Client Alert: SEC Makes Important Changes to Rules Concerning Beneficial Ownership Reporting

By: William P. Hubbard, October 13, 2023

On October 10, 2023, the Securities and Exchange Commission ("SEC") announced that it had adopted rule amendments concerning beneficial ownership reporting under Sections 13(d) and (g) of the Securities Exchange Act of 1934 (the "Exchange Act").

As a reminder to our clients which are public companies, Sections 13(d) and (g) of the Exchange Act impose reporting requirements on persons or groups who own or acquire beneficial ownership of more than 5% of certain classes of equity securities of an SEC reporting company. Such a beneficial owner is required to file a Schedule 13D reporting such acquisition, and thereafter must file an amendment to their Schedule 13D whenever a material change occurs to the information reported in the previously filed Schedule 13D (for example: acquiring or disposing of an amount equal to 1% or more of the issuer's stock). Certain exceptions allow a reporting person to file a Schedule 13G instead, which is a shorter form.

Previously, a person who acquired more than 5% of a reporting company's stock was required to file a Schedule 13D within 10 days of such acquisition. Under the new rule, this reporting window has been reduced from ten (10) days to five (5) business days.

The filing deadline for an amendment to a Schedule 13D has also been clarified by the new amendments. Previously, a beneficial owner was required to file an amendment to their Schedule 13D "promptly" following a material change, and the SEC had never defined "promptly" with specificity in this context. Under the new rule, such beneficial owner now has two (2) business days to file such an amendment.

Filing deadlines for Schedule 13G have similarly been accelerated, with differing requirements based on the category of filer.

The amendments will become effective 90 days after their publication in the Federal Register.

Please find the SEC's press release on this matter linked here.

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