



Financial Reform Package Affects Incentive-Based Compensation

Insights

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One of the provisions of the "Dodd-Frank Wall Street Reform and Consumer Protection Act" (the so-called financial reform act) is a requirement that public companies implement a "clawback" policy for their incentive-based compensation. This policy must provide that if the company is required to restate its financial statements because of material noncompliance with any financial reporting requirements under the Securities laws, the company will recover from any current or former executive officer who receives incentive-based compensation (including stock options) during the three-year period preceding the date of the restatement any amount in excess of the amount that would have been paid to the executive under the restated financial statements.

This clawback policy requires recovery even in the absence of misconduct and applies to anyone who served as an executive officer during the relevant three-year period. This rule is applicable upon enactment, July 21, 2010.

If your company is publicly traded or pre-IPO, you need to review your incentive-compensation plans and programs and add a clawback policy immediately. For more information contact a member of the Fisher Phillips Employee Benefits Practice Group.

This Legal Alert contains information about one provision of a specific new law. It is not intended to be, and should not be considered as, legal advice for any particular fact situation.