



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

September 5, 2006

Neal E. Sullivan, Esq.  
Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC 20006

**Supplemental Letter Modifying Previous Letter**

Re: In the Matter of Prudential Securities, Inc. (B-01992)  
**Prudential Financial Inc. and Prudential Equity Group LLC -- Waiver Request of  
Ineligible Issuer Status under Rule 405 of the Securities Act**

Dear Mr. Sullivan:

This supplemental letter corrects the previous letter dated August 28, 2006, concerning the waiver request of Prudential Financial Inc. and Prudential Equity Group, LLC from ineligible issuer status under Rule 405 of the Securities Act of 1933. The August 28, 2006 letter incorrectly stated:

The Company requests relief from being considered an "ineligible issuer" under Rule 405, due to the entry on August 28, 2006, of a Commission Order (Order) pursuant to Section 8A of the Securities Act and Section 15(b) of the Securities Exchange Act of 1934, naming Prudential Equity Group LLC as a respondent. The Order finds, among other things, that Prudential Equity Group LLC violated Section 17(a) of Securities Act and Sections 10(b) and 17(a) of the Exchange Act and requires that Prudential Equity Group LLC cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 10(b) and 17(a) of the Exchange Act and Rules 10b-5, 17a-3 and 17a-4 thereunder.

This letter deletes those statements and replaces them with the following:

The Company requests relief from being considered an "ineligible issuer" under Rule 405, due to the entry on August 28, 2006, of a Commission Order (Order) pursuant to Section 15(b) of the Securities Exchange Act of 1934, naming Prudential Equity Group LLC as a respondent. The Order finds, among other things, that Prudential Equity Group LLC violated Section 17(a) of Securities Act and Sections 10(b) and 17(a) of the Exchange Act.

In all other respects the August 28, 2006 letter remains the same.

Sincerely,

Mary Kosterlitz  
Chief, Office of Enforcement Liaison  
Division of Corporation Finance



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August 28, 2006

Neil E. Sullivan, Esq.  
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2020 K Street NW  
Washington, DC 20006

Re: In the Matter of Prudential Securities, Inc. (B-01992)  
**Prudential Financial Inc. and Prudential Equity Group LLC -- Waiver  
Request of Ineligible Issuer Status under Rule 405 of the Securities Act**

Dear Mr. Sullivan:

This is in response to your letter dated August 18, 2006, written on behalf of Prudential Financial Inc. and Prudential Equity Group LLC (Company), and constituting an application for relief from the Company being considered an "ineligible issuer" under Rule 405(1)(vi) of the Securities Act of 1933 (Securities Act). The Company requests relief from being considered an "ineligible issuer" under Rule 405, due to the entry on August 28, 2006, of a Commission Order (Order) pursuant to Section 8A of the Securities Act and Section 15(b) of the Securities Exchange Act of 1934, naming Prudential Equity Group LLC as a respondent. The Order finds, among other things, that Prudential Equity Group LLC violated Section 17(a) of Securities Act and Sections 10(b) and 17(a) of the Exchange Act and requires that Prudential Equity Group LLC cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 10(b) and 17(a) of the Exchange Act and Rules 10b-5, 17a-3 and 17a-4 thereunder.

Based on the facts and representations in your letter, and assuming the Company complies with the Order, the Commission, pursuant to delegated authority has determined that the Company has made a showing of good cause under Rule 405(2) and that the Company will not be considered an ineligible issuer by reason of the entry of the Order. Accordingly, the relief described above from the Company being an ineligible issuer under Rule 405 of the Securities Act is hereby granted. Any different facts from those represented or non-compliance with the Order might require us to reach a different conclusion.

Sincerely,

Mary Kosterlitz  
Chief, Office of Enforcement Liaison  
Division of Corporation Finance

Neal E. Sullivan  
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August 18, 2006

Via Federal Express

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100 F Street, N.E.  
Washington, D.C. 20549-0506

**Re: In the Matter of Prudential Securities, Inc. (B-01992)**

Dear Ms. Kosterlitz:

We submit this application on behalf of our clients Prudential Financial, Inc. ("PFI") and Prudential Equity Group, LLC ("PEG" or "Respondent"), successor in interest to Prudential Securities Inc. ("PSI") (collectively, the "Applicants"), for a determination by the Securities and Exchange Commission ("Commission") that, for good cause shown, none of the Applicants will be deemed an ineligible issuer under new Rule 405 of the Securities Act of 1933 ("Securities Act"), including the definition of "well-known seasoned issuer" in Rule 405, as a result of the contemplated entry of a settled Order instituting administrative proceedings against PEG (defined below). Relief from the ineligible issuer provisions is appropriate in the circumstances of this case for the reasons given below. The Applicants further request that the application be granted effective upon the entry of the order.

#### BACKGROUND

The staff of the Boston District Office has engaged in settlement discussions with PEG in connection with the above-captioned investigation. As a result of these discussions, PEG has submitted an executed Offer of Settlement (the "Offer") to be presented to the Commission as part of a global settlement with a number of other regulators and law enforcement agencies, including the New York Stock Exchange, National Association of Securities Dealers, New Jersey Bureau of Securities, State of New York Attorney General's Office, Securities Division of Massachusetts, and the United States Attorney for the District of Massachusetts.

