NATIONAL ASSOCIATION OF Manufacturers

April 13, 2026

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: Request for Comment on Reforming Regulation S-K (File CLL-15)

Dear Ms. Countryman:

On behalf of the 13 million people who make things in America, the National Association of Manufacturers ("NAM") appreciates the opportunity to offer suggestions for modernizing the requirements of Regulation S-K in response to the Commission's request for comment.

As the largest manufacturing association in the U.S., the NAM's membership includes businesses of all sizes, across all industrial sectors, and in all 50 states. Manufacturers collectively contribute $2.94 trillion to the U.S. economy—and right-sized, commonsense regulations are critical to sustaining the manufacturing strength that underpins our nation's prosperity.

Manufacturers fully support the goal of Securities and Exchange Commission ("SEC") Chairman Paul Atkins to "focus on eliciting disclosure of material information and avoid compelling the disclosure of immaterial information."[1] Over time, Regulation S-K has become an unwieldly amalgam of prescriptive rules that reflect the one-time disclosure priorities of SEC chairs in the past and stray from the U.S. Supreme Court's concept of materiality (i.e., information that a reasonable investor would view as important to make a decision on whether to buy or sell a company's securities). The NAM has long advocated for principles-based disclosure that helps investors focus on the material risks to a company's business and prospects. Manufacturers also believe that corporate disclosures should not be cluttered with immaterial topics, static historical information, or unneeded information that may confuse investors.

I. General Recommendations for Disclosure Reform

A. Modernize the Commission's outdated classifications of public company issuers to reflect inflation and the growth in market valuation.

As part of the overhaul of Regulation S-K, manufacturers encourage the Commission to modernize its classification of issuers to reduce disclosure burdens on smaller companies. Manufacturers share Commissioner Mark Uyeda's concern that "[o]utdated financial thresholds, lack of scaling, and overlapping definitions can result in a complex and ineffective regulatory

[1] *See* Chairman Paul S. Atkins, Statement on Reforming Regulation S-K (13 January 2026).

regime, imposing unnecessary costs on companies and their shareholders," and support his goal of ensuring that issuers' "ongoing reporting obligations are proportionate to their size and resources."[2] While the Commission acted in 2018 and 2020 to address the burdens faced by smaller companies, we believe that more fundamental reform is needed. The NAM urges the Commission to go beyond incremental changes to the existing thresholds and act decisively to update the classifications so that they would approximate the traditional small, mid, and large-cap categories with which investors are familiar.

First, manufacturers encourage the Commission to eliminate the confusing overlap between the definitions of smaller reporting companies ("SRCs"), non-accelerated filers, and accelerated filers.[3] Under the current rules, most SRCs are non-accelerated filers, but an SRC becomes an accelerated filer if its annual revenues exceed $100 million, provided that it has at least $75 million in public float. As accelerated filers, these companies are subject to the costly mandate to provide an auditor attestation of management's assessment of the company's internal control over financial reporting, as required by Section 404(b) of the Sarbanes-Oxley Act. In addition, these companies are subject to shortened filing deadlines—40 days for Form 10-Q and 75 days for Form 10-K.

The NAM recommends that the Commission combine the non-accelerated filer and SRC definitions into a single category[4] and set a higher maximum public float ceiling (such as $1 billion) to determine whether a company qualifies for the regulatory relief enjoyed by smaller issuers. Expanding and fully aligning the two definitions—as had been the case prior to the Commission's 2018 SRC reforms—would provide greater regulatory certainty and reduce burdens on all smaller companies. In addition, a meaningful increase in the maximum public float ceiling for SRC/non-accelerated filer status is warranted given the rate of inflation and the growth in overall market capitalization since the Commission originally set these filer thresholds in 2005. We also recommend that the Commission substantially increase the current $100 million annual revenue trigger that forces SRCs to graduate to accelerated filer status. To make

[2] *See* Commissioner Mark T. Uyeda, Remarks at 44th Annual Small Business Forum (10 April 2025), *available at* https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-small-business-forum-041025 ("Under the Commission's current rules, a company with a $250 million public float is subject to the same disclosure requirements as a company with a $250 billion public float. The Commission has not updated its thresholds for how companies qualify as an accelerated filer or large accelerated filer since those thresholds were established in 2005.")

