# Securities Law and UAP Disclosure: Contractor Disclosure Duties, Classified Information, and Insider Trading

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## Key points

- Contractors may omit classified information from filings under SEC Rules 171 and 0-6, but statements they do make must not be misleading (Rule 12b-20).
- Silence about classified work is not actionable under Rule 10b-5(b); half-truths are (*Macquarie*). Avoid denials.
- Officials, contractor employees, and their tippees who trade securities or event contracts on nonpublic UAP information violate Rule 10b-5, the STOCK Act, and 7 U.S.C. §6c(a)(4).
- A coming disclosure that names the company can be material before it happens (*Basic*); impose blackouts (Form E4-1) and prepare 8-K language (Form E4-2).
- Event contracts on UAP disclosure turn on resolution rules and are caught in unresolved federal-state preemption fights.

## 1. Summary

A disclosure that the government holds non-human technology, and that particular contractors have worked on it, could move markets: defense and aerospace stocks, energy companies, and firms whose business could be disrupted. Three sets of questions arise for public companies and investors.

1. **Disclosure duties of contractors.** Securities law requires public companies to disclose material information in periodic reports, but classified information cannot be disclosed. Companies resolve the conflict by describing classified business in general terms and relying on Exchange Act §13(b)(3)(A), which exempts from the books-and-records and internal-accounting provisions any matter concerning national security when the head of a federal agency so directs in writing (15 U.S.C. §78m(b)(3)(A)). The exemption is narrow. It relieves only "duty or liability under paragraph (2)" (the books-and-records and internal-controls provisions), only for acts done "upon the specific, written directive of the head of

such department or agency pursuant to Presidential authority," each directive must "set forth the specific facts and circumstances," and a directive expires after one year unless renewed in writing. It does not touch the antifraud provisions or the duty to avoid misleading statements in periodic reports. Each agency head who issues such a directive must keep a file of them and send a summary of the matters covered to the House and Senate intelligence committees every October 1 (§78m(b)(3)(B)), so the committees can learn which companies have been excused from books-and-records duties on national security grounds. Misstatements about UAP-related programs (for example, denying involvement while performing classified work) could create antifraud exposure under Rule 10b-5.

2. **Insider trading.** Persons who trade on material nonpublic information about an impending disclosure, or about a company's role in UAP programs, in breach of a duty (employees, contractors, government officials who are subject to the STOCK Act, tippees) violate §10(b) and Rule 10b-5. *United States v. O'Hagan*, 521 U.S. 642 (1997) (misappropriation theory); *Salman v. United States*, 580 U.S. 39 (2016) (tipping). The STOCK Act (Pub. L. 112-105) confirms that members of Congress and federal employees owe a duty with respect to nonpublic information derived from their positions. Information received in classified briefings about UAP programs falls within that duty.

3. **Market disruption.** A sudden official announcement could produce extreme volatility. Exchange circuit breakers and SEC emergency authority (Exchange Act §12(k), 15 U.S.C. §78l(k)) apply. Coordination of the timing of any announcement with market hours is a policy question for the executive.

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## 2. Contractor disclosure

- **Regulation S-K Item 101 (business), Item 103 (legal proceedings), Item 105 (risk factors), Item 303 (MD&A)** require disclosure of material information. Companies with classified work typically disclose the existence of classified programs and their aggregate revenue in general terms.
- **Classified information**: disclosure is limited by national security law; companies may omit classified details, but statements they do make must not be misleading. A company that publicly denies any UAP program while performing one risks Rule 10b-5 liability if the statement is material and the company had a duty to speak or chose to speak.
- **SEC rules on classified information.** Securities Act Rule 171 and Exchange Act Rule 0-6 (17 C.F.R. §§230.171, 240.0-6) provide that, "[a]ny requirement to the contrary notwithstanding," no registration statement, report, or proxy statement "shall contain any document or information which, pursuant to Executive order, has been classified." The registrant must submit the material to the classifying agency before filing and file, in place of the omitted material, the agency's written statement that it "has been classified or that the status thereof is awaiting determination" (§240.0-6(b), (d)). Where the agency determines that information on the subject may be disclosed, the agency's statement to that effect is submitted to the Commission, and the registrant "may rely upon any such