In the Offer, solely for the purpose of proceedings brought by or on behalf of the Commission or to which the Commission is a party, PEG consents to the entry of an Order Instituting Administrative Proceedings, Making Findings, and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (the "Order"), without admitting or denying the findings contained therein (other than those relating to the jurisdiction of the Commission, which are admitted). In the Order, the Commission will address market timing in mutual fund shares and will find that PSI

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willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder by engaging in fraudulent conduct in the offer or sale of securities or in connection with the purchase or sale of securities, and Section 17(a) of the Exchange Act and Rules 17a-3 and 17a-4 thereunder by failing to make and keep required books and records. The conduct to be addressed in the Order does not relate to offerings of securities by PFI. The anticipated Order will order PEG to cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Sections 10(b) and 17(a) of the Exchange Act, and Rules 10b-5, 17a-3, and 17a-4 thereunder, to comply with its undertakings in the Order, and to pay disgorgement of \$270 million. It is our understanding that the Division of Enforcement does not oppose this application for a determination under Rule 405.

PFI is a publicly traded company listed on the New York Stock Exchange and is a reporting company under the Securities Exchange Act of 1934 ("Exchange Act"). PEG is an indirect wholly-owned subsidiary of PFI and is registered with the Commission as both a broker-dealer and an investment adviser. Before July 1, 2003, PSI was an indirect wholly-owned broker-dealer subsidiary of PFI. On July 1, 2003, PSI transferred the assets relating to its U.S. and Latin American retail securities brokerage operations to a newly formed holding company, now named Wachovia Securities Financial Holdings, LLC ("WSFH"). PFI owns 38 percent of WSFH, while Wachovia Corporation owns 62 percent. Since July 1, 2003, PSI's former U.S. and Latin American retail securities brokerage business has operated as part of Wachovia Securities, LLC, a wholly-owned subsidiary of WSFH. Following the asset transfer, PSI converted from a stock corporation into a limited liability company and was renamed PEG. PEG provides equity research, sales and trading to domestic and international institutional customers. PFI is, at this time, the only issuer that is a parent of PEG.

## DISCUSSION

In 2005, the Commission revised the registration, communications, and offering processes under the Securities Act.<sup>1</sup> As part of its reform, the Commission added a new category of issuer, i.e., a well-known seasoned issuer, that will be permitted to benefit to the greatest degree from the changes to the rules governing the offering process. The Commission defined a well-known seasoned issuer as an issuer that is required to file reports pursuant to Section 13(a) or Section 15(d) of the Exchange Act and that satisfies other requirements, including the requirement that the issuer not be an ineligible issuer. The Commission also adopted rules permitting the use of free-writing prospectuses in registered offerings by issuers, including, but not limited to, well-known seasoned issuers

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<sup>1</sup> Securities Offering Reform, Securities Act Release No. 8591, Exchange Act Release No. 52,056, Investment Company Act Release No. 26,993, 70 Fed. Reg. 44,722, 44,790 (Aug. 3, 2005).

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and other offering participants. Pursuant to new Rules 164 and 433, an issuer may use a free-writing prospectus only if it is not an ineligible issuer.

Rule 405 makes an issuer ineligible when, among other things:

“(vi) Within the past three years (but in the case of a decree or order agreed to in a settlement, not before December 1, 2005), the issuer or any entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

(A) Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

(B) Requires that the person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

(C) Determines that the person violated the anti-fraud provisions of the federal securities laws.”

In addition to defining an ineligible issuer, Rule 405 authorizes the Commission to relieve an issuer of such status: “if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer.” The Commission delegated the function of granting or denying such applications to the Director of the Division of Corporation Finance.<sup>2</sup>

PFI currently meets the requirements for being a well-known seasoned issuer and would benefit from the advantages resulting from such status, as well as other benefits available to issuers that are not ineligible issuers under the Commission’s new rules. Absent relief, PFI immediately would become an ineligible issuer because of the terms of the Order against PEG.

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<sup>2</sup> Rule 30-1 provides in relevant part that “[p]ursuant to the provisions of Public Law No. 87-592..., the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Corporation Finance to be performed by him or under his direction by such person . . . as may be designated from time to time by the Chairman of the Commission: [*Securities Act Functions*] (a) With respect to registration of securities pursuant to the Securities Act . . . (10) To authorize the granting or denial of applications, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer as defined in Rule 405.” 17 C.F.R. § 200.30-1(a)(10).

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The Applicants therefore request that the Commission or its delegate determine that it is not necessary for any of the Applicants to be considered an ineligible issuer on the following grounds:

1. <sup>see filings</sup> The conduct to be addressed in the Order does not relate to disclosures and offerings of securities by PFI.
2. PEG no longer conducts the operations that gave rise to the violations. PEG is the successor entity to the former PSI. After the transfer of assets related to PSI's retail brokerage business to WSFH, what remained of PSI was converted into a limited liability company pursuant to the laws of the State of Delaware and renamed Prudential Equity Group, LLC. PEG is an indirect, wholly-owned subsidiary of PFI. PFI is, at this time, the only issuer that is a parent of PEG.
3. The categorization of any of the Applicants as an ineligible issuer would be unduly and disproportionately severe, given the lack of any relationship between PSI's market-timing activity and any disclosure or offering activity conducted by PFI. Disqualification of any of the Applicants from the benefits provided under the new Commission rules would impose a substantial additional penalty beyond what the settlement requires.

In light of the foregoing, we believe that categorization of any of the Applicants as an ineligible issuer is not necessary, in the public interest, or for the protection of investors, and that the Applicants have shown good cause for a determination by the Commission, or its delegate, that it is not necessary for any of the Applicants to be considered an ineligible issuer.

Accordingly, we respectfully urge the Commission, or its delegate, pursuant to Securities Act Rule 405 or Rule 30-1(a)(10), to determine, effective upon issuance of the Order, that it is not necessary that any of the Applicants be considered an ineligible issuer for any purpose under the Commission rules.

Please do not hesitate to contact the undersigned at (202) 373-6159 regarding this request.

Sincerely yours,

  
Neal E. Sullivan

cc: Stephen Shine, Esquire