[3] As Commissioner Hester Peirce observed in 2019, "The process of determining whether a company is an SRC and a non-accelerated filer, or an SRC and an accelerated filer, or outside of both categories is so complicated that even we at the SEC need diagrams to figure it out. The fact that we ourselves struggling to understand our own regime does not bode well for smaller companies trying to follow our rules without the benefit of a staff of seasoned securities attorneys." Commissioner Hester M. Peirce, Statement at Open Meeting on Proposed Amendments to Sarbanes Oxley 404(b) Accelerated Filer Definition (9 May 2019), *available at* https://www.sec.gov/newsroom/speeches-statements/peirce-proposed-amendments-sox-404b-accelerated-filer-definition.

[4] Alternatively, if the Commission opts to keep a separate SRC definition, it should update the accelerated filer definition to provide that no SRCs would be subject to the additional reporting requirements for that category of issuers.

compliance easier, the NAM suggests setting this trigger at the same limit for emerging growth company ("EGC") status, which is now $1.235 billion.[5]

Second, manufacturers recommend that the Commission significantly increase the minimum threshold (i.e., to $10 billion in public float) for large accelerated filer status to provide a more meaningful distinction between mid-cap companies and large-cap issuers, as these firms typically have substantial differences in their investor bases and available resources for compliance. As Commissioner Uyeda has observed, accelerated filers, which accounted for 23% of reporting companies in 2005, have dwindled to 7%, while the percentage of companies that are large accelerated filers has doubled from 18% to 36%.[6] The current accelerated filer definition, which now covers companies with public floats up to $750 million, has not kept pace with widely accepted definitions for "mid-cap" companies.[7] Manufacturers believe that the Commission should strive to have three general categories of filers with updated thresholds that are easily understandable by companies and their investors. Accordingly, the NAM recommends the following categories: SRC/non-accelerated filer (below $1 billion in public float *or* annual revenues less than $1.235 billion); mid-cap/accelerated filers (between $1 billion and $10 billion in public float *and* annual revenues exceeding $1.235 billion); and large accelerated filers (above $10 billion in public float).

Finally, the NAM suggests that the Commission apply a three-year rolling average for its public float and annual revenue triggers before companies are deemed to move up to accelerated or large accelerated filer status. Such an approach would allow companies more time to plan for the greater disclosure burdens they would face.

B. Scale the Commission's disclosure rules to provide relief to small and mid-cap companies.

In addition to updating the SRC, accelerated filer, and large accelerated filer thresholds, manufacturers encourage the Commission to do more to differentiate among the disclosure burdens that apply to small, mid-cap, and large companies. As Commission Uyeda has noted, there is no difference between the overall disclosure burdens borne by accelerated filers (which

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[5] We recommend the Commission plan to update the public float and revenue ceilings every five years to reflect inflation. We support an approach like that prescribed by the Jumpstart Our Business Startups Act ("JOBS Act") of 2012, which directs the Commission to adjust the annual gross revenue amount to determine EGC status based on the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics. *See, e.g.,* Press Release, "SEC Adopts JOBS Act Inflation Adjustments" (9 September 2022), *available at* https://www.sec.gov/newsroom/press-releases/2022-157.

[6] Commissioner Mark T. Uyeda, "Remarks at the Florida Bar's 41st Annual Federal Securities Institute and M&A Conference" (24 February 2025), *available at* https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-florida-bar-022425.

