

Securities and Capital Markets Blog

PRACTICAL SECURITIES LAW

Quick Reference Compliance Date Calendar For Recently Adopted SEC Rules

August 31, 2023

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Keeping track of all the effective dates of the flood of recent Securities and Exchange Commission (SEC) rulemakings is almost a full time job. To assist our clients and friends with keeping track of these deadlines, here is a quick reference compliance date calendar for some of the key rules recently adopted by the SEC. For ease of reference, we are presenting the compliance date calendar with respect to “accelerated filers” (AF) or “large accelerated filers” (LAF).

Except as otherwise indicated:

- Green rows are rules currently in effect and compliance is required
- Yellow rows are rules adopted but compliance will be required in the future

| Rule | SEC Adoption Date | Compliance Date | High Level Overview of the Rule |
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| Universal Proxy Rules (Exchange Act Rule 14a-19) | Adopted November 2021 (effective January 2022) | The rule amendments regarding universal proxy will apply to all shareholder meetings involving contested director elections held after August 31, 2022. | The rules require the use of universal proxy cards by management and shareholders soliciting proxy votes for their candidates in director election contests. |
| Universal Proxy | Adopted | The rule | The rules require |

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| <p>Rules</p> <p>(Exchange Act Rule 14a-19)</p> | <p>November 2021 (effective January 2022)</p> | <p>amendments regarding voting options will be applicable to all shareholder meetings involving director elections held after August 31, 2022.</p> | <p>that “against” and “abstain” voting options be provided on a proxy card where such options have legal effect under state law. The rules also require disclosure in the proxy statement about the effect of all voting options provided.</p> |
| <p>Pay Versus Performance</p> <p>(Regulation S-K Item 402(v))</p> | <p>Adopted August 2022 (effective October 2022)</p> | <p>The new disclosure requirements will apply to proxy statements for fiscal years ending on or after December 16, 2022.</p> | <p>The rules require that the following be disclosed in the proxy statement: (1) a table disclosing specified executive compensation and financial performance measures, (2) a description of the relationships between each of the financial performance measures included in the table and the executive compensation actually paid to its principal executive officer and, on average, to its other named executive officers, (3) a description of the relationship between the registrant’s total shareholder return and its peer group total shareholder return and (4) a list of three to</p> |

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| | | | seven financial performance measures that the registrant determines are its most important measures. |
| Rule 10b5-1 and Insider Trading (Updates to Rule 10b5-1(c)(1), which provides an affirmative defense to insider trading liability under Section 10(b) and Rule 10b5-1) | Adopted December 2022 (effective February 2023) | The new conditions to the availability of the affirmative defense under Exchange Act Rule 10b5-1(c)(1) became effective on February 27, 2023. | The amended rule adds new conditions to the availability of the affirmative defense under Exchange Act Rule 10b5-1(c)(1), including cooling-off periods for directors, officers, and persons other than issuers. |
| Gift Reporting in Section 16 Filings (Exchange Act Rule 16a-3) (in connection with Rule 10b5-1 and Insider Trading) | Adopted December 2022 (effective February 2023) | Section 16 reporting persons will be required to comply with the disclosure of bona fide gifts of securities for beneficial ownership reports filed on or after February 27, 2023. | The rule requires Section 16 insiders to disclose bona fide gifts of securities on Form 4 within two business days of the gift. |
| Amendments to Forms 4 and 5 (in connection with Rule 10b5-1 and Insider Trading) | Adopted December 2022 (effective February 2023) | Section 16 reporting persons will be required to comply with the updates to Forms 4 and 5 for beneficial ownership reports filed on or after April 1, 2023. | The updates to Forms 4 and 5 require filers to identify transactions made pursuant to a plan that is intended to satisfy the affirmative defense conditions of Rule 10b5-1(c). |

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| <p>Disclosures on Rule 10b5-1 Plans of Directors or Officers</p> <p>(Regulation S-K Item 408(a)) (in connection with Rule 10b5-1 and Insider Trading)</p> | <p>Adopted December 2022 (effective February 2023)</p> | <p>Issuers will be required to comply with the new disclosure requirements in the first Form 10-Q or Form 10-K filing that covers the first full fiscal quarter that begins on or after April 1, 2023.</p> | <p>The new rules require quarterly disclosure on Form 10-Q and Form 10-K of whether any director or officer of a registrant adopted, modified or terminated a Rule 10b5-1 plan or non-Rule 10b5-1 trading arrangement.</p> |
| <p>Disclosure of the Issuer's Insider Trading Policies and Procedures</p> <p>(Regulation S-K Item 408(b)(1)) (in connection with Rule 10b5-1 and Insider Trading)</p> | <p>Adopted December 2022 (effective February 2023)</p> | <p>Issuers will be required to comply with the new disclosure requirements in the first filing that covers the first full fiscal year beginning on or after April 1, 2023.</p> | <p>The new rules require annual disclosure on Form 10-K or in the annual meeting proxy statement of whether the registrant has adopted insider trading policies.</p> |
| <p>Insider Trading Policies and Procedures Exhibit</p> <p>(Regulation S-K Items 408(b)(2) and 601(b)(19)) (in connection with Rule 10b5-1 and Insider Trading)</p> | <p>Adopted December 2022 (effective February 2023)</p> | <p>Issuers will be required to comply with the new exhibit filing requirement in the first Form 10-K filing that covers the first full fiscal year beginning on or after April 1, 2023.</p> | <p>If the registrant has adopted insider trading policies and procedures, the registrant must file such policies and procedures as an exhibit to the Form 10-K.</p> |
| <p>Disclosure Regarding the Grant of Equity Awards Close in Time to the Release of Material Nonpublic Information</p> <p>(Regulation S-K Item 402(x)) (in connection with Rule 10b5-1 and</p> | <p>Adopted December 2022 (effective February 2023)</p> | <p>Issuers will be required to comply with the new disclosure requirements in the first filing that covers the first full fiscal year beginning on or after April 1, 2023.</p> | <p>The new rules require registrants to provide certain annual tabular and narrative disclosures on Form 10-K or in the annual proxy statement regarding awards of options close in time to the release of</p> |

