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# How Will the JOBS Act Affect Non-US Issuers?

Presented by

**Practical Law Company**

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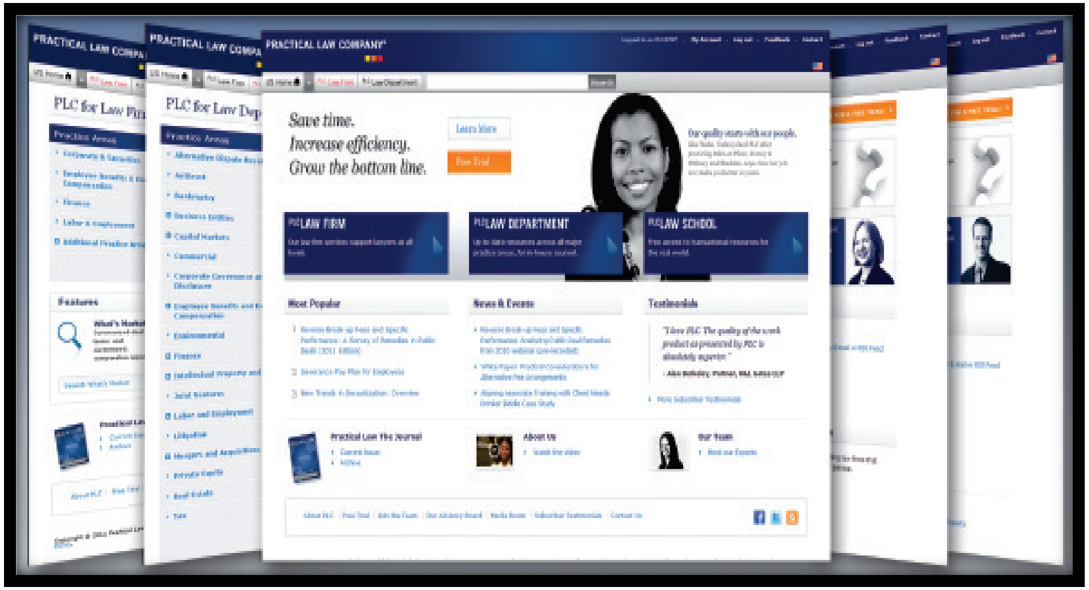


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# Overview

# The JOBS Act

- On March 8, 2012, the “Jumpstart Our Business Startups Act,” H.R. 3606, was passed by the House of Representatives.
- On March 22, 2012, the Senate passed H.R. 3606 with an amendment to Title III (crowdfunding).
- On March 27, 2012, the House accepted the Senate’s amendment.
- On April 5, 2012,the President signed the legislation.
- The JOBS Act was the culmination of a year-long bipartisan effort in both the House and Senate to address concerns about capital formation and unduly burdensome SEC regulations.
- Many of the provisions of the JOBS Act will be useful to foreign issuers contemplating an IPO in the United States or accessing U.S. investors through exempt offerings.

# JOBS Act

- ***Title I, Reopening American Capital Markets to Emerging Growth Companies*****.** Most commonly referred to as the "IPO On-Ramp" legislation, this Title is meant to encourage smaller companies to go public through a process where public company obligations would be phased-in over time.
- ***Title II, Access to Capital for Job Creators*****.** This Title removes the prohibition against general solicitation and general advertising in private offerings under Regulation D, provided that all of the purchasers of securities are accredited investors. The Title also addresses certain broker-dealer issues for these offerings.
- ***Title III, Crowdfunding*****.** This Title provides an exemption for “crowdfunding,” by permitting offerings up to $1 million. Requirements targeted at investor protection are imposed on the issuer and the intermediary involved in the crowdfunding effort. The Title also addresses certain broker-dealer issues for these offerings.
- ***Title IV, Small Company Formation*****.** This Title is what is commonly referred to as “Regulation A” reform, and it creates a new exemption for offerings up to $50 million.
- ***Title V, Private Company Flexibility and Growth*****.** This Title increases the Exchange Act registration stockholder of record threshold from 500 to 2,000 (only 500 of which can be non-accredited investors).
- ***Title VI, Capital Expansion*****.** This Title increases the stockholder of record threshold from 500 to 2,000 for banks and bank holding companies, and provides that a bank or bank holding company could terminate 1934 Act registration if the number of holders of record drops to less than 1,200.

