For your information
SEC shortens filing deadlines for beneficial ownership reports required under sections 13(d) and 13(g) of the Exchange Act

On October 10, 2023, the Securities and Exchange Commission (SEC) adopted amendments to the rules governing beneficial ownership reporting under Sections 13(d) and 13(g) of the Securities and Exchange Act of 1934 (Exchange Act). A copy of the SEC's final rule can be found here.

Exchange Act Sections 13(d) and 13(g), as well as Regulation 13D-G, require beneficial owners of more than 5% of any equity security registered under Section 12 of the Exchange Act and certain other equity securities to publicly disclose such ownership by filing a beneficial ownership report with the SEC.

Schedule 13D is a long-form beneficial ownership report that generally must be filed after an acquisition that results in a beneficial ownership exceeding 5%. Exempt Investors[1] and other Passive Investors[2] subject to Section 13(d) who are otherwise regulated or lack control intent can file a short-form beneficial ownership report on Schedule 13G.

Filing Type	Old Deadline	New Deadline
Initial Schedule 13D Filing	10 days following an acquisition	5 business days following an acquisition
Amendments to Schedule 13D	Promptly	2 business days
Initial Schedule 13G Filing	Qualified Institutional Investors[3] and Exempt Investors must file Schedule 13G within 45 days after the end of a calendar year in which an acquisition occurred	Qualified Institutional Investors and Exempt Investors must file Schedule 13G within 45 days after the end of the calendar quarter in which acquisition occurred
	Passive Investors must file Schedule 13G within 10 days	Passive Investors must file Schedule 13G within 5 business days
Amendments to Schedule 13G	45 days after the calendar year in which any change occurred	45 days after the calendar quarter in which a material change occurred

The amendments also accelerate the Schedule 13G amendment obligations for Qualified Institutional Investors and Passive Investors when their beneficial ownership exceeds 10% or increases/decreases by 5%.

To ease the burden associated with these shortened deadlines, the "cut-off" time for Schedule 13D and Schedule 13G filings has been extended to 10:00 p.m. EST.

Finally, Schedule 13D and 13G filings now must be made using a structured, machine-readable data language (XLRB). This requirement applies to all information disclosed on Schedule 13D and 13G, other than exhibits.

Compliance with the revised Schedule 13G filing deadlines will be required beginning September 30, 2024. Compliance with the structured data requirement for Schedules 13D and 13G will be required on December 18, 2024, and compliance with the other amendments will be required 90 days after the publication of the SEC's adopting release in the Federal Register.

If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed or the Eversheds Sutherland attorney with whom you regularly work.

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1   A person exempt from filing pursuant to Section 13(d)(6) or who was not required to file a Schedule 13D at the time of acquisition (e.g., the securities were not registered at the time of acquisition). See Rule 13d-1(d) of the Exchange Act.

2   A person or group acquiring securities not for the purpose or effect of changing or influencing the control of the issuer and who is not the beneficial owner of 20% or more of the equity securities of the class. See Rule 13d-1(c) of the Exchange Act.

3   A person or institution acquiring securities in the ordinary course of business rather than for the purpose or effect of changing or influencing the control of the issuer. Broker-dealers, banks, insurance companies, investment companies, investment advisers, employee benefit plans, and other regulated entities listed in Rule 13d-1(b)(1)(ii) qualify as Qualified Institutional Investors. See Rule 13d-1(b) of the Exchange Act.

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