



Securities Client Alert

NYSE Amends its Related Party Transaction Rule for the Second Time in Less Than 5 Months

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Historically, public companies have been required to disclose certain related party transactions with certain insiders that had a transaction value in excess of \$120,000 pursuant to [Item 404\(a\) of Regulation S-K](#).

On April 2, 2021, the New York Stock Exchange (NYSE) [amended Rule 314.00](#) of the NYSE Listed Company Manual to require the audit committee or another independent body of the board of directors of NYSE-listed companies to conduct “a reasonable prior review and oversight of all related party transactions for potential conflicts of interest” and prohibit such a transaction “if it determines it to be inconsistent with the interests of the company and its shareholders.” While the NYSE defined a “related party transaction” pursuant to Item 404 of Regulation S-K, it did so “without applying the transaction value threshold of that provision.” Companies understandably objected to being forced to present immaterial transactions (or transactions in which related parties’ interests were immaterial) to their independent directors for prior review and approval.

To its credit, the NYSE acknowledged that the removal of the transaction value threshold was “inconsistent with the historical practice of many listed companies, and has had unintended consequences” by causing a “significant compliance burden for issuers with respect to small transactions that are considered immaterial for purposes of other regulatory requirements.”

On August 19, 2021, the NYSE [amended Rule 314.00 again](#) to undue the issues caused by the April amendment by reinserting the transaction value threshold from Item 404(a) of Regulation S-K as part of its definition of related party transactions. [This amended NYSE rule took effect immediately](#), but the SEC can suspend such rule change at any time within 60 days of the filing of such proposed rule change if it appears to the SEC that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act. This revised Rule is also open for comment by the public.

NYSE-listed companies should review their related party transaction approval policies to confirm that they are consistent with the demanding requirement to review and approve related party transactions (as defined in Item 404 of Regulation S-K with the transaction value threshold) by independent directors that was initially approved last April.

For questions regarding NYSE’s amended related party transaction rule, please contact your GableGotwals attorney or a member of our [Corporate & Securities team](#).

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