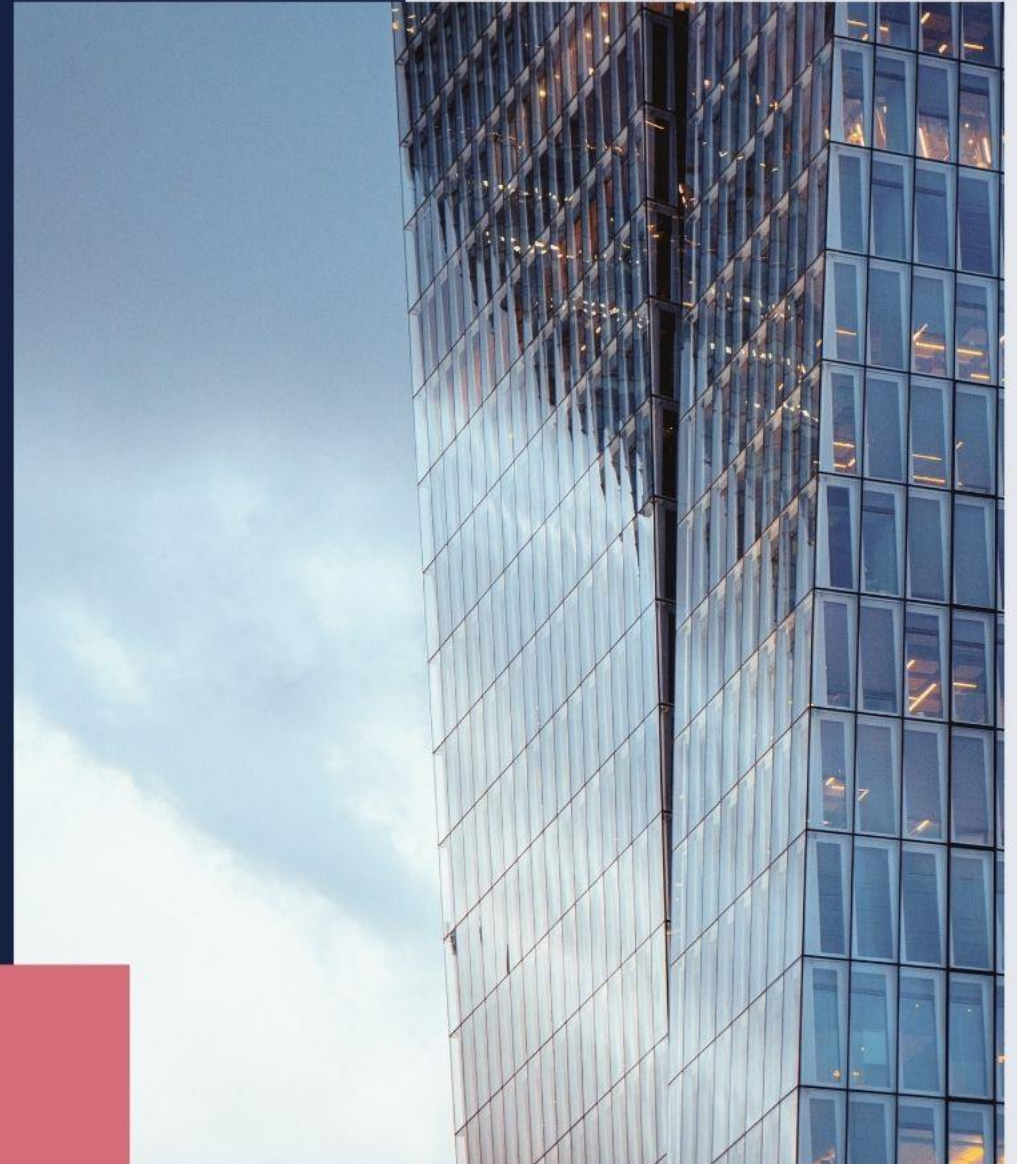


PEARL COHEN

# Technology Reporting Under US Securities Laws

Benjamin Waltuch, Esq.

September 2024





# PEARL COHEN



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FOOT PRINT**



## Form 8-k – Item 1.01

- “If the registrant has entered into a material definitive agreement **NOT** made in the ordinary course of business of the registrant, or into any amendment of such agreement that is material to the registrant, disclose the agreement.”
- a material definitive agreement means an agreement that provides for obligations that are material to and enforceable against the registrant, or rights that are material to the registrant and enforceable by the registrant against one or more other parties to the agreement, in each case whether or not subject to conditions.

## Form 8-k – Item 1.01

These agreements are material even if they are made in the ordinary course:

- Contract upon which the business is substantially dependent
- Acquisition or disposition of property, plant or equipment for consideration exceeding 15% of fixed assets, or
- Material lease
- Agreements with Executive Officers

### Frequently Asked Questions

1. Term Sheets/Letters of Intent
2. Conditional Agreements
3. Rev Share Agreements/Framework Agreements

## Form 8-k – Item 1.02 – Termination of Material Agreement

Disclosure is required -

“If a material definitive agreement which was not made in the ordinary course of business of the registrant and to which the registrant is a party is terminated otherwise than by expiration of the agreement on its stated termination date, or as a result of all parties completing their obligations under such agreement, and such termination of the agreement is material to the registrant”



## Timing of the 8-k Filing\*

Date of Event	Due Date (assuming no Federal holidays)
Sunday	Thursday
Monday	Friday
Tuesday	Monday
Wednesday	Tuesday
Thursday	Wednesday
Friday	Thursday
Saturday	Thursday

- If there is a press release, the 8-k should be filed together with the press release.
- If the information is leaked or disclosed without an ND, the information should be published immediately under Regulation FD.

## Form 8-k – Item 8.01 – Optional Disclosure

- The registrant may, at its option, disclose under this Item 8.01 any events, with respect to which information is not otherwise called for by this form, that the registrant deems of importance to security holders.
- Technological Advances
- New Features
- Timing.

## Nasdaq Rule 5250

- Except in unusual circumstances, a Nasdaq-listed Company shall make prompt disclosure to the public through any Regulation FD compliant method (or combination of methods) of disclosure of any material information that would reasonably be expected to affect the value of its securities or influence investors' decisions.
- FINRA Review





## Practical Consideration and Tips

1. Analysis and Preparation of the 8-k should be nearly completed prior to signing the document.
2. Board/Shareholder approval
3. Consistent Practice
4. Regulation FD
5. Company Guidelines – which contracts are the most material to your company.
6. Set up process for tracking any such agreements, amendments or termination.



## Other Practical Tips for Public Companies

1. Form 4 filings
2. Insider Trading/Sales Windows
3. 10b5-1s
4. Filing Codes
5. Annual/Quarterly Filing Plans
6. Update and Review your Investor Section
7. Email Alerts
8. DEI Boards

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YOU

[www.pearlcohen.com](http://www.pearlcohen.com)



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