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The NYSE Changes Its Related Party Transaction Rule: 4 Things to Do Now

This one may be a "sleeper" rule change for you. I didn't pay much attention to it initially as it was adopted along with the relaxed requirements for shareholder approval of related-party equity issuances - but some companies may need to make changes to their audit committee charters and/or related party transaction policies. A few months ago, the SEC approved an amendment to the NYSE's related party transactions rule (in [Section 314](#) of the Listed Company Manual). The prior version of the rule required reviews of related party transactions by an appropriate group within the company. It suggested the audit committee was an appropriate body - but didn't require it. It also contained a somewhat ambiguous definition of "related party transaction." The amended rule now:

- Requires that the audit committee (or another independent body of the board) conduct a prior review and oversight of all related party transactions for potential conflicts of interest and prohibit them if the transaction is inconsistent with the interests of the company and its shareholders.
- Defines related party transaction with reference to Reg S-K Item 404, but without regard to the \$120,000 transaction value threshold.

Seems straightforward enough - but what should a NYSE-listed company do now? 1. Check your governance documents that address related party transactions and conflicts like your code of ethics, corporate governance guidelines, committee charters or standalone conflicts policies to be sure they comply with the new rule: - Make sure the audit committee or another independent board body is charged with *prior* review of related party transactions. Note it requires prior review, not ratification. - Make sure the definition referenced - or used - is at least as broad as Reg S-K 404 (without the transaction value threshold). 2. Consider if you need to change - or broaden - your process for identifying potential related party transactions to comply with the newly adopted definition. One area to consider is compensation of employees who are family members of directors or executive officers. Existing arrangements for employees who have previously been under the transaction value threshold may need to be reconsidered. 3. Check the related party question in your D&O questionnaire and make sure it works to pick up these transactions (perhaps dropping a mention of the \$120,000 transaction value). 4. Review your related person transaction approval process disclosures in your proxy statement to make sure it reflects any changes you make to your approval process.

Authors

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