statement in filing or omitting" the information (§240.0-6(b)). The rules are the mechanism by which a contractor can omit classified UAP program information from a filing without violating disclosure requirements, but they do not displace Rule 12b-20, which requires "such further material information … as may be necessary to make the required statements … not misleading" (17 C.F.R. §240.12b-20). A contractor that omits classified program detail should describe the omission in general terms (classified work exists and is material, or is not) and should obtain the agency statement Rule 0-6 contemplates. No reported decision applying Rule 0-6 or Rule 171 has been found; the rules date from 1968 (33 Fed. Reg. 7682).

- **Post-disclosure**: once the government acknowledges programs and identifies participants, companies will face questions on the financial impact (contract terms, title to material, IP, liabilities under Issues D2, D5, E1). Risk factors should be updated promptly.
- **Event-driven disclosure (Form 8-K)**: material contracts or government actions (for example, a taking of company-held material under H.R. 8800 §1767) may require Form 8-K filings.

### 2.1 Silence, half-truths, and the duty to update

A company that says nothing about classified UAP work is in a stronger position than one that speaks. "Pure omissions are not actionable under Rule 10b-5(b)": the rule reaches statements made misleading by what they leave out (half-truths), not silence in circumstances that give it no particular meaning. *Macquarie Infrastructure Corp. v. Moab Partners, L.P.*, 601 U.S. 257, 263-64 (2024). Private claims remain available for half-truths, including those created when a required disclosure is omitted from statements the company did make (*id.* at 266). For a contractor the consequence is practical: a statement such as "we have no programs involving unidentified anomalous phenomena," or a description of a business segment that implies the full picture, can be actionable if it was materially misleading; refusing to comment on classified work generally is not.

Materiality of a possible future event, such as a disclosure that may or may not happen, depends on "a balancing of both the indicated probability that the event will occur and the anticipated magnitude of the event in light of the totality of the company activity." *Basic Inc. v. Levinson*, 485 U.S. 224, 238 (1988). A credible signal that the government will name a contractor in a UAP disclosure can be material even before it happens.

### 2.2 Delay for national security: the Item 1.05 model

The SEC's 2023 cybersecurity rule shows how securities law can accommodate national security timing. A company that must report a material cybersecurity incident on Form 8-K (Item 1.05) may delay the filing if the Attorney General determines that disclosure would pose a substantial risk to national security or public safety and so notifies the Commission. No comparable mechanism exists for a UAP disclosure event. A contractor that the government asks to hold an announcement should get the request in writing and should ask the SEC staff, through counsel, how it will treat the delay; a disclosure statute could add an Item 1.05-type provision.

### 2.3 Regulation FD and board oversight

Once a contractor knows of a disclosure event that affects it, Regulation FD (17 C.F.R. §243.100) bars selective disclosure to analysts or investors before public disclosure; briefings to customers and

government officials are not covered, but calls with investors are. Directors also have an oversight duty: a board that ignores red flags about a program carrying legal and financial risk faces a claim under *In re Caremark International Inc. Derivative Litigation*, 698 A.2d 959 (Del. Ch. 1996). A board with cleared members should receive periodic classified briefings on any UAP-related exposure, documented in unclassified minutes at a general level.

### 2.4 Whistleblowers

Employees who report securities violations to the SEC may receive awards when sanctions exceed $1 million and are protected from retaliation (15 U.S.C. §78u-6; Issue C1). Company policies must not impede those reports (SEC Rule 21F-17(a); Form E4-1 §10).

