# NYSE Waives Shareholder Approval Requirements in Response to COVID-19

Alert
04.17.2020

On April 6, the Securities and Exchange Commission approved the New York Stock Exchange's (NYSE) request to provide temporary waivers of the shareholder approval requirements applicable to certain kinds of equity issuances under the NYSE's Listed Company Manual. The request is part of the exchange's ongoing efforts to respond to the challenging fund-raising environment for listed companies during the COVID-19 crisis.

The NYSE's accommodations modify the shareholder approval requirements for transactions under section 312.03 of the NYSE Listed Company Manual including:

- Issuances to related parties (including directors, officers or substantial security holders of the company) if the number of shares of common stock to be issued exceeds 1% of the number of shares of common stock (or voting power) before the issuance.
- Transactions relating to 20% or more of the company's outstanding common stock (or voting power) before such issuance.

Under the first rule change, issuers would not need to comply with the numerical limitations of section 312.03(b) of the NYSE Listed Company Manual to sell securities to related parties without first obtaining shareholder approval for such issuance. Issuers would still need to comply with the other requirements of the rule.

Under the second waiver, the NYSE expands the "bona fide financing" exemption available under section 312.03(c) of the NYSE Listed Company Manual to allow issuers to engage in private placement transactions that exceed the 20% threshold established under the rule without first seeking shareholder approval if the transaction is a sale of the issuer's securities for cash at a price that meets the minimum price requirements of the rule.

Based in part on the NYSE's observations during the financial crisis of 2008-09, the NYSE intends for the waivers to ease restrictions on listed companies who will have "urgent liquidity needs in the coming months due to lost revenues and maturing debt obligations" and "who will need to access additional capital that may not be available in the public equity or credit markets."

View our expanded discussion of the NYSE's waivers.

For more information on the NYSE's waivers, please contact Steve Quinlivan, Bryan Pitko, Ashlee Germany, Jack Bowling, Scott Gootee or the Stinson LLP contact with whom you regularly work.

## RELATED CAPABILITIES

Corporate Finance

Governance, Risk & Compliance

Public Companies, Securities & Capital Markets