PAUL HASTINGS

October 2023

Public Company Watch

Key Issues Impacting Public Companies

SEC Spotlight

SEC Adopts Rules Modernizing Beneficial Ownership Reporting

On October 10, 2023, the U.S. Securities and Exchange Commission (the "SEC") adopted final rules modernizing the beneficial ownership reporting requirements pursuant to Sections 13(d) and 13(g) of the Securities Exchange Act of 1934.[1] As with the recent cybersecurity rules, the final beneficial ownership amendments represent a scaled-back version of the initially proposed rules. The main thrust of the amendments is shortening the filing deadlines for initial and amended beneficial ownership reports filed on Schedules 13D and 13G, with Schedule 13D filings now being due within five business days rather than 10 calendar days. The accelerated filing deadlines will result in public companies and their investors being informed more quickly about certain changes in beneficial ownership positions in a company's securities.

Current Regime

As currently constructed, Sections 13(d) and 13(g) and the related rules require investors to report their beneficial ownership on Schedule 13D or Schedule 13G if they own more than 5% of a Section 12 registered equity security (referred to as a "covered class"). Investors that beneficially own more than 5% of a covered class must file a long form Schedule 13D within 10 calendar days of such acquisition. Certain investors who fit within the exemptions set forth in Rule 13d-1 are eligible to file a short form on Schedule 13G in lieu of a Schedule 13D. For qualified institutional investors and exempt investors, Schedule 13G is generally due 45 days after the calendar year end for the year in which the investor acquired ownership. For passive investors, Schedule 13G is due within 10 days following the acquisition of more than 5% of the covered class.

If certain changes occur in an investors' percentage of beneficial ownership, holders must file amendments to their Schedule 13D or Schedule 13G filings, as applicable. Schedule 13D filers must also "promptly" file an amendment if a material change in the information presented occurs. Schedule 13G filers must file an annual amendment 45 days following year-end to reflect *any* changes in the prior filing not attributable to a change in the aggregate number of shares outstanding. Finally, Schedule 13G filers who hold over 10% of a covered class are required to file amendments before year-end in certain circumstances.

[1] Modernization of Beneficial Ownership Reporting, Securities Act Release No. 33-11253; Exchange Act Release No. 34-98704 (adopted Oct. 10, 2023) [hereinafter Final Rule], https://www.sec.gov/files/rules/final/2023/33-11253.pdf.

In This Edition

New Regime

Pursuant to the amended rules, the deadlines for initial and amended Schedules 13D and 13G will be compressed. For a comparison of the new regime versus the current regime, please see Annex A.

Schedule 13D

Under the final rules, initial Schedule 13D filings must be filed within five *business* days of the date on which (1) an investor's beneficial ownership of an issuer's covered class exceeds 5% or (2) the investor becomes ineligible to utilize short form Schedule 13G.[2]

Furthermore, Schedule 13D filers will have two *business* days to file an amended Schedule 13D after the occurrence of a material change.

Schedule 13G

A qualified institutional investor or exempt investor must file its initial Schedule 13G within 45 *calendar* days of the end of the calendar quarter in which the qualified institutional investor or exempt investor trips the 5% threshold.[3] If a qualified institutional investor initially acquires greater than 10% beneficial ownership, its initial Schedule 13G filing will instead be due within five *business* days following month-end. If a qualified institutional investor subsequently increases its ownership above 10% or thereafter has a greater than 5% fluctuation in its beneficial ownership, it must file an amended Schedule 13G within five *business* days following month-end.

A passive investor must file its initial Schedule 13G five *business* days from the date it acquires more than 5% of the issuer's covered class.[4] Thereafter, such filers will have two *business* days to file an amended Schedule 13G if they acquire more than 10% beneficial ownership or after that have a greater than 5% increase or decrease in their beneficial ownership.

With respect to all Schedule 13G filers, the final rule accelerates the deadline for all other amendments to Schedule 13G and specifies a materiality standard for changes triggering an amended filing. The final rule accelerates the amendment deadline for Schedule 13G filers to within 45 *calendar* days following the end of a calendar quarter in which a "material" change occurs.

Extension of Filing Deadline

The final rules enable filers to submit Schedule 13Ds and 13Gs before 10 p.m. ET on a given business day rather than by the current (and standard) 5:30 p.m. ET deadline in order to receive that business day as the filing date.