## 3. Insider trading around disclosure

- Officials who receive classified briefings (members of Congress, staff, executive officials) and trade on that information violate the STOCK Act and Rule 10b-5.
- Contractor employees with knowledge of company UAP work or of an impending announcement are insiders.
- Persons outside government who receive tips from insiders are liable if the tipper breached a duty for a personal benefit and the tippee knew or should have known.
- **Prediction markets.** Event contracts on UAP disclosure have been listed on public platforms. Contracts listed on a CFTC-designated contract market are subject to CFTC Rule 40.11, which bars contracts that involve "terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law" and allows a 90-day review of contracts that may fall in those categories (17 C.F.R. §40.11(a), (c)). A contract on whether the government will confirm NHI does not fit those categories on its face. Whether state gambling law can reach event contracts listed on a CFTC-regulated exchange is now split among the circuits: the Third Circuit affirmed a preliminary injunction against New Jersey's enforcement on the ground that the Commodity Exchange Act likely preempts it, *KalshiEX LLC v. Flaherty*, No. 25-1922 (3d Cir. Apr. 6, 2026), while the Ninth Circuit affirmed the dissolution of an injunction against Nevada as to sports event contracts, *KalshiEX, LLC v. Assad*, No. 25-7516 (9th Cir. Aug. 28, 2026), and the Sixth Circuit affirmed Ohio's denial of an injunction and vacated a Tennessee injunction, *KalshiEX LLC v. Orgel*, No. 26-5235 (6th Cir. Sept. 25, 2026) (also reported as *KalshiEX LLC v. Schuler*, 2026 WL 2884087). All three cases concern sports contracts; their reasoning on field and conflict preemption would govern a state challenge to UAP contracts. The federal government has since joined the fight on the exchanges' side: the United States and the CFTC sued Minnesota over a statute criminalizing prediction markets, and the court preliminarily enjoined it, finding the plaintiffs likely to succeed at least in part on express preemption. *United States v. Minnesota*, No. 26-cv-2661, 2026 WL 2150211 (D. Minn. July 27, 2026) (consolidated with suits by KalshiEX and Polymarket US). Tribal challenges under the Indian Gaming Regulatory Act are also pending in the Ninth Circuit.
- **Resolution risk on event contracts.** A disclosure contract will turn on its resolution rules: what counts as the government "confirming" NHI, who decides, and what happens on

ambiguous news. The Khamenei litigation shows the problem. When the Supreme Leader was killed on February 28, 2026, the exchange halted trading only after reports had circulated for hours and then invoked a "death carveout" that paid holders of "yes" positions on his leaving office a nominal amount based on the last price before his death; the holders sued for breach of contract and fraud, alleging the carveout was not adequately disclosed. *Risch v. KalshiEX LLC*, No. 2:26-cv-02390, 2026 WL 1708888, at *1-2 (C.D. Cal. June 3, 2026) (transferring the case to S.D.N.Y., where* Golan v. KalshiEX LLC*, No. 1:26-cv-02394, is pending). The exchange's member agreement sent disputes to arbitration under its rulebook,* id. *at* 1. Clients trading UAP contracts should read the full rule set, including carveouts and the exchange's discretion to halt or settle at a prior price, before trading on any expected announcement.

- **Trading event contracts on government information.** The Commodity Exchange Act has its own rule for government insiders. It is unlawful for a federal employee, Member or employee of Congress, or judicial officer or employee who acquires nonpublic information "by virtue of" that position, information that may affect the price of a commodity or "any swap," to impart it "for personal gain with intent to assist another person" to trade a futures contract, option, or swap; it is unlawful for the recipient "to knowingly use" it; and it is unlawful for "any person to steal, convert, or misappropriate" such government information. 7 U.S.C. §6c(a)(4)(A)-(C). CFTC Rule 180.1 adds a general anti-fraud prohibition reaching "any swap, or contract of sale of any commodity" (17 C.F.R. §180.1(a)). An official who learns the date of an announced disclosure from a classified briefing and tips a friend who buys "yes" contracts would violate §6c(a)(4)(A), and the friend would violate §6c(a)(4)(B), if the contracts are swaps or options under the Act.

## 4. Practice points

- Contractor counsel: review public statements about UAP for accuracy; coordinate with the government on disclosure of classified program information; prepare 8-K and risk-factor language for a disclosure event; impose trading blackouts for employees with knowledge of UAP programs.
- Counsel to officials: advise that classified UAP information is material nonpublic information.
- Investors: be cautious about claims of "UAP exposure" in promotional materials; such claims may be securities fraud if false.