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SEC's Prescribed Clawback Policy - Effective Date Postponed and Approved by SEC!

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by Cam C. Hoang

NYSE, NYSE American and Nasdaq have postponed the effective date of the proposed clawback listing standards, so they would take effect on October 2, 2023, and issuers would be required to adopt compliant clawback policies by December 1, 2023. Furthermore, the SEC has granted accelerated approval of each exchange's proposal, as amended.

The amendments have not changed the substantive requirements for a clawback policy. However, besides the postponed effective date, NYSE has updated its listing standards so that the notice and cure period for noncompliance applies to circumstances beyond the delinquent adoption of a clawback policy, such as prompt recoupment of erroneously awarded compensation. NYSE's amendment is consistent with Nasdaq's listing standards.

Since clawback policies must cover all incentive-based compensation received on or after the October 2, 2023 effective date of the listing standards, earlier adopters may wish to specify this effective date in their policies.

For FAQs on the SEC-prescribed clawback policy, please see the following Dorsey eUpdate.

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