# Title I:
# Emerging Growth Companies

# Title I – Emerging Growth Companies

- Title I of the JOBS Act is commonly referred to as the "IPO On-Ramp.”
- Establishes a new category of issuer: the “Emerging Growth Company,” or “EGC.”
- Meant to encourage smaller companies to go public through a process where public company obligations are phased-in over time.
- By its terms, an EGC may include an issuer that is organized outside of the United States and that is a foreign private issuer, or FPI.

# Emerging Growth Company – Benefits

- Permits filing a registration statement with the SEC on a confidential basis.
- Expands the range of permissible pre-filing communications made to qualified institutional buyers, or QIBs, or institutional accredited investors.
- EGCs may now engage in oral or written communications with QIBs and institutional accredited investors in order to gauge their interest in a proposed IPO (i.e. “test-the-waters”) either prior to or following the first filing of the IPO registration statement.
- Requires EGCs to provide only two years of audited financial statements to the SEC (rather than three years), and delays the auditor attestation on internal controls requirement.
- Exempts EGCs from:
  - The mandatory Say-on-Pay vote requirement;
  - The Dodd-Frank Act-required CEO pay ratio rules (not yet proposed by the SEC), and permits the use of certain smaller reporting company scaled disclosure;
  - Any new or revised financial accounting standard until the date that such accounting standard becomes broadly applicable to private companies; and
  - Any rules requiring mandatory audit firm rotation or a supplement to the auditor’s report that would provide additional information regarding the audit of the company’s financial statements (no such requirements currently exist).

# Emerging Growth Company – Defined

- Title I of the JOBS Act amends Section 2(a) of the Securities Act and Section 3(a) of the Exchange Act by creating a new category of issuer called an "emerging growth company."
- An EGC is an issuer with total annual gross revenue of less than $1 billion (with such threshold indexed to inflation every five years).
- An EGC would retain that status until:
  - The last day of the fiscal year in which the issuer had $1 billion or more in annual revenues;
  - The last day of the fiscal year following the fifth anniversary of the issuer's IPO;
  - The date on which the issuer has, during the previous rolling 3-year period, issued more than $1 billion in non-convertible debt:
    - debt *issued* in a public or an exempt offering (not outstanding);
    - rolling three-year period from the time the issuer establishes its EGC status; *or*
  - The date when the issuer is deemed to be a "large accelerated filer" (as defined by the SEC).

# Total Annual Gross Revenues – Defined

- "Total annual gross revenues" means total revenues as presented on the income statement presentation under U.S. GAAP (or IFRS, if used as the basis of reporting by a FPI).
- If the financial statements of a FPI are presented in a currency other than U.S. dollars, total annual gross revenues should be calculated in U.S. dollars using the exchange rate as of the last day of the most recently completed fiscal year.
- In addition, if the financial statements for the most recent year included in the registration statement are those of the predecessor of the issuer, the predecessor's revenues should be used when determining if the issuer meets the definition of an EGC.

# Timing of EGC Status

- An issuer will not be able to qualify as an EGC if it first sold its common stock in an IPO prior to December 8, 2011. This test is not limited to a company's initial primary offering of common equity securities for cash. It could also include offering common equity pursuant to an employee benefit plan on a Form S-8 as well as a selling stockholder's secondary offering on a resale registration statement.
- If the issuer that would otherwise qualify as an EGC had a registration statement declared effective on or before December 8, 2011, but no sales took place before that date, the issuer would still qualify as an EGC.
- An issuer that is a public company outside of the United States can still qualify as an EGC.