[7] *See, e.g.,* Investopedia, "Mid-Cap: Definition, Other Sizes, Valuation Limits, and Example," *available at* https://www.investopedia.com/terms/m/midcapstock.asp (defined "mid-cap" to include companies between $2 billion and $10 billion in market cap); Nasdaq Glossary, Mid Cap, *available at* https://www.nasdaq.com/glossary/m/mid-cap ("A stock with a capitalization usually between $1 billion and $5 billion.").

now include some SRCs) and mega-cap issuers, aside from the different deadlines for Form 10-K reporting (75 days for accelerated filers versus 60 days for large accelerated filers).[8]

When Congress passed the JOBS Act to ease disclosure burdens for newly public companies, existing[9] smaller companies were not granted the same relief. In addition, there has been a proliferation of new disclosure obligations (through legislation and SEC rulemaking) since 2010 that has made it increasingly costly for manufacturers and other companies to enter and remain in the public markets. Accordingly, we encourage the Commission to fully exempt all small companies from recent disclosure rulemakings that have imposed significant new compliance costs while only providing partial relief (or in some cases no relief). The NAM recommends that the Commission fully exempt SRCs/non-accelerated filers from the following requirements:

- "Pay versus performance" disclosure;
- 10b5-1 plan disclosure;
- "Clawback" (incentive-based compensation recovery) policy listing standards;
- "Say on pay," "say on frequency," and "say on golden parachute" votes;[10]
- Cybersecurity disclosure;
- Climate risk disclosure;
- XBRL data-tagging requirements; and
- Conflict minerals disclosure.

In addition, the NAM encourages the Commission to consider other ideas to moderate disclosure burdens, such as allowing SRCs/non-accelerated filers to voluntarily use a press release (via Form 8-K) to disclose their financial results (instead of preparing a more costly and largely duplicative Form 10-Q filing), and/or extending the current 45-day deadline for quarterly financial reporting to 60 days. Furthermore, the Commission should allow smaller issuers the option of reporting their financial results twice a year,[11] which has been the practice in the United Kingdom and Europe.

As noted earlier, accelerated filers (which now include some small-cap issuers) should not be subject to the same disclosure burdens as mega-cap issuers and would benefit greatly from regulatory relief. Accordingly, we ask the Commission to pursue rulemaking (and support

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[8] Commissioner Mark T. Uyeda, Remarks at 44th Annual Small Business Forum (10 April 2025), *available at* https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-small-business-forum-041025.

[9] Companies that first sold common shares prior to December 8, 2011, are not eligible for EGC status.

[10] Section 951(e) of the Dodd-Frank Act gives the Commission the authority to exempt smaller companies from these three types of shareholder votes: "(e) EXEMPTION.—The Commission may, by rule or order, exempt an issuer or class of issuers from the requirement under subsection (a) or (b). In determining whether to make an exemption under this subsection, the Commission shall take into account, among other considerations, whether the requirements under sub-sections (a) and (b) disproportionately burdens small issuers."

[11] The Commission previously sought comment on some of these suggestions. *See* Request for Comment on Earnings Releases and Quarterly Reports (18 December 2018), *available at* https://www.sec.gov/files/rules/other/2018/33-10588.pdf.

legislation, if necessary) that would exempt these companies from the SEC's Dodd-Frank compensation disclosure mandates (including pay versus performance, the "clawback" listing standards, and CEO pay ratio). In addition, the SEC should exempt these issuers from the mandate to hold a say-on-frequency vote. Finally, we recommend that the SEC provide five additional days (45, instead of 40 days) to accelerated filers to submit their Form 10-Q filings.

II. Recommendations on Specific Items Within Regulation S-K

A. Streamline the business description requirements in Item 101(a).

The NAM encourages the Commission to simplify the requirements of Item 101(a) so that companies can focus on discussing material changes to their business within the past reporting period. The SEC should make clear that a company does not have to repeat historical information from previous filings if there has been no material change. Overall, manufacturers favor a principles-based approach to Item 101 disclosures that is based on materiality, and it would be helpful for the SEC to provide a non-exclusive list of suggested topics[12] that companies may address.[13]

B. Update the Item 103(c)(3) threshold that applies to environmental litigation.

The NAM asks the Commission to reevaluate the separate disclosure threshold in Item 103(c)(3) that applies to environmental litigation initiated by federal, state, or local government agencies. In 2020, the Commission increased that threshold to $300,000 from $100,000 and gave companies the option to set their own threshold of up to the lesser of $1 million or 1 percent of current assets. However, this revised threshold still is too low, as $1 million is not a material sum for all but the smallest companies. Manufacturers believe the same materiality threshold (i.e., the 10% of current assets standard in Item 103(b)(2)) should apply to all types of litigation that a company faces. If the Commission opts to retain a specific dollar threshold, it should adjust that figure to reflect real-world litigation/liability costs and commit to making automatic adjustments to that threshold every five years to reflect inflation.

