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SEC Announces New Streamlined Procedure for the Extension of Confidential Treatment

Public companies that have previously obtained a confidential treatment order from the Staff of the Securities and Exchange Commission for a material contract filed as an exhibit under the periodic reporting requirements of the Securities Exchange Act of 1934 must continue to file extension applications if they want to protect the confidential information from public release pursuant to a Freedom of Information Act request after the original order expires. Following the SEC's recently adopted rules that provide a simplified approach for requesting confidential treatment as described in our recent eUpdate, the SEC's Division of Corporation Finance has announced a streamlined procedure to extend confidential treatment for exhibits that are subject to a previously granted confidential treatment request.

The Staff has developed a short form application to facilitate the process of filing an application to extend the time for which confidential treatment has been granted. In this one-page document, the company affirms that the most recently considered application continues to be true, complete and accurate regarding the information for which the company continues to seek confidential treatment. The company also requests that the time period for confidential treatment be extended for an additional three, five or ten years and provides a brief explanation to support the request. There is no need to refile the unredacted documents with the request or provide the supporting analysis previously provided if the analysis remains the same as presented in the most recent application. If the applicant reduces the redactions, it must publicly file the revised redacted version of the contract when it submits the short form extension application.

The short form application is to be submitted via email to CTExtensions@sec.gov. If the Staff has questions relating to the application, they will contact the company. If the Staff does not have any questions and determines to grant the request based on the previously supplied information and the short form application, the order granting extension of confidential treatment will be posted on the company's filing history on SEC's website.

Related Capabilities

- Corporate Governance & Compliance
- Capital Markets

The short form application is not the exclusive means to request an extension of confidential treatment for previously granted requests. It is available as an alternative to the traditional method of requesting such extensions. The short form may not be used to add new exhibits to the application or make additional redactions that were not previously considered by the Staff.

Public companies should review the expiration dates in their currently outstanding confidential treatment orders and take advantage of this simplified approach for obtaining extensions.