July 29, 2026

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

Re: Registered Offering Reform (File No. S7-2026-17)

Dear Ms. Countryman:

The National Association of Manufacturers ("NAM") and the Equipment Leasing & Finance Association ("ELFA") appreciate the opportunity to comment on the Commission's proposed amendments to its rules and forms governing registered offerings.

As the largest manufacturing association in the United States, the NAM's membership includes businesses of all sizes, across all industrial sectors, and in all 50 states. Manufacturers employ nearly 13 million men and women and collectively contribute $2.94 trillion to the U.S. economy. The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States—and registered offerings are critical to sustain the manufacturing strength that underpins our nation's prosperity.

ELFA represents the $1.3 trillion equipment finance sector, which plays a vital role in supporting economic growth and innovation across the United States by financing the acquisition of all types of equipment, from construction and agricultural machinery to state-of-the-art medical technology and to the trucks and rail cars that keep goods moving across America. Our over 600 member companies include manufacturing captive leasing and finance companies, banks, independents, financial services firms, brokers, investment banks, and service providers. ELFA's diverse membership supports virtually every type of equipment financing transaction conducted in the United States.

Our shared members include manufacturing companies that currently rely on their Well-Known Seasoned Issuer ("WKSI") status to use automatic shelf registration statements on Form S-3ASR ("ASR") to conduct offerings over time when market conditions are most favorable. These companies use the capital raised from these shelf offerings to invest in research and development, new equipment, job creation, and worker benefits. In addition, some of our members have captive finance subsidiaries that qualify for WKSI status under Rule 405 of the

Securities Act of 1933 because they have issued at least $1 billion of non-convertible debt securities in registered offerings over the prior three years. These finance arms use these debt securities to more efficiently finance the operations of their customers, dealers, parents, and affiliates.

The NAM and ELFA support the Commission's goal to extend the registration and offering communication flexibilities currently enjoyed by WKSIs to a broader set of companies, which would qualify either as an Eligible Listed Issuer ("ELI") or a Seasoned Eligible Listed Issuer ("SELI"). We also agree that Form S-3's eligibility criteria should be reformed to enable a greater number of companies to conduct shelf offerings, and we support the proposed preemption of state securities law registration and qualification requirements for all registered offerings. Notwithstanding this support, we propose that there is a critical issue with the Proposed Rule that requires revision before it is adopted.

I. The Proposed Rule Would Strip Registered Debt Issuers of Their Current WKSI Status Benefits Without a Showing of Investor Harm

Given the Proposed Rule's intent to expand the number of companies that would qualify for the enhanced registration and communication benefits now enjoyed by WKSIs, the NAM and ELFA are concerned that manufacturers' captive finance subsidiaries and other finance affiliates would lose WKSI benefits, including ASR eligibility.[1] These companies currently qualify as WKSIs because they have issued at least $1 billion in registered non-convertible securities in primary offerings for cash during the prior three years. Many are wholly owned by publicly traded manufacturers or other public companies. Although they do not generally participate in joint debt offerings with their corporate parents, they are frequent and seasoned issuers of debt with established reporting and disclosure histories.

The Proposed Rule would eliminate the registered debt qualification under the WKSI framework and effectively require issuers to have at least one class of common equity listed on a national exchange to maintain their WKSI communication and registration benefits. Consequently, a finance company that today qualifies as a WKSI solely based on its debt offerings and does not have registered common equity would not qualify independently under the Proposed Rule's ELI or SELI categories. These design elements are inherent in the structure of captive finance companies.

The loss of WKSI status benefits, including ASR eligibility, would not materially affect the mechanics of individual takedowns from an effective shelf registration statement. It would, however, increase the time and expense required to obtain, renew, and maintain effective shelf registration statements, reducing offering readiness and impairing issuers' ability to access the market efficiently on short notice in response to funding needs or favorable market conditions.

[1] The rulemaking estimates that "184 WKSIs could potentially lose some of the Enhanced Registration and Communication Benefits because they would not be ELIs under the proposed amendments." Proposed Rule, Registered Offering Reform, File No. S7-2026-17, at 215 and footnote 503.