C. Provide a safe harbor for generic risk factor disclosures (Item 105(b)).

As a result of perceived litigation risks,[14] public companies have significantly expanded their risk factor disclosures over the past few decades. While the Commission's 2020 Regulation S-K amendments sought to encourage more succinct disclosures, companies have continued to add

[12] Item 101 currently requires a discussion of patents and other intellectual property (Item 101(c)(iii)(B)) and environmental regulations applicable to the company (Item 101(c)(2)), including capital expenditures for environmental control facilities, which are only material to a small group of companies. We believe that those specific topics should only be required to be disclosed if there has been an IP loss or a regulatory change that materially impacts a company's financial results.

[13] While some commenters have asked the SEC to require additional granular disclosures on human capital (such as employee turnover rates), we urge the Commission not to mandate any new prescriptive non-material disclosures of this nature.

[14] *See, e.g., In Re: Facebook Inc. Securities Litigation* (9th Cir. 2023) (Ninth Circuit panel reinstated investor plaintiffs' claims over the company's risk factors).

to their Item 105 disclosures and still report many generic risks. In many cases, companies have concluded that the safest approach is to provide disclosures on general risks to reduce the likelihood of getting sued or to defend themselves once sued. Over time, companies have continually added new risks to reflect new issues, such as cybersecurity, climate change, and artificial intelligence, but many of these disclosures have remained general in nature.

As of December 2023, S&P 500 companies were devoting an average of 13.5 pages (up from 12 in 2020) to detailing their risk factors; the average number of distinct factors disclosed was 31.5, according to a study by Deloitte and the USC Marshall School of Business.[15]

To help focus investors' attention on material risk factors that are specific to individual companies, we encourage the SEC to create a new safe harbor for generic risks (such as macroeconomic changes, cybersecurity breaches, short-term volatility in energy prices, generic litigation risk, business competition, reliance on key personnel, the risk of terrorism, and others) that are applicable to most U.S. issuers or companies within a specific industry. To assist companies, the Commission could publish an updated list of risk factors on its website so companies would know that they do not have to include these generic risks in their disclosures. Companies should also be permitted to reference these risk factors in their filings.

Finally, the NAM encourages the Commission to allow companies to cross-reference the Management Discussion and Analysis ("MD&A") or Business sections of their Regulation S-K disclosures to reduce repetition in the risk factor section. In addition, issuers should be allowed to supplement their risk disclosures by referencing statements and other materials that are posted on corporate websites.

D. Simplify cybersecurity-related disclosures (Item 106).

The NAM recommends that the Commission streamline its cybersecurity rules. As noted earlier in our discussion of Item 105, cybersecurity is a generic risk that applies to nearly all large public companies, and the vast majority of those issuers have adopted policies and governance practices for addressing that risk. Given this reality, it no longer makes sense for the SEC to require companies, via Item 106, to provide prescriptive disclosures on cybersecurity risk management, strategy, and governance practices in their 10-K filings. If Item 106 was simplified, the NAM would recommend that the Commission adopt a principles-based approach and eliminate the immaterial granularity required by Item 106, such as the relevant degrees or certifications obtained by the issuer's cybersecurity experts. Manufacturers expect that those companies that face a greater likelihood of a material cybersecurity attack (i.e., those possessing national security information or sensitive consumer data) will provide more tailored disclosures on their practices in either the business description (Item 101) or in the MD&A section pursuant to Item 303.

Manufacturers also request that the Commission repeal the four-business-day requirement for disclosing cybersecurity incidents *and* provide more flexibility for companies to remediate

[15] Deloitte-USC Marshall School, "SEC Risk Factors Disclosure Analysis," *Harvard Law School Forum on Corporate Governance* (3 December 2023), *available at* https://corpgov.law.harvard.edu/2023/12/03/sec-risk-factors-disclosure-analysis/.

breaches and cooperate with law enforcement. The NAM previously shared[16] our concerns about the feasibility and wisdom of requiring issuers to disclose cybersecurity incidents within the four-business-day window required for Item 1.05 disclosures via Form 8-K. Manufacturers continue to believe that this mandate provides insufficient flexibility to delay disclosure to investigate and respond to an incident, work with law enforcement, or avoid tipping off attackers.