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| Insider Trading) | | | material nonpublic information and related policies and procedures. |
| <p>Issuer Share Repurchase Disclosure</p> <p>(Regulation S-K Items 408, 601 and 703, and Amendments to Forms 10-K and 10-Q)</p> | <p>Adopted May 2023 (effective July 2023)</p> | <p>On hold, please see our Practical Securities Law blog.</p> | <p>The amendments will, among other things, require the following quarterly disclosure on Form 10-Q and Form 10-K: (1) tabular disclosure of an issuers' repurchase activity aggregated on a daily basis, (2) a checkbox preceding its tabular disclosures indicating whether certain officers and directors purchased or sold shares that are the subject of an issuer share repurchase plan or program within four business days before or after the announcement of that plan or program, (3) the objectives or rationales for its share repurchases and the process or criteria used to determine the amount of repurchases, (4) any policies and procedures relating to purchases and sales of the</p> |

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| | | | <p>issuer's securities during a repurchase program by its officers and directors, including any restriction on such transactions, and (5) an issuer's adoption and termination of Rule 10b5-1 trading arrangements.</p> <p>The amendments also eliminate the current requirements in Regulation S-K to disclose monthly repurchase data in periodic reports.</p> |
| <p>Recovery of Erroneously Awarded Compensation (Clawback Rules)</p> <p>(Section 303A.14 of the New York Stock Exchange ("NYSE") Listed Company Manual and Listing Rule 5608 of the NASDAQ Stock Market ("NASDAQ"))</p> | <p>Adopted October 2022 (effective January 2023)</p> | <p>NYSE and NASDAQ listed issuers are required to adopt a compliant written clawback policy no later than December 1, 2023.</p> | <p>The rules will, among other things, require listed issuers to adopt and comply with a compensation recovery policy, often known as a clawback policy.</p> |
| <p>Annual Clawback Policy Disclosures</p> <p>(Regulation S-K Item 402)</p> | <p>Adopted October 2022 (effective January 2023)</p> | <p>NYSE and NASDAQ listed issuers are required to comply with the annual disclosure</p> | <p>The rules will, among other things, require listed issuers to provide annual disclosure in the Form 10-K or</p> |

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| | | requirements for fiscal years ending on or after December 1, 2023. | annual proxy statement about clawback policies and how they are being implemented. |
| Clawback Policy Exhibit (Regulation S-K Item 601(b)(97)) | Adopted October 2022 (effective January 2023) | NYSE and NASDAQ listed issuers are required to comply with the new exhibit filing requirement in the first Form 10-K filing for fiscal years ending on or after December 1, 2023. | The rules will, among other things, require that a listed issuer file its recovery policy as an exhibit to its annual report on Form 10-K. |
| Annual Cybersecurity Risk Governance Disclosures (Regulation S-K Item 106) | Adopted July 2023 (effective September 5, 2023) | The Form 10-K disclosures will be due beginning with annual reports for fiscal years ending on or after December 15, 2023. | The new rules will require a registrant to describe annually in Form 10-K its processes, if any, for assessing, identifying, and managing material risks from cybersecurity threats, as well as whether any risks from cybersecurity threats, including as a result of any previous cybersecurity incidents, have materially affected or are reasonably likely to materially affect the registrant. Item 106 will also require registrants to describe the board of directors' oversight of risks |

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| | | | from cybersecurity threats and management's role and expertise in assessing and managing material risks from cybersecurity threats. |
| <p>Form 8-K Cybersecurity Risk Governance Disclosure</p> <p>(Form 8-K Item 1.05)</p> | <p>Adopted July 2023 (effective September 5, 2023)</p> | <p>Registrants must comply with the incident disclosure requirements in Item 1.05 of Form 8-K beginning on December 18, 2023.</p> | <p>The Form 8-K updates will require registrants to disclose any cybersecurity incident they determine to be material and describe the material aspects of the nature, scope, and timing of the incident, as well as the material impact or reasonably likely material impact of the incident on the registrant, including its financial condition and results of operations.</p> |