As Robert Giannattasio of Gibson Dunn,[2] who represents an automaker's captive finance company, explained in his comment letter:

> *Loss of ASR eligibility is a substantive detriment, not a technical one. An ASR becomes effective immediately upon filing; permits registration of securities by class without specifying a maximum aggregate offering amount; allows registration fees to be paid on a "pay-as-you-go" basis at the time of each takedown; and is accompanied by the broadest pre- and post-filing communication flexibility. For a frequent issuer of registered debt whose funding program depends on the ability to access the market quickly and opportunistically, these features are critical to efficient capital formation. The detriment would be most acute at each three-year shelf renewal and in any circumstance requiring a shelf to be refreshed or replaced on short notice, where a non-automatic Form S-3 would not become effective upon filing and could be subject to lengthy staff review.*

The Proposed Rule does not point to any incidents of investor harm or provide any other investor protection justifications for depriving debt-issuing finance companies of their current WKSI benefits, including their use of ASR registration statements. The buyers of these finance companies' debt securities are typically sophisticated institutions, and the Proposed Rule does not assert a justification for requiring additional Commission staff review of their Form S-3 filings. In addition, these debt issuances already are subject to scrutiny from rating agencies, underwriters, and analysts. The vast majority of what is included in an S-3 is what is already in the issuer's '34 Act reports as it is incorporated by reference. Since those filings are the SEC's primary focus of review, there is little investor protection benefit to be gained, if any, by stripping seasoned reporting companies of their ASR benefits.

In the Proposed Rule, the Commission observes that a registered debt issuer that loses ASR eligibility could choose to rely on a parent co-registration structure or another accommodation. However, co-registration would increase the time and expense associated with establishing and maintaining shelf registration capacity and would require additional governance, diligence, disclosure, and approval processes involving the parent company. Co-registration also would undo the strategic advantages of the current separate structure used by the parents and their subsidiaries and potentially expose the parents to Securities Act liability with respect to the subsidiary's offerings. Finally, co-registration would not result in any additional information or protection for investors, as the parent company would not be a guarantor of its subsidiary's debt securities, and co-registration could create confusion regarding the parent's role and lead some investors to incorrectly infer that the parent is a guarantor.

The Commission also observes that a registered debt issuer that loses WKSI status (and ASR eligibility) could opt to list shares on a national exchange.[3] While the NAM and ELFA appreciate the recent efforts of the Commission to try to reduce the costs of becoming a public company,

[2] Comment Letter of Gibson Dunn on File No. S7-2026-17 (15 July 2026) at 3.

[3] Proposed Rule, *supra* note 1, at 215.

there still are significant costs associated with listing shares and remaining public. Debt issuers, particularly those that already have debt securities listed on national exchanges, should not have to go through a costly process to list equity shares just to maintain the ASR benefits that they now have in addition to the overall WKSI benefits package, including access to pay-as-you-go registration and the parts of Rule 430B tied in with WKSI status.

II. Recommended Changes to the Proposed Rule

The NAM and ELFA support the two alternative policy approaches outlined in the comment letter from Gibson Dunn:

1. Recognize exchange-listed debt as a qualifying avenue (for ELI or SELI eligibility).
2. Retain a registered debt issuance pathway (with the Commission setting a higher eligibility threshold such as $3 billion in non-convertible securities over the past three years).[4]

If the Commission does not opt for either approach, the NAM and ELFA urge the Commission to exempt existing captive finance companies and other debt issuers that currently have WKSI status based on their record of issuing more than $1 billion in registered non-convertible securities. Given the Proposed Rule's overarching policy goal to expand the ability of companies to raise capital via shelf offerings, the Commission would not enhance investor protection or promote capital formation if it were to take away the ability of captive finance companies and other seasoned debt issuers to continue to use ASRs.

[4] Gibson Dunn Letter, *supra* note 2, at 5.

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The NAM and ELFA appreciate the Commission's efforts to modernize its registered offering rules and expand access to shelf offerings. We respectfully urge the Commission to reconsider the impact on seasoned registered debt issuers. Manufacturers are committed to working with the Commission to further the Proposed Rule's intent of expanding access to shelf registration statements while avoiding the negative consequences that registered debt issuer subsidiaries would face by losing their WKSI status benefits. Meaningful access to registered offerings is critical to sustaining the manufacturing strength on which our nation's prosperity depends.

Sincerely,

C. Edward Allen
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Jake Kuhns
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National Association of Manufacturers

Susan Sullivan Kinney
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CC: Chairman Atkins
Commissioner Peirce
Commissioner Uyeda