While the four-business-day clock does not start until a company determines that a particular incident is "material," the NAM believes the Item 1.05 mandate (as well as the risk of litigation brought by the plaintiffs' bar over disclosure delays) could force some companies to rush their materiality assessments. These materiality analyses are often complicated and take time to conduct, especially while a company is working to investigate, understand, respond to, and mitigate the impact of an incident. The additional burden of complying with Item 1.05 distracts management and pulls resources away from investigation and mitigation of the incident. Instead of an arbitrary deadline, the SEC should allow companies the flexibility to understand the extent of a cyber incident and to conduct a full and fair materiality assessment before a public filing.

One of the most significant risks posed by premature incident disclosure is tipping off the perpetrators of an attack, who will be able to read a company's Item 1.05 disclosures along with the rest of the public. Even the notice that a company has discovered an incident could be sufficient for a hacker to change tactics, either to escalate an ongoing attack or to modify a strategy in another attack. Though the Commission does not require the disclosure of technical details about a cyber incident, there is nevertheless still a risk that hackers could utilize any information reported to their advantage and to the detriment of the company.

Instead of the rigid incident reporting requirements,[17] manufacturers respectfully encourage the SEC to rescind Item 1.05 of Form 8-K and allow companies instead to return to their historical practice of voluntarily reporting cyber incidents via Item 8.01 of Form 8-K after the incident has been contained. The NAM also supports a safe harbor for disclosures made in reasonable reliance on information provided by vendors, suppliers, or other third parties.

E. Modernize the executive compensation disclosure rules (Item 402).

As explained in our two letters[18] sent to the SEC in response to its executive compensation roundtable, the NAM believes that the Commission can simplify the complex rules that have

[16] NAM Letter in Support of Petition for Rulemaking on the Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure Rule, File No. 4-856 (17 June 2025), *available at* https://www.sec.gov/comments/4-856/4856-613927-1799154.pdf.

[17] If the SEC continues to mandate a four-business-day disclosure window, it should allow domestic issuers' cyber incident disclosures to be "furnished" to rather than filed with the Commission. Such a modification would reduce the legal liability for manufacturers, an impactful change given the uncertainty associated with making public reports during an evolving crisis.

[18] *See* the NAM's Comments on Roundtable on Executive Compensation Disclosure Requirements, File 4-855 (25 June 2025), *available at* https://www.sec.gov/comments/4-855/4855-616827-1809754.pdf; NAM's Additional Comments on the Roundtable on Executive Compensation Disclosure Requirements (6 August 2025), *available at* https://www.sec.gov/comments/4-855/4855-636727-1893534.pdf.

prompted public companies to prepare increasingly lengthy Compensation Discussion and Analysis ("CD&A") sections in their proxy materials. Neither Main Street investors nor companies are served by rules that direct issuers to provide an expanding array of footnoted tables, force issuers to retain outside consultants to perform "compensation actually paid" calculations that often are misleading, and result in pay-related disclosures that often exceed 20 or 30 pages. Under an ideal disclosure regime, a company's board should be able to explain its approach to incentivizing executives in plain English and in five to 10 pages. Wherever possible, the Commission should strive to replace prescriptive mandates with principles-based disclosure and simplified tables designed for the reasonable investor.

As noted earlier, the NAM encourages the Commission to exempt all small and mid-cap companies (non-accelerated filers, SRCs, and accelerated filers) from the "pay versus performance" rule, the "clawback" listing standards, and the other Dodd-Frank-mandated compensation disclosure requirements; reduce the number of tables mandated by Item 402; and streamline the Summary Compensation Table by limiting it to pay data for the CEO and CFO (instead of five officers).[19]

Below are the NAM's specific recommendations to update the Item 402 compensation rules.