Treatment of Derivative Securities

The final rules amend Item 6 of Schedule 13D to clarify that a person is required to disclose interests in *all derivative securities* that use an issuer's equity security as a reference security, including cash-settled options. The adopting release provides guidance on the applicability of current Rule 13d-3 to cash-settled derivative securities (other than security-based swaps).

Group Formation

In the adopting release, the SEC provided guidance on how to make the "group" determination for purposes of Sections 13(d)(3) and 13(g)(3), rather than adopt the proposed amendments to Rule 13d-5. However, the final rules include certain related amendments regarding attribution of group members' acquisition of additional equity securities and intra-group transfers.

Other Changes

The final rules require all non-exhibit disclosures— quantitative, narrative and checkboxes alike— on Schedules 13D and 13G to be presented in a structured, machine-readable data language. Filers will be able to submit filings on EDGAR either in 13D/G-specific XML or utilizing a web-based platform provided by the SEC that will generate the required 13D/G-specific XML upon filing.

Timing

The rules will be effective 90 days after publication in the Federal Register. However, filers will have until September 30, 2024 to comply with the revised Schedule 13G filing deadlines and until December 18, 2024 to comply with the structured data requirements.

[2] The SEC further clarified that it must receive the Schedule 13D filing by 10 p.m. ET on the 5th business day after the obligation arises in order for the filing to be considered timely (i.e., the date on which the obligation arises does not count towards the five business day calculation).

[3] See footnotes 12 and 13 of the Final Rule for the definitions of "qualified institutional investors" and "exempt investors."

[4] See footnote 16 of the Final Rule for the definition of "passive investors."

SEC Staff Issues New C&DIs Related to Pay v. Performance Disclosures

On September 27, 2023, the SEC Staff issued a number of CD&Is centered on the pay v. performance disclosures required pursuant to Item 402(v) of Regulation S-K, which was first implemented during the 2023 proxy season. In the CD&Is, the SEC provided helpful clarification addressing a number of different circumstances related to the new disclosure, including:

- How awards granted in the fiscal years prior to an equity restructuring should be treated;
- How the change in fair value of stock awards or option awards for pre-IPO grants should be treated;
- How to address awards with market conditions under U.S. GAAP for purposes of Item 402(v);
- How to treat awards that didn't meet vesting conditions during a particular year because the performance or market conditions were not met;
- How to treat stock or option awards that vested solely due to the recipient's retirement during a given year;
- When to consider stock or option awards that require certification of the performance condition have vested;
- Whether the valuation technique used to determine the fair value of stock or option awards can differ from the one used to determine grant date fair value;
- Whether the fair value of stock or option awards can ever be valued based on a method not prescribed by GAAP; and
- That the detailed quantitative or qualitative performance condition disclosure required by Item 402(v)(4) can be limited if the disclosure of such information would be subject to the confidentiality provisions of Instruction 4 to Item 402(b) of Regulation S-K.

The SEC also confirmed that Instruction 5 to Item 402(b), which exempts the disclosure of target levels that are non-GAAP from Regulation G and Item 10(e), but still requires the issuer show a reconciliation of the figures back to the issuer's audited financial statements, does not extend to other disclosure of non-GAAP financial measures throughout the proxy. It also provides clarification as to the treatment of the Company-Selected Measure and other financial performance measures disclosed pursuant to Item 402(v)(2)(vi).

Impacts of Potential Government Shutdown on SEC

Early this month, the U.S. narrowly avoided a government shutdown. With the passage of a continuing resolution, the government is currently funded through November 17th. If the government does not adopt a spending bill or another continuing resolution prior to the funding running out on November 17th, a government shutdown could occur. During a government shutdown, non-essential functions are ceased until funding is approved, and the SEC's operations would likely be impacted.

Public companies should keep in mind the following in case of a government shutdown in late November or later in 2023. In addition, the Division of Corporation Finance recently re-issued FAQs regarding **Actions in Advance of a Potential Government Shutdown**.

EDGAR Will Still Accept Filings: EDGAR should remain operational and continue to accept filings. In addition, limited SEC staff will be available to act on filer requests for EDGAR access codes and password resets and answer emergency questions regarding EDGAR submissions.

Continue to Make Timely Filings: SEC filing deadlines should continue to be adhered to.

