

# SEC Updates Guidance on Expiring Confidential Treatment Orders

September 14, 2020 – Governance & Compliance Insider  
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On September 9, the SEC's Division of Corporation Finance updated its guidance to outline three alternatives for handling an expiring confidential treatment order ("CTO"):

- 1) If the contract continues to be material but the previously redacted information is no longer confidential: refile the unredacted exhibit.
- 2) If the contract continues to be material, and the previously redacted information continues to be confidential, request to extend the confidential period under Securities Act Rule 406 or Exchange Act Rule 24b-2 by:
  - a) submitting the short form application if the CTO was issued less than three years ago; or
  - b) filing a new, complete application for confidential treatment under Rule 406 or Rule 24b-2 if the CTO was issued more than three years ago.
- 3) Transition to the "streamlined" process for redacting exhibits set out in Item 601(b)(10) of Regulation S-K and other parallel rules, if the CTO was issued more than three years ago and the contract continues to be material.

The SEC's staff expects many, if not most, companies will choose to transition to the streamlined process in the third option, under which substantiation of compliance and submission of unredacted materials to the staff is only required upon staff request.

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