

AT&T Settles Long-Running Regulation FD Case with SEC

December 6, 2022

On December 5, 2022, the U.S. Securities and Exchange Commission (the “SEC”) announced that AT&T agreed to pay a \$6.25 million penalty, and three AT&T executives each agreed to pay a \$25,000 penalty, to settle SEC charges that the executives had selectively disclosed material nonpublic information (“MNPI”) to financial analysts in 2016. The SEC’s complaint, filed in the U.S. District Court for the Southern District of New York on March 5, 2021, alleged that AT&T violated Regulation Fair Disclosure (“Regulation FD”) and Section 13(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and that the three Investor Relations executives who made the calls to analysts aided and abetted those violations. According to the SEC, the penalty that AT&T agreed to pay in this settlement is the largest ever in a Regulation FD case.

As we previously reported in our [Debrief on March 9, 2021](#) and our [Insider Trading & Disclosure Update on September 29, 2022](#), the SEC alleged that AT&T’s chief financial officer, hoping to avoid missing analysts’ consensus revenue estimates for a third consecutive quarter, instructed AT&T’s Investor Relations Director to “work the analysts who still have [revenue from smartphone sales] too high.” The Director then asked his team to “walk the analysts down” from their initial estimates. During the six weeks before AT&T announced its quarterly results, the three Investor Relations executives made private phone calls to 20 equity stock analysts. In those calls, the executives purportedly disclosed MNPI, including AT&T’s projected and actual smartphone sales rates and its projected and actual revenue from wireless equipment. In some of those calls, the executives allegedly misrepresented AT&T’s internal results as publicly available consensus estimates, conduct which the SEC pointed to as evidence that they understood the disclosures were prohibited. The SEC’s complaint also noted that AT&T’s Regulation FD training, which was provided to the Investor Relations Department, labeled both revenue information and smartphone sales data as “material.” Notably, in an opinion denying summary judgment for AT&T just two months prior to this settlement, a U.S. Federal District Judge cited AT&T’s internal policies, emails and Regulation FD training materials in concluding that the information disclosed to analysts was material.

AT&T and the three executives consented to final judgements without admitting or denying the allegations in the complaint, which judgements permanently enjoined them from violating Regulation FD and Section 13(a) of the Exchange Act and ordered them to pay the aforementioned penalties.

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We are available to discuss this matter and other considerations related to Regulation FD. Please do not hesitate to contact us with any questions.



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