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Foreign Private Issuers Escape Potential Section 16 Reporting Obligations ... For Now

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Foreign private issuers (FPIs) may have dodged a bullet on December 7 after Congress [scrapped](#) a [proposal](#) to impose the reporting obligations under Section 16 of the Exchange Act of 1934, as amended (Exchange Act), on FPIs that had been included in the [National Defense Authorization Act for Fiscal Year 2024](#). The proposal threatened to eliminate the FPI exemption from Section 16 of the Exchange Act.

This development is a reprieve for FPIs, as the amendment would have placed significant administrative burdens on FPIs and their directors, officers, and 10% shareholders (insiders). Specifically, it would have obligated FPI insiders to file Forms 3, 4, and 5 with the SEC, which would detail their transactions in company securities. FPIs and their insiders have historically been exempt from such reporting requirements. The proposal also would have exposed FPI insiders to potential liability under Section 16(b) for “short-swing” profits earned from buying or selling their company’s registered securities.

While this is a win for FPIs and their insiders, they aren’t completely out of the woods. The legislation, originally proposed as a stand-alone Senate bill known as the [Holding Foreign Insiders Accountable Act](#), could move independently or again find itself attached to another must-pass bill. We will continue to monitor this legislation and any developments that may impact the Section 16 reporting obligations of FPIs and their insiders.

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