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The SEC's Share Repurchase Rule May Not Be Fixable...



A few weeks ago, I [blogged](#) that the Fifth Circuit had dealt the SEC a blow by ruling that the share repurchase disclosure rules it adopted back in May were "arbitrary and capricious" under the Administrative Procedure Act in response to a challenge brought by the U.S. Chamber of Commerce. The Court gave the SEC 30 days to try to fix the rule, including a request that the SEC substantiate the rule's costs and benefits.

On Thanksgiving Eve, the SEC [announced](#) an [order](#) postponing the effectiveness of the rule pending further SEC action. At the same time, the SEC filed a motion asking the Court for an extension of time to correct the defects. The Chamber opposed the motion, and on Sunday, the court issued this [order](#) denying the SEC's request for an extension.

The 30-day clock to fix the rule runs out later this week. Time will tell how this one plays out.

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