

May 30, 2023

Measurement Date for Smaller Reporting Company Status – June 30

Smaller reporting company (SRC) status under the rules¹ of the Securities and Exchange Commission (SEC) allows companies to elect to comply with some or all of the “scaled” (reduced) disclosure accommodations provided by various SEC rules. SRC status under SEC rules is determined annually by reporting companies based on a company’s “public float” as of the last business day of the company’s second fiscal quarter, which is referred to here as the “measurement date.” In 2023, the measurement date will be Friday, June 30 for companies with a December 31 fiscal year end. A company that does not qualify as a SRC based on its public float can alternatively qualify as a SRC based on the company’s annual consolidated revenues for its most recent fiscal year completed before the measurement date and its public float.

A company that qualifies as a SRC on the measurement date can elect to use the SRC scaled disclosure accommodations in its subsequent filings, beginning with its second quarter Form 10-Q. A company that uses any of the SRC scaled disclosure accommodations in its second or third quarter Form 10-Q filing or its Form 10-K report for that fiscal year must reflect its SRC status on the cover page of that report. All companies that qualified as a SRC as of the measurement date must reflect SRC status in its Form 10-Q for the first fiscal quarter of the next fiscal year, whether or not the company relies on any of the SRC scaled disclosure accommodations.

SRC Qualification Tests

A reporting company that is currently a SRC must test its qualification annually. Public float is determined as of the measurement date by multiplying the aggregate worldwide number of shares of the company’s voting and non-voting common equity held by non-affiliates by the price at which the common equity was last sold, or the average of the bid and asked prices of common equity, in the principal market for the company’s common equity.

A company must meet either of the following conditions to qualify as a SRC under [Securities Exchange Act Rule 12b-2](#):

- The company’s public float is less than \$250 million; or

¹ See [Item 10\(f\)](#) of Regulation S-K, [Rule 12b-2](#) under the Securities Exchange Act of 1934 or [Rule 405](#) under the Securities Act of 1933 for a complete definition of “smaller reporting company.” The SEC amended the definition of “smaller reporting company,” effective September 10, 2018. See [Smaller Reporting Company Definition](#), Securities Act Release 10513 (June 28, 2018).

- The company’s annual revenues were less than \$100 million for the most recent fiscal year for which audited financial statements are available that was completed before the measurement date and either the company’s public float was less than \$700 million or the company had no public float.

A company cannot qualify as a SRC if it is an asset-backed issuer, an investment company or a majority-owned subsidiary of a non-SRC parent company.

A company would have no public float if it has no public common equity outstanding or if no market price for its common equity exists.

SRC Scaled Disclosure Accommodations

SRCs may choose to comply with scaled or non-scaled financial and non-financial item requirements on an item-by-item basis. Among the most notable of these disclosure accommodations are an exemption from the requirement to provide an auditor’s attestation of management’s assessment of internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act and simplified executive compensation disclosure requirements. Where the SRC disclosure requirement is more rigorous, however, the company must comply with the more rigorous [SRC disclosure requirement](#). Many of the SRC scaled disclosure accommodations are the same as or similar to the requirements that apply to emerging growth companies, or EGCs. The following table summarizes the SRC scaled disclosure accommodations.

Regulation S-K	
Item	Scaled Disclosure Accommodation
101 - Description of Business	May satisfy disclosure obligations by describing the development of the company’s business during the last three years rather than five years. Business development description requirements are less detailed than disclosure requirements for non-SRCs.
201 - Market Price of and Dividends on the Registrant’s Common Equity and Related Stockholder Matters	Stock performance graph not required.
302 – Supplementary Financial Information	Not required.
303 – Management’s Discussion and Analysis of Financial Condition and Results of Operations (“MD&A”)	Two-year MD&A comparison rather than three-year comparison. Two year discussion of impact of inflation and changes in prices rather than three years. Tabular disclosure of contractual obligations not required.

