

Rule 3-13 waiver

SEC Rule 3-13 waiver requests during the government shutdown

October 2025



The SEC releases a Q&A on requests for emergency relief under Rule 3-13 during the government shutdown.

Source and applicability

- Public companies including domestic and foreign private issuers
- Companies that have filed or will be filing registration statements in public offerings during the government shutdown

Fast facts, impacts, actions

On October 1, 2025, the SEC closed, except for limited essential personnel, as a result of the partial US federal government shutdown.

During the shutdown, waiver requests under Rule 3-13¹ of Regulation S-X will only be considered by the staff of the SEC's Division of Corporation Finance (Corp Fin) in emergency situations. Specifically, under the Antideficiency Act² (the Act) federal agencies are prohibited from providing ongoing, regular functions except for emergencies involving the protection of property.³

Emergency waiver requests

Corp Fin issued [Questions and Answers](#) (Q&As) to help companies and their advisors with certain filing matters during the government shutdown. Question 10 in the Q&As relates to emergency Rule 3-13 waiver requests.

Companies that have an open Rule 3-13 waiver request or plan to submit a waiver request during the government shutdown are advised to evaluate their facts and circumstances first to determine if there is an emergency that involves the protection of property within the content of the Act.

While the Act does not explicitly define property, it references property that the government:

- owns;
- has some responsibility for; or
- has an immediate interest in or some duty to perform.

Because this requires legal interpretation, a company's legal counsel should be involved in determining whether an emergency exists and whether a waiver request under the Act should be submitted.

If a company and its legal counsel conclude it is appropriate to submit an emergency waiver request, the request should include the following information, explained in the context of the Act:

- a description of the emergency; and
- the significant property interests to be protected.

Emergency requests should be submitted to CFEmergency@sec.gov and describe the emergency and the significant property interest to be protected.

Because only essential personnel are working, Corp Fin may consider only requests that demonstrate an imminent threat to the protection of property under the Act. Similar to Rule 3-13 requests during normal operations, not all requests will be granted.



In our view, when considering the duties of Corp Fin, the Act set a very high hurdle for companies to demonstrate that an imminent threat to property exists that would qualify as an emergency.

We anticipate only extreme or unusual circumstances will ultimately be considered by Corp Fin during the shutdown. For example, we would not expect a company's capital raising activity to be an emergency because alternative funding sources exist – e.g. debt or private funding.

Additional Corp Fin Q&As

The ongoing, regular duties of Corp Fin focus on ensuring that investors have material information so they can make informed investment decisions. Corp Fin also provides interpretive assistance to companies about SEC rules and regulations. However, the Q&As clarify that during a government shutdown Corp Fin staff will be unable to review or respond to requests for written or oral guidance on legal and interpretive matters. This includes any written requests for no-action, interpretive and exemptive letters concerning legal issues under federal securities laws.

Nevertheless, the Q&As offer answers about transactions affected by the shutdown, including:

- updating information prior to commencing an offering;
- pricing an offering within the 15-day rule for an effective registration statement;
- removing the delaying amendment language;
- filing a new registration or offering statement;
- filing of proxy materials; and
- undertaking a shelf takedown.

Contact us

Timothy Brown
Partner, Dept. of Professional
Practice, KPMG US
tdbrown@kpmg.com

Erin McCloskey
Partner, Dept. of
Professional Practice
emccloskey@kpmg.com

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- ¹ [Rule 3-13](#), Filing of other financial statements in certain cases, allows the SEC staff to modify or waive financial statement requirements of the federal laws.
 - ² [Principles of Federal Appropriations Law](#): Third Edition, Volume II, Chapter 6, Availability of Appropriations; Amounts; Section C, Antideficiency Act. Published by the United States General Accounting Office, February 1, 2006, and updated March 2015 at <https://www.gao.gov/assets/2019-11/668991.pdf>.
 - ³ 31 U.S. [Code Section 1342](#), Limitation on voluntary services

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