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SEC Provides Reminder that Form 12b-25 is a Disclosure Document

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The SEC's Division of Enforcement announced on April 29, 2021 settled enforcement actions against eight companies for failure to adequately disclose the reasons for their inability to timely file their Form 10-Ks or Form 10-Qs when filing a Form 12b-25 (commonly known as "Form NT") to extend the time to file those reports. (The SEC's press release is available here.) In particular, the SEC noted that these companies failed to disclose anticipated restatements and corrections subsequently reflected in the filed financial statements as the reason for the inability to file on time. The SEC also noted the need to disclose any significant change in quarterly income or revenue anticipated by management.

SEC reporting companies sometimes need to avail themselves of the additional time to file their periodic reports, typically because of the inability to complete their financial statements, by filing a Form 12b-25. It is important that companies treat the form as a disclosure document and not just as an automatic extension, and that they adequately disclose the reasons for the inability to file on time and any anticipated changes in quarterly results.

If you have any questions about these or related topics, your regular Locke Lord contact or any of the authors can discuss these matters with you.

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