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Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-0609

Re: File Number S7-12-07
Comments to Release 33-8814
Electronic Filing and Simplification of Form D

Ladies and Gentlemen:

I write this letter to express my personal views on various aspects of the subject Release, attributing none of my positions or comments to my firm or to any of its clients, past, present or future.

I have practiced extensively in the area of private securities offerings on behalf of issuers seeking early stage financing. I have seen, and experienced first-hand, the use and non-use of Form D in connection with the private offering exemption, since the days of the initial promulgation of that Form.

The offerings to which I refer are generally characterized by

- a minimum/maximum offering structure;
- an escrow of subscription agreements and amounts until a minimum dollar amount of commitment is received;
- unknown states in which ultimate purchasers will be determined to be resident;
- uncertainty of the actual consummation of the offering at the minimum amount required;
- uncertainty as to actual amounts of final proceeds to be received;
- uncertainty as to actual minimum investments to be accepted;

- absence of determination of actual commissions to be paid to placement agents or other finders.

For these offerings, Form D, as proposed to be revised, continues to disincentivize issuers to file it, either at the outset of an offering, or at all.

Form D, instead of being a simple report of a transaction conducted under a procedure that itself was intended to be a self-executing safe harbor, has now, through unnecessary ambiguity, become a trap for the unwary.

Not the least of the adverse results of this trap is the SEC's public labeling of a non-timely filing as an "alert . . . that the company might not be in compliance with federal securities laws."

Yet for the intended user, the Form produces more uncertainty and confusion than perceived useful information or utility.

The Timing of the Filing.

Regulation D should be revised to call for the Form D to be filed as a final report of actual sale results, not later than 15 business days after the closing of the offering.

While the Commission's expectation is that this Form be filed as a notice of intention to conduct an exempt offering, the Form doesn't meet the practical expectations or needs of the intended filer. From the issuer's point of view, this Form is most valuable and useful as a final report of actual sale results, that can be coordinated with state filing and fee-calculation requirements.

The culprit in the situation is the provision of the Rule that requires the Form to be filed within 15 days of the first sale, compounded by the Staff's interpretation that delivery of a subscription agreement and funds into an escrow constitute the first sale. The confusion caused by this formulation is evident from the Staff's receipt of numerous interpretive requests regarding times and circumstances under which amendments to the Form are required to be filed.

The Commission's required timing leads to a form that from the issuer's perspective must be constantly considered for amendment and updating as the sales process proceeds. The structure of the Form, the timing of its required filing and the form of the information requested, invites issuers not to file it, either at all, or at least until an actual transaction has closed. With no serious penalty for failure to file, why not wait and file it as a final report of actual sale results, and use it to coordinate with state filings as well?

I note with interest that the formerly titled "Notice of Sale of Securities" is now to be titled "Notice of Exempt Offering of Securities," but without explanatory comment in the proposing Release. The former title of the Form contributed to the ambiguity and confusion as to its intended use, but the continuing insistence on its filing as a prospective notice will not enhance its use. While this new title may more accurately state the Commission's intended use of the Form as a statement of aspirations rather than a report of actual facts, the proposed revisions to the Form do nothing to encourage issuers to file it at the outset of such an offering or to make it useful to coordinate with state filing requirements.

In fact, the staff's assertion that the information produced by this Form would allow the staff and others to better aggregate data on the private securities markets would have more credibility if, in fact, the information derived from this Form reflected actual transactions.

By changing the Form to a post-sale report, filers would be encouraged to file, as they do as a practical matter in many cases, as a final document to be prepared in connection with the closing of successful offerings.

Using this Form in that manner would provide the staff with far more relevant information regarding the use of the applicable exemptive provisions of the Act, would find many more issuers willing to provide a simplified form that need be filed only once, at a time when all the factual information is known and the form can be used to submit to all applicable states, rather than having a form to be filed on an aspirational basis initially, subject to continuous questions regarding the need to amend as additional investors or potential investors are identified.

The Electronic Filing Process.

The Commission should consider adoption of the concept of "trusted filers" in order to permit law firms, accounting firms and similar entities to register as a filer of these forms on behalf of their clients, rather than expecting issuers who are generally not subject to SEC oversight to commit to go through the process of filing Form ID, learning an electronic filing process, accessing the EDGAR Filer Management website, etc., at a time when they do not even know if their early-stage private offering will permit them to continue in business.

By allowing law firms or accounting firms or similar entities to file on behalf of issuers under a common number for the filer, the staff would have control over malicious filings, but would not discourage the use of the Form D electronic filing facility. Adding compliance complexity is antithetical to encouraging what is essentially a voluntary form filing requirement.

Item 6.

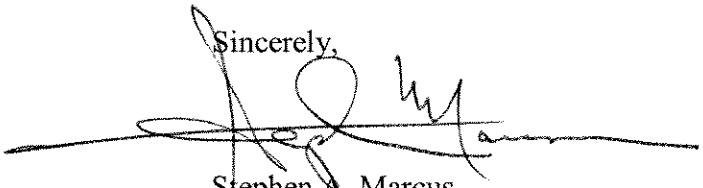
The substance of preliminary note 3 to Regulation D should be added by footnote or instruction to Item 6 of the Form, to indicate that answering the item does not constitute an election.

Items 13 and 14.

The revised Form D should drop the word "already" from Item 14, and the similar concept from Item 13. What possible information is that designed to elicit, other than a torrent of interpretive requests? This Form is either a notice of intention to offer, or better, a report of final sale, but a notice to be filed as of a date described as "already" can't serve any meaningful purpose.

Thank you for the opportunity to comment.

Sincerely,



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