delivered upon settlement, not the earlier grant of a contingent right.

Treating settlement as the relevant date would better align the rule with the economics of RSUs and reduce unnecessary compliance burdens. In particular, issuers should not be required to register resales of shares underlying RSUs on a resale Form S-8 merely because the RSUs were granted before the IPO but the shares are received after the grant date. That registration burden serves little investor-protection purpose where the recipients are service providers receiving compensatory equity, the IPO prospectus provides comprehensive public disclosure, and any resale remains subject to the federal securities laws.[13]

b. Remove the 90-day public reporting requirement under Rule 144(c) and Rule 701(g).

We also recommend eliminating the 90-day public reporting requirement under Rule 144(c) and Rule 701(g) for compensatory equity issued in connection with an IPO. In the ordinary IPO context, the final prospectus contains extensive information about the issuer, its business, risk factors, management, financial statements, and capitalization. The requirement that a newly public company have been subject to Exchange Act reporting for 90 days before certain resales may occur often creates a technical barrier that is disproportionate to any incremental investor-protection benefit.

This issue arises frequently when there is an early lockup release or when employees are permitted to sell shares in the open market to cover withholding taxes due upon settlement of equity awards during the first 90 days after an IPO. In those circumstances, requiring a resale Form S-8 or other resale registration mechanics imposes cost and burden on the issuer without materially improving the information available to purchasers.[14] The Commission should permit resales of Rule 701 securities, and comparable compensatory shares, without waiting for the issuer to satisfy a 90-day Exchange Act reporting history, provided the IPO registration statement has been declared effective, the final prospectus has been filed, and the issuer remains current in any Exchange Act reports that are due at the time of sale.

c. Provide practical relief for option exercise resales.

The Commission should provide similar relief for shares received upon the exercise of options less than six months before an IPO. Under current interpretations, the Rule 144 holding period for restricted securities acquired under an employee stock option begins when the option is exercised and the full purchase price is paid, not when the option is granted.[15] As a result, employees who exercise shortly before an IPO may be unable to rely on Rule 144

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11 See 17 C.F.R. §§ 230.144 and 230.701, available at https://www.ecfr.gov/current/title-17/section-230.144 and https://www.ecfr.gov/current/title-17/section-230.701; Form S-8, General Instruction C, available at https://www.sec.gov/files/forms-8.pdf.

12 See SEC Division of Corporation Finance, Securities Act Rules Compliance and Disclosure Interpretations, Question 271.24 (Mar. 6, 2026), available at https://www.sec.gov/rules-regulations/staff-guidance/corporation-finance-interpretations/securities-act-rules.

13 See Cooley LLP Executive Compensation Roundtable Comment Letter, File No. 4-855 (Aug. 15, 2025), available at https://www.sec.gov/comments/4-855/4855-639727-1910274.pdf.

14 See Cooley LLP Executive Compensation Roundtable Comment Letter, File No. 4-855 (Aug. 15, 2025), at 8 n.11, available at https://www.sec.gov/comments/4-855/4855-639727-1910274.pdf.

15 See SEC Division of Corporation Finance, Securities Act Rules Compliance and Disclosure Interpretations, Questions 132.11 and 271.26, available at https://www.sec.gov/rules-regulations/staff-guidance/corporation-finance-interpretations/securities-act-rules.

for early post-IPO sales, even if the option was granted long before the IPO and the employee's economic exposure arose in the compensatory context.

We recommend that the Commission eliminate the need to register the resale of shares received upon exercise of options less than six months before an IPO on a resale Form S-8, at least where the options were granted under a compensatory plan and the resale occurs after the IPO registration statement is effective and the final prospectus has been filed. This relief would be particularly important for early lockup releases, which remain ubiquitous in technology IPOs. These sales do not raise the same concerns as capital-raising transactions, and the costs of resale registration are not justified by a corresponding investor-protection benefit.

7. Expand the grace period or cure mechanism for missed Form 8-Ks.

With respect to the SEC's proposal on registered offering reform, we recommend that the Commission expand the grace period or cure mechanism for missed Form 8-Ks in determining Form S-3 eligibility. The proposal would retain the requirement that a registrant be current and timely in its Exchange Act reporting, while adding a limited grace period under which a registrant could still satisfy the timeliness requirement despite one untimely filing if the filing is made within seven calendar days of the original due date and the registrant has made only one such untimely filing during the applicable lookback period.[16]

We support retaining meaningful incentives for timely reporting. At the same time, an isolated missed Form 8-K, particularly where promptly corrected and not reflective of a broader failure to provide periodic information to the market, should not automatically deprive an issuer of Form S-3 access. Form S-3 eligibility is premised on the market's access to issuer-specific information, and a promptly cured Form 8-K lapse often does not materially diminish that information base in the same way as a missing Form 10-K or Form 10-Q.