# Losing EGC Status

- EGC status is tested at the time of the first public filing of the issuer's registration statement.  So if an issuer confidentially submits a draft registration statement and while the issuer's draft registration statement is pending with the SEC, the issuer crosses the $1 billion revenue threshold (or one of the other tests for EGC status), it will lose its EGC status.
- This issuer would need to file a registration statement to continue the review process and comply with current rules and regulations applicable to companies that are not EGCs. At that time, the prior confidential draft submissions would be filed as exhibits to the registration statement.
- If however, a company publicly files its registration statement at a time when it qualifies as an EGC, the disclosure provisions for EGCs would continue to apply through effectiveness of the registration statement even if the company loses its EGC status during registration.

# Losing EGC Status (cont'd)

- For other purposes, the SEC has advised that an issuer would need to assess EGC status at the time it undertook certain permitted activities.
- For example, if the issuer were an EGC at the time it engaged in "test-the-waters" communications, and subsequently lost its EGC status, the issuer's activities would not be seen as violating Section 5.

# EGC Opt-In

- An EGC may forego reliance on any exemption available to it. However, if it chooses to comply with financial reporting requirements applicable to non-EGCs, it must comply with *all* such standards and cannot selectively opt in or opt out of requirements.
- Any election to be treated as an EGC must be made at the time the EGC files its first registration statement or Exchange Act report.
- The SEC has made clear it expects EGC issuers to disclose their EGC status on the cover page of their prospectuses.

# Reduced Disclosure Obligations

# Reduced Disclosure

- The SEC has advised issuers that EGCs may amend pending registration statements – in a pre- or post-effective amendment– to provide the scaled disclosure available to EGCs if the registration statement was initially filed prior to April 5, 2012.
- FPIs that are EGCs will continue to be entitled to all of the other disclosure benefits available to them as FPIs (such as, for example, reduced compensation disclosure requirements, if permitted by home country practice).

# Disclosure Requirements

| | PRIOR TO JOBS ACT | UNDER THE JOBS ACT |
|---|---|---|
| **Financial Information in SEC Filings** | • 3 years of audited financial statements<br>• 2 years of audited financial statements for smaller reporting companies<br>• Selected financial data for each of 5 years (or for life of issuer, if shorter) and any interim period included in the financial statements | • 2 years of audited financial statements<br>• Not required to present selected financial data for any period prior to the earliest audited period presented in connection with an IPO<br>• Within 1 year of IPO, EGC would report 3 years of audited financial statements |
| **Confidential Submissions of Draft IPO Registration Statement** | • No confidential filing for U.S. issuers<br>• Confidential filing for FPIs only in specified circumstances | EGCs (including FPIs that are EGCs) may submit a draft IPO registration statement for confidential review prior to public filing, provided that such submission and any amendments are publicly filed with the SEC not later than 21 days before the EGC conducts a “road show.” This supersedes the SEC’s December 2011 position on confidential submissions by FPIs. |

# Disclosure Requirements (cont'd)

| | PRIOR TO JOBS ACT | UNDER THE JOBS ACT |
|---|---|---|
| **Communications Before and During The Offering Process** | Limited ability to "test-the-waters" | EGCs, either prior to or after filing a registration statement, may "test-the-waters" by engaging in oral or written communications with QIBs and institutional accredited investors to determine interest in an offering |
| **Auditor Attestation on Internal Controls** | • Auditor attestation on effectiveness of internal controls over financial reporting required in second annual report after IPO<br>• Non-accelerated filers not required to comply | Transition period for compliance of up to 5 years |
| **Accounting Standards** | Must comply with applicable new or revised financial accounting standards | • Not required to comply with any new or revised financial accounting standard until such standard applies to companies that are not subject to Exchange Act public company reporting<br>• EGCs may choose to comply with non-EGC accounting standards but may not selectively comply |

