

The SEC Publishes Revised Form 8-K Interpretations

April 15, 2008

On April 10, 2008, the Securities and Exchange Commission (the "SEC") published revised interpretive guidance regarding Form 8-K (the "April 2008 Interpretations").¹ This guidance replaces the previously issued Form 8-K interpretations set forth in:

- the July 1997 Manual of Publicly Available Telephone Interpretations,
- the June 13, 2003 Frequently Asked Questions Regarding the Use of Non-GAAP Financial Measures and
- the November 22, 2004 Form 8-K Frequently Asked Questions.

The April 2008 Interpretations gather together in one place the guidance from these prior publications, add to them, revise them in some instances and remove a few entirely. New interpretations appear in the areas of Item 1.01 (Entry into a Material Definitive Agreement), Item 2.02 (Results of Operations and Financial Condition), Item 3.02 (Unregistered Sales of Equity Securities), Item 4.02 (Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review) and Item 5.02 (Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers).

We will continue to be on the lookout for any further interpretations relating to Form 8-K and any commentary from the SEC's staff with respect to the revised interpretations. As a practical matter, practitioners and compliance personnel should now look to the April 2008 Interpretations for guidance on their Form 8-K questions.

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¹ See SEC Exchange Act Form 8-K Compliance and Disclosure Interpretations at <http://www.sec.gov/divisions/corpfin/guidance/8-kinterp.htm>. The April 2008 Interpretations were first published by the SEC on April 2, 2008 and subsequently slightly revised on April 3, 2008 and April 10, 2008.

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This client alert is intended only as a general discussion of these issues. It is not considered to be legal advice. We would be pleased to provide additional details or advice about specific situations.

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