

UPDATE ON TIMING OF EXECUTIVE COMPENSATION CLAWBACK RULE

On June 6, 2023, Nasdaq amended its proposal related to the clawback of erroneously awarded executive compensation to add an operative delay before the effectiveness of the rules. As a result, subject to SEC approval, the rules will become effective **on October 2, 2023**. Listed companies will have **60 days** following the **October 2nd effective date**, until **December 1, 2023**, to adopt a recovery policy that satisfies the rules. The additional disclosure requirements apply immediately following the effective date of the regulations.

As a reminder, on February 22, Nasdaq (like other U.S. exchanges) [submitted](#) to the SEC a proposal to establish listing standards related to recovery of erroneously awarded executive compensation as required by SEC [Rule 10D-1](#) and the Dodd-Frank Wall Street Reform and Consumer Protection Act. Under Rule 10D-1 and the proposed Nasdaq rules, recovery of erroneously awarded incentive-based compensation would be required from current and former executive officers who received incentive-based compensation during the three fiscal years preceding the date on which the company is required to prepare an accounting restatement to correct a material error. As required by Rule 10D-1, following an administrative process, Nasdaq will delist a company if it does not adopt a compensation recovery policy that complies with the applicable listing standard, disclose the policy in accordance with Commission rules, or comply with the policy's recovery provisions. Other exchanges are similarly required to adopt listing standards under Rule 10D-1 and have also proposed rules.

For more details regarding the clawback proposal, here is our March 20, 2023 alert: [Listing Standards for Recovery of Erroneously Awarded Compensation](#).