# Disclosure Requirements (cont'd)

| | PRIOR TO JOBS ACT | UNDER THE JOBS ACT |
|---|---|---|
| **Executive Compensation Disclosure** | • Must comply with executive compensation disclosure requirements, unless a smaller reporting company (which is subject to reduced disclosure requirements)<br>• Upon adoption of SEC rules under Dodd-Frank will be required to calculate and disclose the median compensation of all employees compared to the CEO | • May comply with executive compensation disclosure requirements by complying with the reduced disclosure requirements generally available to smaller reporting companies<br>• Exempt from requirement to calculate and disclose the median compensation of all employees compared to the CEO<br>• FPIs entitled to rely on other executive compensation disclosure requirements |
| **Say on Pay** | • Must hold non-binding advisory stockholder votes on executive compensation arrangements<br>• Smaller reporting companies are currently exempt from say on pay until 2013 | Exempt from requirement to hold non-binding advisory stockholder votes on executive compensation arrangements for 1 to 3 years after no longer an EGC |

# Confidential Submissions

# Confidential Submissions

- The JOBS Act permits an EGC to submit registration statements with the SEC on a confidential basis prior to its initial public offering date.
- For a FPI that is <u>not</u> an EGC, the FPI may or may not be able to make a confidential submission. The SEC revised its guidance on confidential submissions for FPIs in December 2011.
- The term "initial public offering" as used in the JOBS Act would also include an offering of common equity pursuant to an employee benefit plan registered on a Form S-8 as well as a selling stockholder's secondary offering registered on a resale registration statement. If an EGC has utilized either of these types of registration statements to sell common equity securities, it would *not* be eligible to file confidentially. An FPI that is public in its home country can still qualify as an EGC.
- A company that has only had Securities Act-registered sales of securities other than common equity securities can qualify to use the confidential submission process as long as it otherwise qualifies as an EGC.

# Confidential Submission vs "Filing"

- Because the confidential submission of a draft registration statement is not a "filing" of a registration statement:
  - The filing fee is not due at that time. The filing fee is due when the registration statement is first filed publicly on EDGAR.
  - It would not count as the filing of a registration statement for purposes of the prohibition in Section 5(c) of the Securities Act against making offers of a security in advance of filing a registration statement.
  - An issuer may not rely on the Rule 134 safe harbor permitting public communications about an offering.

# Confidential Submissions – Form

- As the confidential submission of the draft registration statement does not constitute a "filing," it is not required to be signed or to include the consent of auditors and other experts.
- In addition, as is the case with publicly filed registration statements, EGCs may omit certain limited information from their initial submissions in reliance on existing rules and regulations relating to the content of filed registration statements, such as the public offering price or other offering-related information.
- The SEC has stated that it expects draft registration statements to be substantially complete at the time of initial submission, including a signed audit report of the registered public accounting firm covering the fiscal years presented in the registration statement and that it will defer review of any draft registration statement that is materially deficient.
- Note that the original draft submission and all amendments will have to be filed on EDGAR if the EGC proceeds with its offering.

# Timing of Public Filing

- Confidential submissions must be publicly filed at least 21 days before the issuer conducts a “road show” as defined in Rule 433(h)(4).
- In a traditional underwritten public offering that does not include “test-the-waters” communications, the “road show” should be easy to identify – it would be those meetings traditionally viewed as the “road show” when the EGC and underwriters begin actively marketing the offering.
- In that case, the issuer should estimate when it expects to begin the “road show” and publicly file its confidential submissions at least 21 days before that date.

# Timing of Public Filing (cont'd)

- Some "test-the-waters" communications may also fall within the Rule 433(h)(4) definition of "road show," theoretically triggering the registration statement filing requirement. But the "test-the-waters" provisions specifically contemplate that such communications may take place before filing a registration statement.
- The SEC has stated that, in order to read these various provisions in a consistent fashion, it will not object if an EGC does not treat "test-the-waters" communications as a "road show."
- If the EGC does not conduct a traditional "road show," but will have communications that would come within the definition of "road show" and do not meet the conditions for "test-the-waters" communications (e.g. an investor meeting that is not limited to QIBs or institutional accredited investors), then the registration statement would need to be filed at least 21 days before those communications.

