

# SEC in Focus

Quarterly summary of current SEC activities

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## Trends in 2024 SEC staff comment letters

The staff of the Securities and Exchange Commission (SEC) continued to focus on many of the same topics as last year in comment letters issued to registrants about their disclosures in periodic SEC filings in the year ended 30 June 2024. Management’s discussion and analysis (MD&A) and non-GAAP financial measures continued to draw the most scrutiny from the SEC staff, followed by segment reporting, revenue recognition, goodwill and intangible assets, and business combinations.

The volume of staff comment letters issued on periodic reports remained consistent with last year, when it was significantly higher compared with each of the previous four years. The average number of comment letters (or rounds of comments) the SEC staff issued for each topic to resolve its concerns also was consistent with last year but remained elevated compared to historical levels.

Looking ahead, we expect the SEC staff to continue to focus on the topics mentioned above. The SEC staff may also expand its comments to other financial reporting topics, including disclosures made in response to recently issued SEC rules and financial accounting standards. These areas could include cybersecurity, clawbacks, segment reporting and disclosures on supplier finance programs.

In addition, the SEC staff may also focus on areas of emerging risk, such as artificial intelligence and crypto assets.

## SEC rulemaking updates

### SEC amends reporting requirements for certain investment companies

The SEC amended Form N-PORT and Rule 30b1-9 of the Investment Company Act of 1940 (1940 Act) to require registered investment companies to provide monthly rather than quarterly reporting and to provide such reporting within 30 days after the end of each month rather than the current requirement to file within 60 days of quarter end. The reports, which will include disclosures of portfolio holdings, will be made public 60 days after the end of each month.

## EY resources

- ▶ [SEC Reporting Update – highlights of trends in 2024](#)  
[SEC staff comment letters](#)

Additionally, open-end funds subject to Rule 22e-4 under the 1940 Act (the liquidity rule) need to report information on Form N-CEN about the service providers used to fulfill liquidity rule requirements (e.g., certain identifying information about the liquidity service providers and the asset classes for which the liquidity service providers are used).

The SEC also published liquidity rule interpretive guidance on (1) the frequency of classifying the liquidity of fund investments, (2) the meaning of cash in the liquidity rule, and (3) determining and reviewing highly liquid investment minimums.

The amendments will be effective 17 November 2025. Fund groups with net assets of less than \$1 billion have until 18 May 2026 to comply with the Form N-PORT amendments.

## Other SEC matters

### SEC approves certain PCAOB new and amended standards and amended rule

The SEC approved the following new and amended standards and amended ethics rule adopted by the Public Company Accounting Oversight Board (PCAOB):

- ▶ New Quality Control Standard, QC 1000, *A Firm's System of Quality Control*, and related amendments
- ▶ New Auditing Standard, AS 1000, *General Responsibilities of the Auditor in Conducting an Audit*, and related amendments
- ▶ Amended standard related to the use of technology-assisted analysis in conducting an audit
- ▶ Amended ethics rule governing the liability of an associated person

In its **order** related to QC 1000, the SEC encouraged the PCAOB to provide further implementation guidance on the related amendments in general and to the new external quality control function role in particular. The SEC **stated** in its order related to the amended standard on the use of technology-assisted analysis that the amendments do not preclude a risk-based approach to testing external information, and it encouraged the PCAOB to provide further implementation guidance on this point.

## Enforcement activities

### Transfer agent charged with failing to protect client funds against cyber intrusions

The SEC charged a registered transfer agent with failure to provide the safeguards necessary to protect client securities and funds against theft or misuse. The SEC alleged in its order that unknown threat actors were able to access and liquidate client funds in two unrelated cybersecurity incidents.

In one incident, an unknown threat actor hijacked a pre-existing email chain between the company and a US-based public-issuer client. While pretending to be the client, the threat actor instructed the company to transfer millions of new shares of the issuer, liquidate those shares and send the proceeds to an overseas bank.

In another incident, an unknown and apparently different threat actor used stolen Social Security numbers of certain company accountholders to create fake accounts that were automatically linked to real client accounts based solely on the matching Social Security numbers, despite the other personal account information not matching that of the legitimate accounts. This allowed the threat actor to liquidate securities held in the legitimate accounts and transfer the proceeds to external bank accounts.

Without admitting or denying the SEC's findings, the company agreed to a cease-and-desist order and to pay a civil penalty of \$850,000.

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When a company speaks to an issue in its annual report, they are required to provide information necessary for investors to get the full picture on that issue so that investors can make educated investment decisions.

— John T. Dugan, Associate Director of the SEC’s Boston Regional Office

### **Beverage company charged with making inaccurate statements regarding product recyclability**

The SEC charged a beverage company with making inaccurate statements in annual reports filed with the SEC regarding the recyclability of its single-use beverage pods.

The SEC alleged in its order that a subsidiary of the company performed tests at various recycling facilities in the US and Canada beginning in 2016 in part to address concerns in the recycling industry that small items, like its pods, could not be processed and recycled at recycling facilities. The SEC said two of the largest recycling companies in the US, which were both involved in the testing, conveyed significant negative feedback to the company regarding the commercial feasibility of curbside recycling of pods at the time. These recycling companies also indicated that they did not at the time intend to accept pods at their own recycling facilities.

The SEC further alleged that the company’s statements included in two Form 10-K filings that the company’s extensive testing validated the recyclability of the pods were incomplete and inaccurate because the company did not also disclose the negative feedback received from the recycling companies.

Without admitting or denying the SEC’s findings, the company agreed to a cease-and-desist order and to pay a \$1.5 million civil penalty.

### **SEC charges former executives of online pharmacy with defrauding investors**

The SEC charged three former executives of a now-defunct online pharmacy startup with defrauding investors in connection with capital raising efforts by providing financial information that fraudulently overstated the company’s revenue and revenue growth, due in part to millions of dollars’ worth of fake prescriptions.

The SEC alleged in its complaint that the company’s former chief executive officer and former chief financial officer knew of significant accounting irregularities but failed to correct them, and they were aware of several reports and complaints by employees that the revenue reported in the company’s financial statements provided to investors was inaccurate.

The SEC seeks permanent injunctions, disgorgement of ill-gotten gains, civil penalties, and an officer and director bar.

### **SEC charges former SPAC with accounting, reporting and control failures**

The SEC charged a former special purpose acquisition company (SPAC) in the oil and gas industry with financial reporting, accounting and internal controls violations that resulted in a multi-year restatement of its financial statements and material weaknesses in its internal control over financial reporting. The SEC alleged in its order that the significant accounting errors were caused by pervasive, systemic deficiencies traceable to the SPAC’s original target companies and their legacy practices before they were acquired by the SPAC.

Without admitting or denying the SEC’s findings, the company agreed to a cease-and-desist order and to pay an initial civil penalty of \$400,000. If the company fails to comply with the undertakings in the SEC’s order, the company agrees to pay an additional penalty of \$1.2 million.

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