Offerings: SEC staff will not be available to provide interpretive advice, issue no-action letters or conduct any other normal activities. Filing fees will still be accepted during the shutdown, and filings that go effective automatically when filed will continue to go effective when filed (i.e., WKSI shelf-registration statements or registration statements on Form S-8). Registration statements or post-effective amendments that need to be declared effective or accelerated will not be able to be declared effective or accelerated, even if the registrant cleared comments prior to the shutdown. With that said, there is a potential path forward to bring a registration statement effective during the shutdown, which your Paul Hastings attorney would be happy to discuss in further detail.

Activism Update

SEC Adopts Short Sale Rules

On October 13, 2023, the SEC adopted final rules requiring the reporting and disclosure of short sale trade data information. New Rule 13f-2 implements obligations on certain institutional investment managers to report short position and activity data for certain equity securities on newly adopted Form SHO. The SEC also amended the national market system plan governing the consolidated audit trail relating to disclosure of short sales made under the bona fide marketing exception. The SEC promulgated the rules to increase transparency of information relating to short selling, including data which may indicate abusive naked short selling, which is prohibited under Regulation SHO. Together, the new rules may provide public companies with greater protection against activist short-sale attacks by providing more real-time information regarding manager's short positions and by uncovering and discouraging naked short selling. Furthermore, the data will assist the SEC in identifying potential instances of fraud and take action against the perpetrators, working to ultimately deter such fraud and improve market efficiency.

Other Regulatory Updates

California Climate Accountability Package Imposes Broad Climate-Related Risk and GHG Emissions Disclosure Requirements

California enacted two new landmark climate-related disclosure laws (SB 253, the Climate Corporate Data Accountability Act (CCDAA) and SB 261, the Climate-Related Financial Risk Act (CFRA)) that passed the Assembly and Senate in September and the Governor signed this month. These laws require large U.S. companies doing business in California to disclose their climate-related financial risks and adaption measures as well as information on their global carbon footprints and GHG emissions. They apply to both public and private companies that do business in California. SB 253 is limited to companies earning over $1 billion in annual revenue and SB 261 applies to companies earning over $500 million. California Governor Gavin Newsom added caveats related to the cost impact when he signed both into law, directing the California Air Resource Board to monitor compliance costs and make recommendations to streamline the program.

Specifically, Bill 253 will require covered companies to disclose their direct, indirect, and supply chain greenhouse gas emissions through annual reports verified by an independent third-party and SB 261 will require covered companies to disclose their climate-related financial risks and adaption measures. Critically, these laws will provide companies with a standardized disclosure framework.

The climate disclosure obligations for both laws begin in 2026, but companies need to start preparing for implementation now. Companies subject to SB 253 will need to measure and disclose their scope 1 and scope 2 greenhouse gas emissions. Scope 1 greenhouse gas emissions are emissions from sources directly controlled or owned by the company, while scope 2 greenhouse are indirect emissions from the electricity, heating or cooling purchased or used by the entity. Starting in 2027, covered companies will need to also disclose their scope 3 emissions, which are indirect upstream and downstream emissions such as purchased goods and services, business travel, employee commutes, as well as the processing and use of sold products. Reporting entities under SB 253 will need to engage third-party evaluators to review and certify their public disclosures.

SB 261 will require covered companies to prepare an annual climate-related financial risk report which will disclose the climate-related financial risks faced by the entity as well as measures to reduce and adapt to these risks. The reports must be published on the companies' websites.

Both laws include annual reporting fees. Non-compliance administrative penalties are discretionary and can be up to $550,000. California acknowledged the existence of other disclosure standards in the text of SB 261 but noted that such standards are voluntary and "thus inadequate, for meeting rapidly accelerating climate risks. In order to begin to address the climate crisis, consistent, higher level, and mandatory disclosures are needed from all major economic actors, and California has an opportunity to set mandatory and comprehensive risk disclosure requirements for public and private entities to ensure a sustainable, resilient, and prosperous future for our state."

The SEC is finalizing climate disclosure regulations that are anticipated to be issued "shortly," although issuance has been pending for several months and the SEC has not committed to an exact timeframe for issuance.

Potential Relief for NYSE-Listed Companies Selling Shares at a Discount to Substantial Shareholders

Currently, NYSE-listed companies are limited in the number of shares of common stock (and securities convertible or exercisable into common stock) they can sell to substantial security holders (among others) without (1) selling the shares for at least a minimum price or (2) obtaining shareholder approval.[5] This one percent of the number of shares of the company's common stock or one percent of the company's voting power prior to the issuance limitation makes it challenging for companies to raise money through existing substantial security holders and forecloses them from enjoying the accompanying benefits of low transaction costs and timely execution. The NYSE has filed a proposed rule change with the SEC, which would generally enable listed-companies to sell shares at a discount to substantial security holders so long as the security holders are passive investors, without adhering to the one percent volume limitation, though the standard 20% rule would still apply. The SEC is seeking comments on the rule change and will then approve or disapprove the rule change or otherwise institute proceedings regarding the rule change. If approved, the new rule will provide NYSE-listed companies with much needed relief to raise money from substantial shareholders.

