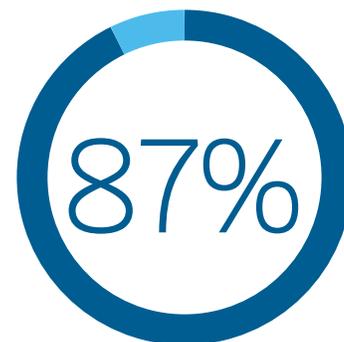


Balancing Act

Trends in 10b5-1 Adoption and Oversight

When insiders own company stock, diversifying their shares requires diligence and care. A 10b5-1 trading plan is a vehicle for executives to manage concentrated stock positions. Today, these plans are on the rise. With increased scrutiny of insider trading, firms are adding oversight and providing clearer guidance in how plans are structured.

The Morgan Stanley/NASPP 10b5-1 Survey of 325 companies, conducted in Spring 2015, found that the use of 10b5-1 trading plans is growing. A majority of firms both review and approve each plan. Oversight is common practice. Firms want to continue to offer 10b5-1 plans as long as they remain within the boundaries of the company's insider trading policies.



Most companies (87%) report that they review and approve 10b5-1 plans, in accordance with the company's insider trading policy.

325

Companies surveyed in Spring 2015. The survey found use of 10b5-1 trading plans growing.

COMPANIES WITH 10b5-1 PLANS (AS OF DECEMBER 31, 2014)

Year	Total Public Companies	# of Companies With 10b5-1 Filings	10b5-1 Penetration (%)
2014	5,628	1,407	25%
2013	5,706	1,322	23%
2012	5,785	1,325	23%
2011	6,050	1,263	21%
2010	6,330	1,182	19%
2009	6,466	1,001	15%
2008	7,152	1,062	15%
2007	7,601	1,347	18%
2006	7,464	1,258	17%
2005	7,582	1,114	15%
2004	7,655	878	11%
2003	7,227	468	6%
2002	6,607	6	0%

Source: The above numbers are compiled by the Washington Service from Form 4 filings in the period listed.

S&P 500 COMPANIES WITH 10b5-1 PLANS IN THE S&P 500 INDEX (AS OF DECEMBER 31, 2014)

Year	Total Companies	# of Companies With 10b5-1 Filings	10b5-1 Penetration (%)
2014	500	272	54.4%
2013	499	257	51.1%
2012	494	258	52.2%
2011	490	238	48.6%
2010	483	216	44.7%
2009	476	193	40.2%
2008	476	175	36.8%
2007	473	214	45.2%
2006	466	184	39.5%
2005	460	168	36.5%
2004	450	122	27.1%

Source: The above numbers are compiled by the Washington Service from Form 4 filings in the period listed.

Does Company Review and Approve 10b5-1 Plans?

MOST COMPANIES

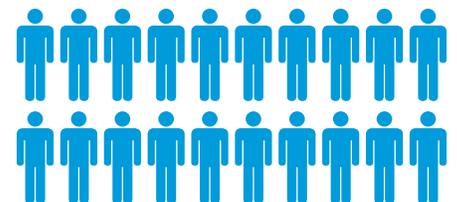


Plans Are Trending Up

A notable number of companies in this survey offer 10b5-1 trading plans for officers, directors and other eligible employees. One-third of issuers state that the number of plans for insiders at their companies is growing. Uptick is even higher at larger companies, with nearly half reporting that more of their employees are establishing 10b5-1 plans.

Companies are playing an active role in this process, going as far as choosing a broker-dealer to administer their 10b5-1 plans. Forty-four percent require eligible employees to use a preselected brokerage firm that's vetted and chosen by the company.

Number of Eligible Employees and 10b5-1 Plans in Place



While a majority of firms surveyed say that more than 20 employees are eligible to establish a 10b5-1 plan, nearly half have fewer than five plans in place.

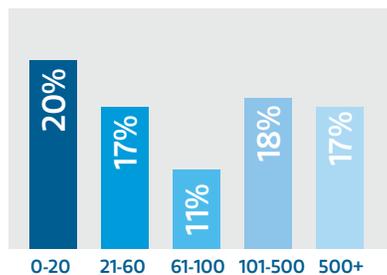


Furthermore, **73%** say the population of eligible employees has not changed.