Accordingly, the Commission should expand the proposed grace period, or adopt a broader cure mechanism, for missed Form 8-Ks. For example, the rule could permit an otherwise current and timely issuer to cure a missed Form 8-K within a longer period after the original due date or within a reasonable period after discovery of the missed filing, so long as the issuer files the report before filing or using a Form S-3 and the missed filing does not involve a material omission that leaves investors without information necessary to make an informed investment decision. This approach would preserve the discipline of the current and timely requirement while reducing the risk that a technical or isolated reporting lapse imposes a disproportionate capital-raising consequence.

8. Narrow the proposed "ineligible issuer" limitations on using Form S-3.

We recommend that the Commission narrow the proposed "ineligible issuer" limitations on use of Form S-3. As proposed in the registered offering reform release, a registrant could not use Form S-3 if it is an ineligible issuer as defined in Rule 405, subject to specified exceptions, including where, within the past three years, the issuer or any entity that at the time was a subsidiary of the issuer was subject to a judicial or administrative decree or order arising out of a governmental action involving certain antifraud determinations, prohibitions, or cease-and-desist requirements tied to disclosure-based violations in registration statements, offering materials, or Exchange Act filings.[17]

We recognize the policy rationale for denying certain enhanced benefits to issuers that have violated disclosure requirements. If an issuer has entered into a settlement or order based on disclosure violations, it may be appropriate for its registration statements to be subject to SEC staff review rather than becoming automatically effective, and it may be appropriate to withhold certain registration and communication benefits available to eligible listed issuers ("ELIs") or seasoned eligible listed issuers ("SELIs"). However, loss of baseline shelf eligibility on Form S-3 can be a substantially more severe consequence than necessary to address the identified disclosure concern.

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16 See Registered Offering Reform, Securities Act Release No. 33-11418, Exchange Act Release No. 34-105513, Investment Company Act Release No. IC-36160 (May 19, 2026), 91 Fed. Reg. 31022, 31046-47, 31412 (May 26, 2026), available at https://www.sec.gov/files/rules/proposed/2026/33-11418.pdf.

17 See id. at 31086-97; see also 17 C.F.R. § 230.405 (definition of "ineligible issuer"), available at https://www.ecfr.gov/current/title-17/section-230.405.

This distinction is particularly important for banks and other complex corporate groups. A disclosure violation settlement involving an investment management, wealth management, securitization, or other subsidiary-level business could, under a broad Form S-3 disqualification, significantly impede a parent company's ability to address funding and capital management needs through registered shelf offerings, even when the conduct does not call into question the parent's overall ability to provide current issuer-specific information to the market. In some settings, the resulting impairment of funding flexibility could have consequences that are out of proportion to the underlying violation.

We therefore recommend that the Commission revise the proposed disqualification so that it affects ELI or SELI status, automatic effectiveness, and enhanced communication benefits, rather than baseline Form S-3 eligibility. This approach would preserve a meaningful consequence for disclosure-related violations while allowing an issuer to continue using a filed shelf registration process subject to applicable SEC review and antifraud liability. If the Commission nevertheless retains a Form S-3 eligibility consequence, it should consider limiting the disqualification to issuer-level violations or creating a carve-out for subsidiary-level conduct that is not material to the issuer's own disclosure record or shelf offering program.

We also support preserving the ability to seek waivers from the Division of Corporation Finance if the Commission retains any Form S-3 eligibility consequence. The waiver process should recognize that, in complex corporate groups, a parent may be required to sign a settlement or make a payment even when the underlying activity occurred at a subsidiary level. A waiver framework with clear, practical considerations would allow the Division to distinguish between cases where short-form shelf eligibility would create investor-protection concerns and cases where narrower consequences would better align the remedy with the conduct.[18]

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We appreciate the Commission's consideration of our comments and would be pleased to discuss them further at your request. Please do not hesitate to contact any of the Cooley LLP attorneys identified below should you wish to do so.

Sincerely,

Cooley LLP

Cooley LLP

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18 See Registered Offering Reform, supra note 16, at 31097; 17 C.F.R. § 230.405 (providing that the Commission or its delegate may determine, upon a showing of good cause, that it is not necessary under the circumstances that an issuer be considered an ineligible issuer), available at https://www.ecfr.gov/current/title-17/section-230.405.