FTC and DOJ Updates

Status of the DOJ and FTC new Draft Merger Guidelines: In July the FTC and DOJ jointly issued updated Merger Guidelines for public comment for a 60-day period that closed in mid-September. The agencies have published nearly 1,600 comments and are co-hosting a series of workshops to facilitate public dialogue on the draft guidelines. The third, potentially final, announced workshop will take place on November 3, 2023. The DOJ and FTC have indicated they will reflect upon the public comments and dialogue from the workshops, and the final version of the guidelines may reflect some of that public feedback. The final version of the guidelines is expected to be issued and adopted in early 2024. However, the draft guidelines already reflect theories the DOJ and FTC are investigating in pending transactions and signal intensifying scrutiny of deals in pursuit of the administration's broader enforcement objectives.

Status of HSR rule changes: The FTC and DOJ announced sweeping changes to the premerger notification form and instructions implementing the HSR Act in June. After a 60-day comment period the agencies have published nearly 800 comments to the draft rules. The agencies received a great deal of criticism for the proposed changes, in particular for the drastic expansion of document search and production requirements and the estimated four-fold increase in preparation time for a basic filing. Many critics argue the proposed amendments would place an undue burden on proposed mergers with no competition concerns. Though a time table has not been set by the agencies, many expect the amendments to be adopted in 2024. It is also possible that a legal challenge to the FTC's rulemaking authority could delay implementation.

FTC Commissioner Vacancies: The FTC is headed by five Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. No more than three Commissioners can be of the same political party. The FTC currently has three sitting Commissioners, all of the Democratic Party, including Chair Lina Khan. President Biden has nominated two individuals to fill the remaining Republican Commissioner vacancies, Utah Solicitor General Melissa Holyoak and Virginia Solicitor General Andrew Ferguson. A hearing on their nominations took place on September 20, 2023. Though confirmation of the nominees would not alter the balance of power given the Democratic-majority, many view the addition of two Republican Commissioners as a much-needed dissenting voice to Chair Khan and the Democratic majority's aggressive enforcement and policy agenda.

HSR Reviews and Agency Workload: The DOJ and FTC are pursuing several major cases, including a recently-filed suit against Amazon, pending litigation with Google, and a number of other significant matters. There are reports that this activity is putting a strain on FTC and DOJ staff, causing them to have less bandwidth for investigations of lower-profile matters filed under the HSR Act. Conversely, there are reports that the agencies are more closely scrutinizing certain issues, such as minority ownership, that have not been focused on in the past. The result is that there continues to be an increased degree of uncertainty when it comes to timing of HSR reviews.

The NLRB Adopts New Standard for Assessing Legality of Workplace Rules

On August 2, 2023, the National Labor Relations Board ("NLRB" or "Board") issued a decision in *Stericycle Inc.*, adopting a new legal standard for evaluating employer work rules challenged as facially unlawful under Section 8(a)(1) of the National Labor Relations Act ("NLRA").

[5] The applicable minimum price is the lesser of the average closing price of the issuer's common stock for the five trading days prior to the date on which the sales document was executed and the closing price immediately prior to the signing of the sales document.

Stericycle overruled a 2017 decision in *Boeing*, which had employed a balancing test for determining whether a facially neutral work rule was unlawful that considered both the "nature and extent of the potential impact" on an employee's NLRA rights alongside an employer's "legitimate justifications associated with the rule." *Boeing* classified work rules into three categories: (1) policies that were always lawful, (2) policies that were subject to individualized scrutiny, and (3) policies that were always unlawful. The Board in *Stericycle* believed that the standard established in *Boeing* had allowed employers to enact overly broad work rules that discouraged employees from exercising their NLRA rights.

The *Stericycle* decision replaces *Boeing*'s balancing test with a two-step analysis. First, the NLRB General Counsel must prove that an employee "could reasonably interpret the rule to have a coercive meaning," leading to a chilling effect on protected activity. If a party challenging a work rule carries this initial burden, the rule is "presumptively unlawful." An employer may then rebut this presumption by demonstrating both (1) the rule advances a legitimate and substantial business interest and (2) the rule could not be replaced with a more narrowly tailored one. If the employer meets this burden, the rule will be found lawful.