1. Simplify the "pay versus performance" rules.

The current "pay versus performance" requirements result in disclosure that is lengthy, complex, and difficult for investors to understand, while imposing a heavy administrative burden for companies. In light of Section 953(a) of the Dodd-Frank Act, which limits the Commission's ability to address concerns about the utility of these disclosures, the NAM suggests the following revisions to ease compliance burdens and improve the quality of the information disclosed:

- The requirement to disclose the company's net income and a "company selected measure" should be removed. GAAP metrics like net income are not normally used to set incentive compensation and thus would be of limited utility to investors.
- The requirement to reconcile "compensation actually paid" ("CAP") to the total compensation reported for a company's named executives in the Summary Compensation Table should be removed. The intense administrative burden that this requirement places on companies far outweighs any incremental value to investors, especially given the granular nature of this information.
- The requirement to provide a tabular list of between three and seven financial performance measures, which in the company's assessment represent the most important financial performance measures used to determine CAP for the company's named executives, should be removed. This requirement is both confusing and duplicative of information already provided in the CD&A.

[19] The compensation for a company's CEO and chief financial officer is what is most material to an investor's voting and investment decisions. The benefit of streamlining corporate disclosures and reducing administrative burdens outweighs the incremental benefit of including compensation information for three additional officers.

- The requirement to provide a comparison showing the company's total shareholder return ("TSR") versus its peer group TSR should be removed as duplicative of the performance graph required by Item 201(e) of Regulation S-K.

2. Streamline the Item 402(x) requirements on the disclosure of grants of certain equity awards.

Manufacturers do not believe the information in the table required by Item 403(x)(2) is material to an investor's voting or investment decisions. Item 403(x)(1) already requires public companies to describe their policies and practices on the timing of awards of options in relation to the disclosure of material non-public information. The filing deadlines for Forms 10-Q, 10-K, and 8-K are dictated by SEC rules. By requiring the company to highlight any option grants made within the four-business-day period prior to (or one business day following) the filing of one of these reports and to list the percentage change in the closing market price of the securities underlying the award between the day immediately prior to filing and the day immediately after filing inherently suggests to investors that the timing of such grants was motivated by the timing of such filings. That is not the case for many companies whose standard grant practices may happen to overlap with a filing deadline in any given year often due to the timing of board of directors' meetings, in which case such required disclosure is not relevant to an investor's voting or investment decision and could cause confusion. Additionally, such information is already available through Form 4 filings and publicly available stock market data.

3. Clarify that personal security expenses are not disclosable perks.

The NAM urges the Commission to update Item 402 to clarify that security expenditures to protect senior executives should not be required to be disclosed as perks, given the growing consensus that personal security is "integrally and directly related to the performance of an executive's duties." Executives need to feel safe in their homes and while traveling to be able to do their jobs effectively. Unfortunately, the potential threat environment[20] for executives has worsened in recent years, and the SEC's perk disclosure rules should reflect this reality.

4. Limit the CEO pay ratio data set (Item 402(u)) to U.S. employees.

The current CEO pay ratio disclosure requirements impose a significant administrative burden on multinational public companies that require considerable financial and staffing resources to collect and analyze the necessary data from around the world, while the resulting disclosures do not appear to produce information that informs investors' investment or voting decisions in any meaningful way. Given the constraints of Section 953(b) of the Dodd-Frank Act, the Commission is limited in its ability to address concerns about the utility of the CEO pay ratio disclosures.

[20] According to data firm Equilar, S&P 500 companies spent a record sum in 2024 to protect their top executives; the median expenditure was $106,530, a 16% increase. In addition, the percentage of executives with such protection rose to 34%, up from 23% during the 2020-2024 period. *See* Reuters, "US companies spending record amounts to protect executives as threats rise" (5 August 2025), *available at* https://www.reuters.com/sustainability/society-equity/us-companies-spending-record-amounts-protect-executives-threats-rise-2025-08-05/.

Nevertheless, we believe that, given the limited utility of comparisons across global workforces, limiting the pay ratio data set to U.S. employees would ease companies' compliance burdens, increase comparability, and reduce costs without sacrificing any information that is material to an investor's voting or investment decisions.