34% of respondents indicate that the number of plans at their company is growing.

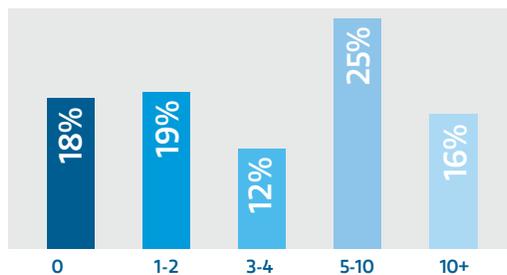
NUMBER OF ELIGIBLE EMPLOYEES



Are the number of eligible employees at your company...?



NUMBER OF 10b5-1 PLANS IN PLACE



Are the number of plans in place at your company...?



Companies in the healthcare and information technology industries are more likely to have greater than ten 10b5-1 plans in place.

MANDATORY USE OF 10b5-1 PLANS

Are Employees Required to Sell Through 10b5-1 Plans?



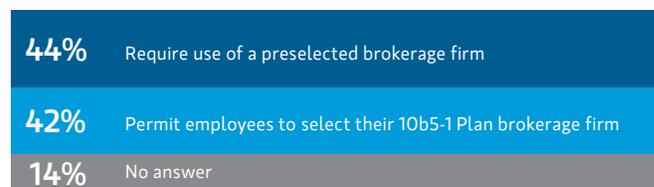
Only 3% require nonexecutive employees to sell through 10b5-1 plans.

Companies with fewer than 2,500 employees (22%) are more likely than companies with 10,000 or more employees (6%) to require their officers and directors to sell through 10b5-1 plans.

Only 19% require officers to sell through 10b5-1 plans, and only 14% require directors.

SELECTION OF IMPLEMENTING BROKERAGE FIRMS

Brokerage Firm Selection Process for 10b5-1 Plan Implementation



Digging Into the Details

The survey results indicated companies are engaged in reviewing and approving 10b5-1 plans for their employees. Guidelines can vary, particularly as they relate to cooling-off periods¹, modifications and terminations:



68% of firms surveyed require a cooling-off period, with nearly half requiring insiders wait one to two months before making their first trade.



More than half, 54%, permit employees to modify or amend a plan

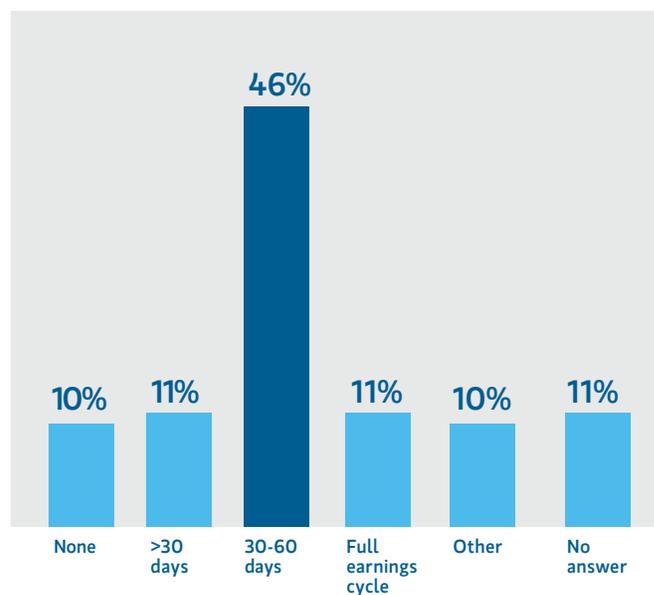
- Of those who do allow changes, 53% impose restrictions.
- Additionally, 84% impose a waiting period before trading can resume.



More than two-thirds, 69%, allow employees to terminate their plan.

¹ A cooling-off period, as defined by the survey, is a mandatory waiting time between the date a plan is signed and the date of a first possible sale.

Length of a Mandatory Cooling-Off Period



While almost half require a mandatory cooling-off period before the first trade of 30 to 60 days, one in 10 do not have a cooling-off period.