# Timing of Public Filing (cont'd)

- If the EGC does not conduct a traditional "road show" and does not engage in activities that would come within the definition of "road show," then its registration statement and confidential submissions should be filed publicly on EDGAR no later than 21 days before the anticipated date of effectiveness of the registration statement.
- The SEC reminds issuers that the 21-day period is a minimum. The issuer must still go through the comment process with the Staff.
- It is likely that there will be considerable discussion regarding the optimal timing of an issuer's public filing and the timing of the public filing in relation to ongoing investor discussions.

# Timing of Public Filing (cont'd)

← The company and its underwriters may "test-the-waters" by communicating with potential investors that are qualified institutional buyers and institutional accredited investors regarding the contemplated offering

← The company may conduct a concurrent private placement in reliance on Rule 506 or Rule 144A with fewer concerns about publicity restrictions

Securities analysts may participate alongside other investment banking representatives in communications with the company's management and/or potential investors in connection with the IPO, even if investment banking personnel are present or coordinate the meetings

All brokers and dealers may distribute research reports on the issuer ***after*** the offering, without regard to lock-up expiration dates →

| | | | |
|---|---|---|---|
| The company may submit its initial registration statement and subsequent amendments to the SEC on a confidential basis | The company must publicly file any additional amendments to its registration statement | Road show presentation(s) | Public sales of the registered shares are permitted |

← **at least 21 days** →

**Submission of initial registration statement to the SEC**

**Public filing of initial registration statement & subsequent amendments**

**Road show presentation**

**Effective date of the registration statement & pricing**

**Completion of the distribution**

# Public Filing – What Must be Filed?

- The EGC has to publicly file the initial confidential submission and all amendments thereto not later than 21 days before it conducts its "road show."
- The SEC's rules and EDGAR do not currently provide for the filing of registration statements in draft form. As a result, for now, the SEC has advised that these materials should be filed as exhibits to the first registration statement filed on EDGAR, with each confidential submission filed as a separate Exhibit 99.
- As is the case for all registration statements filed under the Securities Act, the first filed registration statement should be complete, including signatures, signed audit reports, consents, exhibits and filing fees.

# Communications Issues

# "Testing-the-Waters"

- Title I of the JOBS Act expands permissible communications during a securities offering by amending the Securities Act to permit:
  - an EGC, or any person authorized to act on behalf of an EGC,
  - either before or after the filing of a registration statement,
  - to "test-the-waters" by"
    - engaging in oral or written communications with potential investors that are QIBs or institutions that are accredited investors.
    - to determine whether such investors might have an interest in a contemplated securities offering.
- Securities Act prohibits all "offers" in whatever form prior to the filing of a registration statement.
- Prior to the JOBS Act, non-public companies and most public companies were prohibited from communicating with potential investors about a proposed offering without having filed a registration statement ("gun jumping").

# "Testing-the-Waters" (cont'd)

- This concept radically changes the communications framework for offerings:
  - "Test-the-waters" communications will not be considered "gun jumping."
  - The communications may be oral or written.
  - If the communications are written, the communications need not comply with the requirements for a prospectus.
  - These communications still are subject to securities law liability.
- An EGC could use these communications in order to gain important insights into the views of institutional investors
- For an EGC that needs to raise capital while it is contemplating an IPO, this guidance is helpful.
- During the "test-the-waters" process, the underwriter cannot solicit (or confirm) an order without a preliminary prospectus.

# "Testing-the-Waters" (cont'd)

- The SEC has stated that it expects to study ways to learn about the contents of "test-the-waters" materials, and that it will want to understand whether information in the "test-the-waters" materials may be of interest to investors generally.
- Integration Issues
  - Historically, practitioners were concerned about gun-jumping issues. In addition, practitioners were concerned about public and private offerings that occurred in close proximity to one another.
  - This legislation provides new flexibility; however, many integration questions will need re-examination.
- **As a result of this expansion in permissible communications, issuers can now more easily engage in private placements while working on their IPOs and can have more robust dual track IPO/M&A dialogues without worrying about the types of information shared.**

