



# Executive Compensation and Benefits Alert

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One Manhattan West  
New York, NY 10001  
212.735.3000

525 University Avenue  
Palo Alto, CA 94301  
650.470.4500

## SEC Approves Stock Exchange Rules for Dodd-Frank Clawbacks

On June 9, 2023, the Securities and Exchange Commission (SEC) approved, on an accelerated basis, the New York Stock Exchange's (NYSE) and Nasdaq Stock Market's (Nasdaq) proposed listing standards implementing the SEC's Dodd-Frank rules covering the recovery of erroneously awarded compensation. The listing standards will become effective on October 2, 2023. Listed companies will have 60 days following that date (*i.e.*, until December 1, 2023) to adopt Dodd-Frank-compliant policies. Under those policies, listed companies must seek to recover erroneously awarded incentive-based compensation received by covered executives on or after October 2, 2023.

By way of background, on October 26, 2022, the SEC adopted final rules directing the stock exchanges to establish listing standards requiring listed companies (including foreign private issuers, controlled companies, smaller reporting companies and emerging growth companies) to adopt clawback policies providing for the recovery of erroneously awarded incentive-based compensation received by current or former executive officers in connection with a financial restatement, regardless of fault or misconduct. Both the NYSE and Nasdaq proposed listing standards on February 22, 2023, that would have been immediately effective upon SEC approval, but last week, the NYSE and Nasdaq each postponed the effective date for their proposed listing standards until October 2, 2023.

In addition to approving the listing standards, the SEC also solicited comments on the listing standards, with the comment period ending 21 days after the date of publication of the applicable SEC notice approving the listing standards in the federal register (which has not yet occurred). However, by approving the listing standards on an accelerated basis at the same time as soliciting comments, the SEC is indicating it does not expect comments that would require significant changes to the listing standards.

Accordingly, listed companies should prepare to have final Dodd-Frank compliant clawback policies ready for adoption by December 1, 2023.

For more information about the clawback rules and related disclosure requirements, see our previous client alerts "[SEC Adopts Final Clawback Rules and Disclosure Requirements](#)" (November 2, 2022) and "[NYSE and Nasdaq Postpone Effective Date of Dodd-Frank Clawback Requirements](#)" (June 9, 2023). Recent SEC guidance about the clawback rules is available in the form of [Compliance & Disclosure Interpretations](#) (Question 121H).

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## Contacts

**Page W. Griffin**

Partner / Palo Alto  
650.470.4560  
page.griffin@skadden.com

**Shalom D. Huber**

Partner / New York  
212.735.2483  
shalom.huber@skadden.com

**Regina Olshan**

Partner / New York  
212.735.3963  
regina.olshan@skadden.com

**Joseph M. Penko**

Partner / New York  
212.735.2618  
joseph.penko@skadden.com

**Erica Schohn**

Partner / New York  
212.735.2823  
erica.schohn@skadden.com

**Joseph M. Yaffe**

Partner / Palo Alto  
650.470.4650  
joseph.yaffe@skadden.com

**Michael A. Wiseman**

Counsel / New York  
212.735.2662  
michael.wiseman@skadden.com