

April 15, 2011

Comments on the SEC's Proposal for  
Beneficial Ownership Reporting and Security-Based Swaps

Today we filed a [comment letter](#) with the Securities and Exchange Commission regarding its [proposal](#) to readopt existing rules to preserve the “status quo” with respect to the treatment of security-based swaps under the beneficial ownership reporting rules. Our letter reiterates our belief, as reflected in the [rulemaking petition](#) we filed last month with the Commission, that modernization of the beneficial ownership reporting rules is needed in order to compel timely, accurate and complete disclosure of the accumulation of control stakes in public companies. We urge the Commission to undertake a complete overhaul of the rules as promptly as reasonably practicable. Chief among the failings in need of correction are the outdated ten-day reporting window and the overly narrow definition of “beneficial ownership,” which excludes a host of derivative products commonly used by investors to acquire the characteristics of ownership while currently evading reporting requirements.

Our letter also addresses recent claims that the ten-day window should be preserved in order to incentivize hedge funds and other activist investors to accumulate shares in secrecy, at market prices lower than they would face if their intentions became known. Any claims that this is, was or should be a valid public policy goal reflect a fundamental misapprehension of the Williams Act and its purpose of ensuring that participants in the U.S. securities markets have access to material information about public companies, including potential shifts in corporate control. We encourage the Commission to dismiss these claims for the distractions that they are, and take action to bring the beneficial ownership reporting rules in line with the reality of modern securities markets.

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