

Securities Lawyer 101

Registration Statements on Form 10



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Registration Statements on Form 10

Form 10 is a registration statement used to register a class of securities pursuant to Section 12(g) of the Securities Exchange Act of 1934 (“Exchange Act”). All companies can register securities on Form 10 regardless of whether they are public or private. This blog post addresses the most common questions we receive about Form 10 registration.

Q. Which companies can register a class of securities on Form 10?

A. All companies can register securities on Form 10 regardless of whether they are public or private.

Q. When is a company required to file a Form 10 registration statement with the SEC?

A. The Exchange Act requires issuers with more than \$10,000,000 in total assets and 750 or more shareholders of record to file a registration statement on Form 10.

Q. Can an issuer voluntarily file a registration statement on Form 10?

A. Yes, an issuer can voluntarily file a Form 10.

Q. When does a registration statement on Form 10 become effective?

A. Form 10 registration statements become effective sixty days after the initial filing date regardless of whether there are outstanding SEC comments.

Q. What happens upon effectiveness of a company’s Form 10 registration statement?

A. Upon effectiveness of a Form 10 registration statement, the issuer becomes subject to the [reporting](#) requirements of the Exchange Act and is obligated to file annual reports on [Form 10-K](#),

quarterly reports on [Form 10-Q](#) and current reports on [Form 8-K](#). Additionally, unlike effectiveness of a registration statement on Form S-1, effectiveness of a Form 10 registration statement causes the issuer to be subject to Exchange Act Section 14’s proxy rules. Additionally, effectiveness of a company’s registration statement on Form 10 causes its management and shareholders to be subject to the beneficial reporting requirements of Sections 13 and 16 of the Exchange Act.

Q. If my company files a registration statement on Form 10 will its shares become free trading shares?

A. No, unlike a registration statement on Form S-1, Form 10 does not register a securities offering or transaction pursuant to Section 5 of the Securities Act of 1933, as amended (the “Securities Act”). As such, a Form 10 registration statement will not cause restricted securities to become unrestricted.

Q. Does the filing of a Form 10 registration statement result in the assignment of a ticker symbol?

A. Even though an effective Form 10 registration statement causes an issuer to become subject to the reporting requirements of the Exchange Act, a Form 10 registration statement does not make a company public or result in assignment of a ticker symbol.

Q. If a company files a Form 10 will it still need FINRA approval prior to a ticker being assigned?

A. Yes, a Form 10 registration statement does not eliminate FINRA's requirements for trading or quotation.

Q. How does a company obtain a ticker symbol after filing a registration statement on Form 10?

A. FINRA assigns ticker symbols and the company must meet FINRA requirements which vary depending upon whether the company will trade on the [OTCMarkets Pink Sheets](#), [OTCQB](#), [OTCQX](#) or an exchange such as NASDAQ, AMEX or NYSE. Generally, among other things, the Company must have 25 shareholders with unrestricted shares and locate a sponsoring market maker to submit a Form 211 on its behalf.

Q. If a company files a Form 10 does it meet the informational requirements of SEC [Rule 15c-211](#)?

A. Yes, assuming the information in the Form 10 registration statement is complete and current.

Q. Does a Form 10 registration statement cure "public shell company" status for purposes of Rule 144 for an issuer which engaged in a reverse merger with a public shell?

A. A Form 10 registration status can cure public shell company status and has been used by many companies after reverse mergers. Rule 144 is available to shareholders of former shell companies if:

- ◆ the company is no longer a shell company;

◆ the shell company must be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act;

◆ the shell company must have filed all reports and other materials required to be filed by section 13 or 15(d) of the Exchange Act, as applicable, during the preceding 12 months (or for such shorter period that the issuer was required to file such reports and materials), other than Form 8-K reports;

◆ the shell company must have filed all and have filed current "Form 10 information" with the Commission reflecting its status as an entity that is no longer a shell company,

Q. What is a shell company?

A. A shell company is an issuer with no or nominal operations and either no or nominal assets, assets consisting solely of cash and cash equivalents or assets consisting of any amount of cash and cash equivalents and nominal other assets.

Q. If a non-reporting company was a shell company twenty years ago, is it required to file a Form 10 to cure its shell status for purposes of its shareholders having the ability to rely upon Rule 144's safe harbor?

A. Yes, if a non-reporting entity was a shell company during any time in its history, it must either file a Form 10 registration statement or a registration statement on Form S-1 in order for its shareholders to rely upon Rule 144.

For further information about Form 10 Registration Statements, please contact [Brenda Hamilton](#), Securities Attorney at 101 Plaza Real South, Suite 202 North, Boca Raton, FL, (561) 416-8956, or by email at info@securitieslawyer101.com. This securities law Q & A is provided as a general or informational service to clients and friends of [Hamilton & Associates Law Group, P.A.](#) and should not be construed as, and does not constitute legal advice on any specific matter, nor does this message create an attorney-client relationship. Please note that prior results discussed herein do not guarantee similar outcomes.