MINIMUM/MAXIMUM TERMS FOR 10b5-1 PLANS

The View by Companies Surveyed on Plan Terms:



For those imposing minimums and maximums, the median range for:

Plan minimum length is: 6-8 months
Plan maximum length is: 13-18 months

SELLING SHARES OUTSIDE OF PLANS OR DURING BLACKOUT PERIODS WITHIN A PLAN



In most cases, employees with active 10b5-1 plans are still allowed to sell other shares outside of their plan during an open-window period.

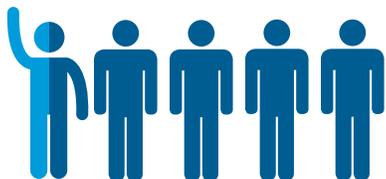
In addition, 80% of companies allow their employees to sell shares through their plans during a blackout period.

Directors and officers may be subject to different standards than other employees.

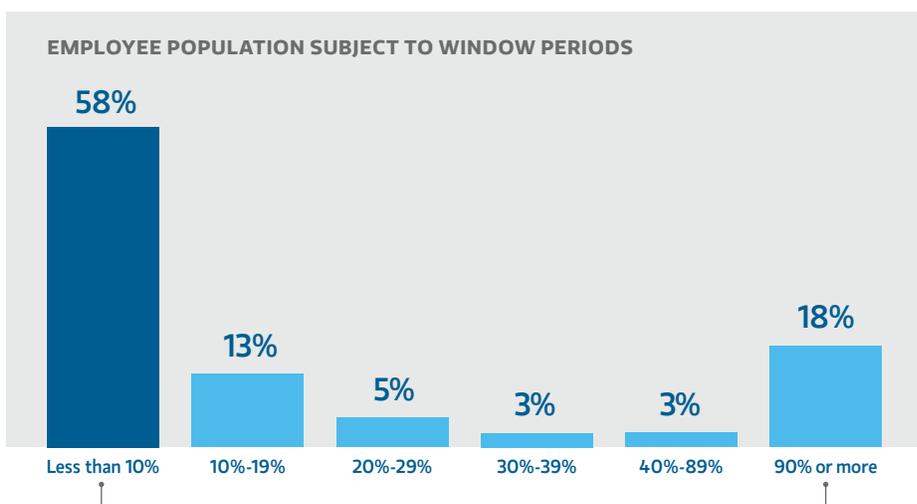
Firms Step In, Common Practices Emerge

As the usage of 10b5-1 plans increases, the market is maturing. Firms are providing more guidance, and a consensus is emerging. Plans are increasing in popularity and firms are actively involved in their oversight. We will continue to investigate and review these practices.

Employee Population Subject to Window Periods



Most say that less than 10% of their employees are subject to trading window periods, although one in six indicate that window periods apply to 90% or more of their employees.



Companies with 10,000 or more employees are more likely to have less than 10% of their employees subject to window periods.

Companies with fewer than 2,500 employees are most likely to have more than 90% of them subject to window periods.

Interested in learning more about trends and 10b5-1 plans? Please contact ExecutiveServices@morganstanley.com.

10b5-1 Trading Plans — Important Considerations

Clients executing a 10b5-1 Trading Plan should keep the following important considerations in mind: (1) 10b5-1 Trading Plans should be approved by the compliance officer or general counsel of the company.

(2) A 10b5-1 Trading Plan may require a cessation of trading activities at times when lockups may be necessary to the company (i.e., secondary offerings, pooling transactions, etc.).

(3) A 10b5-1 Trading Plan does not generally alter the restricted stock regulatory requirements (e.g., Rule 144, Section 16, Section 13D) that may otherwise be applicable.

(4) 10b5-1 Trading Plans that are modified or terminated early may weaken or lose the benefit of the affirmative defense.

(5) Public disclosure of 10b5-1 Trading Plans (e.g., via press release) may be appropriate for some insiders.

(6) Most companies will permit 10b5-1 Trading Plans to be implemented only during open window periods.

(7) Morgan Stanley Smith Barney, as well as some issuers, imposes a mandatory waiting period between the execution of the 10b5-1 Trading Plan and the first sale pursuant to the 10b5-1 Trading Plan.

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