The *Stericycle* decision means the NLRB will be scrutinizing workplace rules even more closely, and unfair labor practice allegations will likely increase. As a result, employers should regularly review their workplace rules and handbook policies for consistency with the NLRB's new *Stericycle* standard and tailor the impact of such rules on employee rights to demonstrable, legitimate, and substantial business justifications.

Litigation Corner

Murky Waters Ahead for the Chevron Doctrine?

On May 1, 2023, the U.S. Supreme Court granted certiorari in *Loper Bright Enterprises v. Raimondo*, No. 22-451, a case which may significantly change when and how courts defer to federal agencies regarding issues of statutory interpretation. The case involves whether a rule promulgated by a federal agency to require the fishing industry to fund at-sea monitoring programs (i.e., federal observers who are onboard fishing vessels to enforce regulations and prevent overfishing) was inconsistent with a federal statute. The district court and the Court of Appeals for the D.C. Circuit rejected a group of commercial fishing companies' challenge to the agency rule, relying on the deference courts are required to show to federal agencies under *Chevron v. Natural Resources Defense Council*, 467 U.S. 837 (1984), in which the Supreme Court held that courts should defer to a federal agency's interpretation of an ambiguous statute, so long as the agency's interpretation was reasonable. The question before the court in *Loper* is whether *Chevron* should be overruled, "or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency."

SEC Rulemaking Tracker

Recently Adopted Rulemaking		
Modernization of Beneficial Ownership Reporting	Significant amendments to modernize the filing deadlines for initial and amended beneficial ownership reports on Schedules 13D and 13G	The rules will be effective 90 days after publication in the Federal Register Filers will have until September 30, 2024 to comply with the revised Schedule 13G filing deadlines and until December 18, 2024 to comply with the structured data requirements
Cybersecurity and Risk Governance	Amendments requiring current reporting of material cybersecurity incidents and annual disclosure related to an issuer's cybersecurity risk management system, including the board's and management's role therein	Final rule adopted July 26, 2023, effective September 5, 2023 Compliance with current reporting requirements for filers other than SRCs as of December 18, 2023, and as of June 15, 2024 for SRCs. Compliance with annual reporting requirements in annual reports for fiscal years ending on or after December 15, 2023. Issuers must comply with Inline XBRL tagging requirements in current reports as of December 18, 2024 and for annual reports for fiscal years ending on or after December 15, 2024

Share Repurchase Modernization	Amendments requiring quarterly tabular disclosure of daily share repurchases and related narrative disclosures	Final rule adopted May 2023, effective July 31, 2023 Compliance for corporate issuers who file on domestic forms beginning with the first filing that covers the first full fiscal quarter that begins on or after October 1, 2023
10b5-1 Plans and Insider Trading	Series of changes revamping conditions to be met in order for a person to rely on the affirmative defense from insider trading available under Rule 10b5-1(c)(1), requiring related quarterly and annual disclosures and impacting Form 4 / 5 filings	Amendments to Forms 4 / 5 effective as of April 1, 2023 Compliance with the new disclosure requirements generally required in the first filing that covers the full fiscal period that starts on or after April 1, 2023 (or after October 1, 2023 for SRCs) Clarified in recent C&DI to mean, for December 31 fiscal year-end companies (that are not SRCs): ▪ Quarterly disclosures in Form 10-Q for period ended June 30, 2023 ▪ Annual disclosures in Form 10-K or 20-F for the fiscal year ended December 31, 2024 ▪ Proxy / Information Statement disclosures for first annual meeting for election of directors after the completion of the first full fiscal year beginning on or after April 1, 2023
Compensation Clawbacks	Requires adoption of / compliance with clawback policy in connection with erroneously awarded incentive-based compensation	Effective October 2, 2023, meaning issuers will be required to include disclosures in relevant SEC filings after that date and to adopt and adhere to compliant clawback policies as of December 1, 2023
Pending Rulemaking		
Climate Change	Comprehensive climate-change-related disclosure overhaul impacting registration statements and periodic reports and related notes to financial statements	Awaiting final action; pushed back until October 2023
SPACs	Comprehensive changes overhauling regulation of SPAC structure	Awaiting final action; pushed back until October 2023
Anticipated Rulemaking		
Corporate Board Diversity	Potential rulemaking requiring disclosure regarding diversity of board members and director nominees	Pushed back until April 2024
Human Capital Management	Additional rulemaking enhancing disclosures regarding human capital management (beyond what is already required by an issuer's Business section)	Pushed back until October 2023
Reg D and Form D Improvements	Updates to Reg. D exemption for private placements, including to definition of "accredited investor" and Form D	Pushed back until October 2023
Revisiting Definition of "Held of Record"	Revisiting definition of "held of record" used in Section 12(g) of Exchange Act (i.e., for determining whether an issuer will need to register its equity securities with the SEC)	Pushed back until October 2023
Rule 144 Holding Period	Potential amendments to resale safe harbor for restricted / control securities	Pushed back until April 2024

