

FORM 10-Q UPDATES AND REMINDERS

To Our Clients and Friends:

As many companies prepare their quarterly reports on Form 10-Q for the quarter ended June 30, 2023, we offer the following observations and reminders regarding new disclosure requirements taking effect for this reporting period, as well as risk factor considerations that may be relevant to upcoming Form 10-Q reporting. For convenience, this publication also includes a summary of certain upcoming compliance dates for public companies.

Rule 10b5-1 Trading Arrangement Disclosures

Beginning with the filing that covers the first full fiscal period that begins on or after April 1, 2023 (i.e., Q2 2023 Form 10-Q for calendar year companies), the “Other Information” section of each periodic report (i.e., Part II, Item 5 of Form 10-Q and Part II, Item 9B of Form 10-K) must disclose whether any director or Section 16 officer adopted or terminated a trading arrangement intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) or a “non-Rule 10b5-1 trading arrangement.” By its terms, the disclosure requirement (Item 408(a) of Regulation S-K) is triggered when a trading arrangement is “adopted or terminated”; however, the SEC deems certain modifications to a trading arrangement to be the termination of one arrangement and entry into another.

The disclosure must identify whether the arrangement is a Rule 10b5-1 trading arrangement or a non-Rule 10b5-1 trading arrangement, and provide a brief description of the material terms (other than price), including (i) the name and title of the director or officer, (ii) the date of adoption or termination of the trading arrangement, (iii) the duration of the trading arrangement, and (iv) the aggregate number of securities to be sold or purchased under the trading arrangement (including pursuant to the exercise of any options).

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