Regulation S-K	
Item	Scaled Disclosure Accommodation
305 – Quantitative and Qualitative Disclosures About Market Risk	Not required.
402 – Executive Compensation	<p>Three named executive officers rather than five.</p> <p>Two years of summary compensation table information rather than three.</p> <p>Not required:</p> <ul style="list-style-type: none"> • Compensation discussion and analysis. • Grants of plan-based awards table. • Option exercises and stock vested table. • Pension benefits table. • Nonqualified deferred compensation table. • Disclosure of compensation policies and practices related to risk management. • Pay ratio disclosure.
404 – Transactions With Related Persons, Promoters and Certain Control Persons	Description of policies/procedures for the review, approval or ratification of related party transactions not required. <i>SRCs must comply with this disclosure requirement, which is greater than the similar requirement for non-SRCs; see discussion following this table.</i>
407 – Corporate Governance	<p>Audit committee financial expert disclosure not required in first annual report.</p> <p>Compensation committee interlocks and insider participation disclosure not required.</p> <p>Compensation committee report not required.</p>
503 – Prospectus Summary, Risk Factors and Ratio of Earnings to Fixed Charges	<p>No ratio of earnings to fixed charges disclosure required.</p> <p>No risk factors required in Exchange Act filings.</p>
601 – Exhibits	Statements regarding computation of ratios not required.

Regulation S-X	
Rule	Scaled Disclosure
8-02 – Annual Financial Statements	Two years of income statements rather than three years. Two years of cash flow statements rather than three years. Two years of changes in stockholders’ equity statements rather than three years.
8-03 – Interim Financial Statements	Permits certain historical financial data in lieu of separate historical financial statements of equity investees.
8-04 – Financial Statements of Businesses Acquired or to Be Acquired	Maximum of two years of acquiree financial statements rather than three years.
8-05 – Pro forma Financial Information	Fewer circumstances under which pro forma financial statements are required.
8-06 – Real Estate Operations Acquired or to Be Acquired	Maximum of two years of financial statements for acquisition of properties from related parties rather than three years.
8-08 – Age of Financial Statements	Less stringent age of financial statements requirements.

Note that Item 404 of Regulation S-K includes the following expanded disclosure requirements that apply to SRCs: (1) rather than a simple \$120,000 disclosure threshold, the SRC disclosure threshold is the lesser of \$120,000 or 1% of total assets; (2) disclosure is required about underwriting discounts and commissions where a related person is a principal underwriter or a controlling person or member of a firm that was or is going to be a principal underwriter; (3) disclosure is required about the company’s parent(s) and their basis of control; and (4) an additional year of Item 404 disclosure is required in filings other than registration statements. SRCs [must comply](#) with these disclosure requirements, and cannot choose instead to comply with the less rigorous disclosure requirements that apply to companies that are not SRCs.

Foreign Private Issuers as SRCs

Foreign private issuers should be aware that the 2020 SEC amendments to the definitions of “accelerated filer” and “large accelerated filer” added a new instruction to the definition of “smaller reporting company” to clarify the position of the staff of the Division of Corporation Finance that foreign private issuers that meet the required thresholds and other qualifications can avail themselves of these amendments only if they file on domestic forms and present their financial statements pursuant to U.S. GAAP.

Requalification as a SRC

A company that has previously failed to qualify as a SRC under the initial qualification tests above will remain unqualified until the company determines that its public float (or public float and annual revenues) have fallen below the requalification thresholds in Rule 12b-2. These are set at 80% of the initial qualification thresholds. Specifically, once a company determines that it does not qualify for SRC status, it will remain unqualified unless when making a subsequent annual determination either:

- The company determines that its public float is less than \$200 million; or
- The company determines that its public float and its annual revenues meet the requirements for subsequent qualification included in the following table:

Prior Annual Revenues (for the fiscal year before the most recently completed fiscal year)	Prior Public Float (as of the second quarter of the fiscal year before the most recently completed second fiscal quarter)			
	None or less than \$700 million		\$700 million or more	
Less than \$100 million	Neither threshold exceeded; company remains a SRC.		Public float required: (as of the most recent second fiscal quarter)	Less than \$560 million; and
			Revenues required: (for the most recently completed fiscal year)	Less than \$100 million.
\$100 million or more	Public float required: (as of the most recent second fiscal quarter)	None or less than \$700 million; and	Public float required: (as of the most recent second fiscal quarter)	Less than \$560 million; and
	Revenues required: (for the most recently completed fiscal year)	Less than \$80 million.	Revenues required: (for the most recently completed fiscal year)	Less than \$80 million.

Additional Information

The Goodwin client alerts "[*SEC Expands Smaller Reporting Company Eligibility*](#)" (July 9, 2018) and "[*SEC Amendments Exempt More Smaller Reporting Companies from SOX 404\(B\) and Accelerated Filing Deadlines*](#)" (March 25, 2020) discuss SRC qualification and re-qualification matters. The SEC's Small Entity Compliance Guide "[*Amendments to the Smaller Reporting Company Definition*](#)" provides helpful information about SRC status.

Contacts

For questions, please [contact](#) any member of our Public Company Advisory Practice and let us know how we can help.