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Who's a Big Boy II: Superior Knowledge and the Duty to Disclose

By Brian S. Fraser and Tamala E. Newbold

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In the October 2007 memorandum titled "Who's a Big Boy? Non-Reliance Provisions and Claims of Insider Trading in Securities and Non-Securities Markets," Brian Fraser and Tamala Newbold addressed questions regarding the enforceability of contractual disclaimers of reliance, known as "Big Boy provisions." In this follow-up memorandum, they address the question of the duty to disclose material non-public information in non-securities transactions under New York law and whether a Big Boy provision may affect any such duty to disclose.

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