F. Update the related-party transaction reporting rules (Item 404).

The SEC's disclosure rules include various thresholds that have not been updated to reflect inflation. One of the more glaring examples is Item 404's $120,000 threshold for reporting related-party transactions, which was instituted in 2006 and has not been adjusted since then. We recommend that the Commission increase that threshold to reflect inflation over the past 20 years and then commit to make inflation adjustments every five years. Alternatively, the Commission could adopt a sliding threshold that would be tied to a percentage of a company's revenue.[21] Manufacturers also support a narrower definition of "immediate family" that would be limited to spouses, children, and others sharing a director or officer's household.

The NAM also recommends that the SEC allow companies to post their policies on related-party transactions on their corporate websites instead of providing narrative disclosure in their regulatory filings. We suggest the Commission consider a similar approach for any other disclosure requirements that relate to corporate policies (such as compensation "clawback" policies) that have been widely adopted.[22]

G. Streamline or eliminate the insider trading requirements of Item 408.

Item 408(a) requires companies to disclose whether any director or officer adopted (or terminated) any Rule 10b5-1 trading arrangement. Companies must provide a description of the terms of those arrangements, including the name of the director or officer, date of adoption or termination, duration, and number of securities to be traded under the plan. This disclosure can lead to investor confusion as it sends false messages to the market about executive sentiment regarding the company's stock price. This disclosure also duplicates the information that companies are including in their officers' Form 4 filings. We also recommend that the Commission eliminate the requirement under Item 408(b) for companies to disclose whether they have insider trading policies, which the vast majority of companies have.

H. Remove the presumption of materiality for director and officer contracts (Item 601(10)(iii)(A)).

The NAM suggests eliminating the presumption in Item 601(10)(iii)(A) that all management contracts, compensatory plans, contracts, or arrangements in which any director or any of the named executive officers participates are automatically deemed "material." It causes confusion

[21] We also encourage the Commission to consider exempting those transactions that are negotiated at arm's length in the ordinary course or business or at least apply a higher threshold to those transactions.

[22] Similarly, we suggest that the SEC eliminate Item 406, which directs a public company to disclose if it has adopted a code of ethics for its senior officers. This requirement is largely duplicative of Item 5.05 of the Form 8-K rules, which require companies to disclose waivers or amendments to their codes of ethics that apply to the CEO, chief financial officer, and top accounting officer.

for both companies and investors for this requirement to presume all director and officer contracts are material, while Form 8-K Item 5.02 still requires a materiality analysis to determine whether a description of the terms and conditions of such contracts is required. Thus, the better disclosure practice would be to align Item 601(10)(iii) with Form 8-K Item 5.02 and require a principles-based materiality analysis, rather than presuming that all contracts are material.

I. Modernize the disclosure rules that apply to the oil and gas sector.

To reduce compliance costs and the volume of immaterial disclosures, the NAM supports targeted reforms to Items 1202(a)(2), 1205, 1207, and 1208 that would modernize these requirements while still ensuring investors have access to material information.[23]

J. Reduce conflict minerals reporting burdens on companies.

The Dodd-Frank-mandated conflict minerals rule, which requires companies to disclose their use of gold, tin, tungsten, and tantalum that originate in the Democratic Republic of Congo (DRC) and surrounding countries, has long been one of the Commission's most controversial and costly disclosure rules.[24]

The SEC's original rule, which required annual reporting of a company's usage and due diligence efforts via Form SD (Specialized Disclosure), was challenged in court by the NAM and other trade associations. In 2014, the U.S. Court of Appeals for the District of Columbia Circuit[25] upheld most of the rule but struck down a provision requiring companies to declare their products "DRC conflict free" (or not) on First Amendment grounds. In 2017, the SEC staff issued guidance that stated that it would not recommend enforcement action against companies that do not engage in the additional due diligence requirements imposed by Form SD Item 1.01(c).

Nevertheless, public companies continue to be subject to the rule's other provisions and must undertake a "reasonable country of origin inquiry." If that inquiry gives reason to believe that any minerals may have originated from the covered African countries, then the company must conduct due diligence on the source and chain of custody of its conflict minerals and report those findings via its Form SD.

