

The Changing Landscape for 10b5-1 Plans

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MAYNARD
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10b5-1 Plans

- Affirmative defense against insider trading if:
 - adopted in good faith;
 - at a time when not aware of material, nonpublic information;
 - the plan's terms specify a non-discretionary trading method (amount and price, algorithm or formula);
 - no ability to exercise discretion; and
 - purchase or sale was made in accordance with the plan's terms.
- Perception that 10b5-1 plans have led to abuses of insider trading laws

Upcoming SEC Rulemaking

- Anticipating proposed rules to “refresh” Rule 10b5-1
- Likely changes:
 - Mandatory cooling off periods (potentially 4-6 months)
 - Restrictions on canceling plans
 - Limits on the number of plans
 - Mandatory disclosure requirements
- Implications for share buybacks
- Timing: TBD
- Continued active SEC enforcement of abuses of 10b5-1 plans

What should you be doing?

- Monitor proposed rules
- Inform Board/management of expected rule changes and SEC focus on 10b5-1 plan abuses
- Be prepared to amend insider trading policies and/or 10b5-1 plan policies

Any questions?



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THANK YOU