Annex A[6]

Issue	Current Schedule 13D	New Schedule 13D	Current Schedule 13G	New Schedule 13G
Initial Filing Deadline	Within 10 days after acquiring beneficial ownership of more than 5% or losing eligibility to file on Schedule 13G. Rules 13d-1(a), (e), (f), and (g).	Within five business days after acquiring beneficial ownership of more than 5% or losing eligibility to file on Schedule 13G. Rules 13d-1(a), (e), (f), and (g).	QIIs & Exempt Investors: 45 days after calendar year-end in which beneficial ownership exceeds 5%. Rules 13d-1(b) and (d). QIIs: 10 days after month-end in which beneficial ownership exceeds 10%. Rule 13d- 1(b). Passive Investors: Within 10 days after acquiring beneficial ownership of more than 5%. Rule 13d-1(c).	QIIs & Exempt Investors: 45 days after calendar quarter-end in which beneficial ownership exceeds 5%. Rules 13d-1(b) and (d). QIIs: Five business days after month-end in which beneficial ownership exceeds 10%. Rule 13d-1(b). Passive Investors: Within five business days after acquiring beneficial ownership of more than 5%. Rule 13d-1(c).
Amendment Triggering Event	Material change in the facts set forth in the previous Schedule 13D. Rule 13d-2(a).	Same as current Schedule 13D: Material change in the facts set forth in the previous Schedule 13D. Rule 13d-2(a).	All Schedule 13G Filers: Any change in the information previously reported on Schedule 13G. Rule 13d-2(b). QIIs & Passive Investors: Upon exceeding 10% beneficial ownership or a 5% increase or decrease in beneficial ownership. Rules 13d- 2(c) and (d).	All Schedule 13G Filers: Material change in the information previously reported on Schedule 13G. Rule 13d-2(b). QIIs & Passive Investors: Same as current Schedule 13G: Upon exceeding 10% beneficial ownership or a 5% increase or decrease in beneficial ownership. Rules 13d- 2(c) and (d).
Amendment Filing Deadline	Promptly after the triggering event. Rule 13d-2(a).	Within two business days after the triggering event. Rule 13d-2(a).	All Schedule 13G Filers: 45 days after calendar year-end in which any change occurred. Rule 13d-2(b). QIIs: 10 days after month-end in which beneficial ownership exceeded 10% or there was, as of the month- end, a 5% increase or decrease in beneficial ownership. Passive Investors: Promptly after exceeding 10% beneficial ownership or a 5% increase or decrease in beneficial ow nership. Rule 13d- 2(d).	All Schedule 13G Filers: 45 days after calendar quarter-end in which a material change occurred. Rule 13d-2(b). QIIs: Five business days after month-end in which beneficial ownership exceeds 10% or a 5% increase or decrease in beneficial ownership. Rule 13d-2(c). Passive Investors: Two business days after exceeding 10% beneficial ownership or a 5% increase or decrease in beneficial ownership. Rule 13d- 2(d).
Filing "Cut-Off" Time	5:30 p.m. eastern time. Rule 13(a)(2) of Regulation S-T.	10 p.m. eastern time. Rule 13(a)(4) of Regulation S-T.	All Schedule 13G Filers: 5:30 p.m. eastern time. Rule 13(a)(2) of Regulation S-T.	All Schedule 13G Filers: 10 p.m. eastern time. Rule 13(a)(4) of Regulation S-T.

[6] Replicated from the Final Rule

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About Paul Hastings

With widely recognized elite teams in finance, mergers & acquisitions, private equity, restructuring and special situations, litigation, employment, and real estate, Paul Hastings is a premier law firm providing intellectual capital and superior execution globally to the world's leading investment banks, asset managers, and corporations.