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The Fifth Circuit Officially Vacates the SEC's Share Repurchase Rule



As we have [blogged](#) about [several times](#) already, the Fifth Circuit Court of Appeals ruled on October 31st that the SEC's share repurchase rule was "arbitrary and capricious" under the Administrative Procedure Act. The court gave the SEC 30 days to fix the rule, and the SEC did not submit a corrected rule within the 30-day period.

When the SEC was not able to meet the Fifth Circuit's 30-day deadline, the group that brought the suit – the Chamber of Commerce, et al. – filed a motion to vacate the rule and a few weeks ago, the court issued this [opinion](#) vacating the SEC's rule.

With the new rules vacated, all aspects of the [rule amendments](#) will not go into effect. This includes the quarterly filing of information on daily share repurchases, as well as disclosures in Forms 10-Q and 10-K about a company's adoption and termination of Rule 10b5-1 trading arrangements. (The requirement to disclose information about Rule 10b5-1 trading arrangements by officers and directors remains in place, as that requirement was adopted in a separate set of amendments.)

The question remains: "will the SEC repropose a new repurchase rule?" It's possible, and perhaps even likely. But, the SEC's recently released [Reg Flex Agenda](#) did not include reference to proposing such a rule.

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