# Research

- Title I changes the rules applicable to the publication of research reports relating to offerings by EGCs.
- Under the current rules, investment banks participating in an IPO cannot publish research in advance of the IPO or until 40 days after completion of the offering and must cease publishing research for a period of 15 days before and after the release or expiration of any lock-up agreement. There are also a variety of restrictions limiting contact between bankers and research analysts that are in place to ensure the separation of the investment banking and research functions of broker-dealers.
- The JOBS Act:
  - exempts broker-dealer research reports on EGCs before, during or after offerings of an EGC's common equity (including an IPO) from being considered an offer or a prospectus under the Securities Act, even if the broker-dealers are participating in the offering;
  - permits broker-dealers to issue research reports on EGCs after IPOs (without compliance with the 40-day quiet period) and before the expiration of IPO lock-up agreements; and

# Research (cont'd)

  - allows research analysts to communicate with management in connection with the IPO of an EGC even if investment bankers are present.

- It remains to be seen whether pre-deal research and the participation of research analysts in investor education will be used in the US IPO process for EGCs as they commonly are in certain non-US IPO markets. Additionally, the flexibility provided by the JOBS Act may be limited by:
  - the restrictions imposed by the Global Research Analyst Settlement entered into in 2003, to the extent they are still applicable; and
  - concerns over 10b-5 liability, which may result in broker-dealers retaining restrictions on their own research activities.

# Research (cont'd)

- Title I also prohibits the SEC or FINRA from adopting or maintaining rules that, in the context of a common equity IPO of an EGC,
  - (i) restrict, based on functional role, which associated persons of a broker-dealer may arrange for communications between a securities analyst and a potential investor; or
  - (ii) restrict a securities analyst from participating in any communications with the management of an EGC that is also attended by any other associated person of the broker-dealer whose functional role is other than as a securities analyst.
- The JOBS Act also prohibits the SEC or FINRA from adopting or maintaining any rule prohibiting a broker-dealer from publishing or distributing any research report or making a public appearance, with respect to the securities of an EGC, within prescribed time frames following an IPO or prior to the expiration of lock-up agreements after the IPO. These provisions override, in this context, certain provisions of NASD Rule 2711.

# Title II:
# General Solicitation

# General Solicitation

- Over the years, there have been many proposals to address the prohibition against general solicitation.
- Title II directs the SEC to remove the prohibition against general solicitation and general advertising in offerings pursuant to Rule 506 under Regulation D, provided that the issuer verifies that *all* of the purchasers of securities are accredited investors.
- General solicitation and general advertising will not be prohibited in secondary sales under Rule 144A so long as only QIBs are purchasers in the offering.
- The SEC must adopt implementing rules within 90 days of enactment.

# Regulation D/Rule 144A

- For foreign issuers that are interested in conducting private placements, it is important to note that the JOBS Act makes changes only to Rule 506 of Regulation D and to Rule 144A.
  - This means that Section 4(2) is not changing.
- There also is no corresponding change made to Regulation S.
  - Typically, exempt offerings are structured as Rule 144A/4(2) offerings or Rule 144A/Regulation S offerings.
  - The SEC is not precluded from removing or revising the Regulation S prohibition on directed selling efforts; however, Regulation S prohibitions have a different approach and generally focus on the US nexus.

# Titles V and VI:
# Exchange Act Registration Thresholds

# Exchange Act Thresholds

- Title V amends Section 12(g)(1)(A) of the Exchange Act and provides that an issuer will become subject to Exchange Act requirements within 120 days after the last day of its first fiscal year ended in which:
  - the issuer has total assets in excess of $10 million and
  - a class of equity security (other than an exempted security) held of record by either:
    - 2,000 persons, or
    - 500 persons who are not accredited investors.

# Exchange Act Thresholds (cont'd)

- Title VI adds Section 12(g)(1)(B), which provides that, in the case of an issuer that is a bank or a bank holding company, the issuer will become subject to Exchange Act requirements, not later than 120 days after the last day of its first fiscal year ended after the effective date of this amended section, in which the issuer has total assets exceeding $10 million and a class of equity security (other than an exempted security) held of record by 2,000 or more persons.
- In the case of a bank or a bank holding company, the issuer will no longer be subject to reporting if the number of holders drops below 1,200 persons.
- The SEC must issue final regulations to implement these amendments within a year of the enactment.

