IN THE MEDIA

David Sakowitz and Ben Smolij Discuss Recent NYSE Proposal with Law360

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Winston & Strawn Attorneys David Sakowitz and Ben Smolij were quoted in a Law360 article discussing a New York Stock Exchange (NYSE) proposal seeking additional authority to delist companies that enact wholesale business changes after going public. In the proposal the NYSE said it would consider delisting if a company adopts a business line “substantially different” than its original plan and would examine things like changes to the management, board of directors, voting power, ownership, and financial structure of a company before making a decision.

“The exchange is probably concerned about a shift into an industry in which stock prices are historically a lot more volatile,” David said. “And crypto is a prime example of that type of industry.”

Viewing the NYSE’s proposal, David said it will be worth watching whether the Big Board receives pushback. He pointed out that the exchange’s definition of what constitutes a “substantially different” primary business may not be readily apparent in all cases, which could create uncertainty. The proposal was likely drafted to grant the exchange as much flexibility as possible in carrying out its policy, he said.

Ben said he expects the NYSE’s policy would seldom be applied and likely stems from a “few bad cases” in which shares of a company dropped after a significant change in operations. He noted that businesses that embrace a “flavor-of-the-day” industry despite having no history in that sector should expect scrutiny.

“If all of a sudden you shift your business and call yourself now an AI company, there might be questions as to what’s behind that,” he said.

Read the full article.

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