While companies now have access to better tools and procedures for sourcing minerals than they had in 2010, many manufacturers, especially those with hundreds of suppliers, must still

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[23] *See* Comment Letter of Neil A. Hansen, Senior Vice President and Chief Financial Officer, ExxonMobil (18 March 2026) at 10-13.

[24] In a 2017 letter to the SEC when it was reevaluating the conflict minerals rule, the NAM reported: "Despite the massive effort put in by NAM companies to comply fully with the Rule, the effort has proved largely futile. Many manufacturers are forced to rely almost entirely on the due diligence of their suppliers for sourcing information, given that these minerals oftentimes represent only a small part of a final product that is not directly sourced by the issuing company. Issuers, therefore, have limited or no influence on suppliers, particularly those that are farther down the supply chain. Many of these suppliers are smaller, privately held companies that have limited resources and are themselves remote from the sourcing of the input metals." NAM Comment Letter on the SEC's Conflict Minerals Rule (16 March 2017), *available at* https://www.sec.gov/comments/statement-013117/cll2-1645536-148285.pdf.

[25] *National Association of Manufacturers, et al. v. SEC, et al.*, No. 13-5252 (D.C. Cir. 2014).

rely on the due diligence efforts of their suppliers, many of whom are private firms that are not subject to SEC oversight and are unable to trace the source of their minerals back to the particular mine that produced them.[26] According to the U.S. Government Accountability Office (GAO),[27] which reviewed a sample of 100 Form SD filings for a 2024 report, "an estimated 62 percent of companies that conducted due diligence reported being ultimately unable to determine whether the conflict minerals in their products originated in covered countries," not to mention the exact location of the origin mine itself.

While compliance costs[28] vary based on the extent of a company's global supply chain, more than 1,000 U.S. public companies continue to report on their mineral sourcing efforts via Form SD every year, according to the GAO. That is a significant compliance burden for a disclosure mandate that often results in public companies reporting to the SEC that its minerals are "DRC conflict undeterminable," a conclusion that provides no material decision-useful information to the company's investors.

Accordingly, the NAM recommends that the Commission consider new guidance to ease compliance burdens, such as limiting a company's due diligence and disclosure efforts under Form SD to its direct suppliers.[29]

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[26] As one manufacturer told the NAM staff, "it is very difficult to trace from mine to end-product because first-tier suppliers cannot tell us exactly from which smelter or mine the components of a particular part used in a particular product came from. [These suppliers] are reporting to us on a more aggregate basis where they get their minerals for a variety of parts for various end-users, of which we are only one."

[27] U.S. Government Accountability Office, "Conflict Minerals: Peace and Security in Democratic Republic of the Congo Have Not Improved with SEC Disclosure Rule" (7 October 2024), *available at* https://files.gao.gov/reports/GAO-25-107018/index.html#_Toc178846180.

[28] In 2017, a large NAM member company reported that it incurs $2 million in compliance costs each year and its ongoing due diligence efforts require as many as 4.5 full-time equivalent employees. Another large manufacturer recently reported to the NAM staff that it devotes 150 to 200 staff hours annually to comply with the conflict minerals reporting requirement.

[29] The NAM also supports Congressional legislation to repeal the conflict minerals disclosure mandate (Section 1502 of Dodd-Frank) and has urged the Trump administration to consider invoking the law's statutory sunset provision. Until this mandate is repealed or phased out, the Commission should explore how it could provide relief for companies that incur significant costs each year to comply with this rule. *See* NAM Letter to the U.S. State Department (2 April 2026), *available at* https://documents.nam.org/tax/NAM.State.Department.Letter.Conflict.Minerals.final.pdf.

The NAM appreciates the Commission's efforts to modernize its Regulation S-K disclosure rules and its consideration of our recommendations. Manufacturers are committed to working with the SEC to adopt commonsense rules to provide decision-useful information to investors while reducing compliance burdens for public companies.

Sincerely,

C. Edward Allen
Senior Director, Corporate Finance Policy

Jake Kuhns
Vice President, Domestic Policy

CC: Chairman Atkins
Commissioner Peirce
Commissioner Uyeda
Director Moloney