# Exchange Act Thresholds (cont'd)

- Section 12(g)(5) is amended to exclude from determinations whether an issuer is required to register securities held by persons who received the securities pursuant to an employee compensation plan in transactions exempt from the Section 5 registration requirements.
- The SEC is required to implement this amendment by revising its "held of record" definition.
- The SEC also must adopt certain safe harbor provisions that issuers can follow to determine whether holders received securities pursuant to an employee compensation plan in exempt transactions.

# Title IV:

# Regulation A+

# Regulation A Basics

- **Eligible issuers** – organized under the laws of the U.S. or Canada, principal place of business in the U.S. or Canada, and not subject to Section 13 or Section 15 reporting before the offering <u>and</u> not disqualified under bad actor disqualification provisions.
- Available for primary offerings or secondary offerings (subject to certain limitations).
- **Offering threshold** – currently $5 million per 12-month period, or $1.5 million for selling stockholder (not aggregated with other exempt offerings).
- **Offering statement requirement** – includes financial statements.
- **Offering communications** – issuer may "test-the-waters."
- **Nature of the securities** – securities are <u>not</u> "restricted securities."
- Subject to state securities ("Blue Sky") review.

# Section 3(b)(2)/Regulation A+

- Title IV amends Section 3(b) of the Securities Act, substantially increasing the dollar threshold for a Regulation A-style offering.
- Pursuant to Section 3(b)(2), an issuer will be able to offer and sell:
  - Up to $50 million in securities.
  - Within a 12-month period in reliance on the exemption.
  - The issuer may offer equity securities, debt securities, and debt securities convertible or exchangeable for equity interests, including any guarantees of such securities.
- Securities may be offered and sold publicly (without restrictions on the use of general solicitation or general advertising) and will not be “restricted securities.”
- The issuer may “test-the-waters” or solicit interest in the offering prior to filing any offering statement with the SEC, subject to any additional conditions or requirements that may be imposed by the SEC.
- The securities will be considered “covered securities” for NSMIA purposes (and not subject to state securities (“Blue Sky”) review) if:
  - the securities are offered and sold on a national securities exchange, or
  - the securities are offered or sold through a broker-dealer to a “qualified purchaser” (as defined under the Securities Act).
- The civil liability provision in Section 12(a)(2) shall apply to any person offering or selling such securities.

# Section 3(b)(2)/Regulation A+

- SEC will require that the issuer file audited financial statements with the SEC annually.
- SEC may impose other terms, conditions or requirements deemed necessary for investor protection, including a requirement that the issuer prepare and file electronically with the SEC and distribute to prospective investors an offering statement and any related documents, including a description of the issuer's business and financial condition, its corporate governance principles, the intended uses of proceeds, and other appropriate matters.
- SEC also may require an issuer that relies on the exemption to make available to investors and to file with the SEC periodic disclosures.
- The bad actor disqualification provisions applicable for the exemption shall be substantially similar to the disqualification provisions contained in the regulations adopted pursuant to Section 926 of the Dodd-Frank Act (which looks to the bad actor disqualification provisions in current Regulation A).

# Section 3(b)(2)/Regulation A+: The Future

- Will the SEC expand applicability beyond US and Canadian issuers?
- How will the Regulation A+ market develop?
  - Stepping stone to an IPO?
    - What are the advantages associated with a Regulation A+ offering compared to a Rule 506 offering?
  - Will some issuers be "serial" Regulation A+ offerors?
    - In certain sectors, a Regulation A+ offering each year may provide sufficient ongoing capital.
  - Will a Regulation A+ offering be viewed as a "liquidity" event for a VC fund or a private equity fund?
  - For companies in certain sectors (such as tech or life sciences) a Regulation A+ offering, with a stock exchange listing, will be equivalent to an IPO.
    - If you assume that the economic model for research may change, then for smaller companies a Regulation A+ offering accompanied by research coverage may prove valuable.

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