

## Question 105.01

**Question:** A pledgee of securities was not required to file a beneficial ownership report on Schedule 13D or Schedule 13G before default by the obligor because the pledgee lacked the power either to vote or to dispose of the pledged securities and was not otherwise deemed to be a beneficial owner by application of Rules 13d-3(d)(3)(i)—(iii). Upon default by the pledgor, should the pledgee immediately examine whether it is required to file a beneficial ownership report or may it wait until it takes all formal steps necessary to declare a default?

**Answer:** After a default by the pledgor has occurred, the pledgee should re-examine the pledge agreement to determine whether the pledgee has been granted voting power or investment power irrespective of whether it has taken all formal steps necessary to declare a default or perfect its rights. To the extent that, upon default, the pledge agreement grants the pledgee voting or investment power over greater than five percent of the class of outstanding securities, the pledgee will be deemed to have acquired beneficial ownership of the pledged securities on the date of default and must report its beneficial ownership on a Schedule 13D within ~~10~~five business days ~~thereafter~~after that date or, if eligible, a Schedule 13G within the requisite time frame. [~~Sep. 14, 2009~~ July 11, 2025]