



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA SECURITIES COMMISSION

Robert M. Lam, *Acting Chairman*

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October 9, 2007

VIA E-MAIL: rule-comments@sec.gov

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

**Re: Revisions of Limited Offering Exemptions in Regulation D
File Number S7-18-07, Release Nos. 33-8828; IC-27922**

Dear Ms. Morris:

The Pennsylvania Securities Commission (“PSC”) appreciates the opportunity to comment on the above referenced Release (“Release”). We join the comments submitted by the North American Securities Administrators Association (“NASAA”). In general, the PSC objects to proposed Rule 507 and the creation of a “large accredited investor” category, as such rule and classification are not necessary for the facilitation of capital formation or the protection of public investors. For the same reasons, the PSC strongly objects to the proposed shortened safe harbor period for integration of Regulation D offerings. Finally, the PSC encourages the SEC to increase suitability standards for the existing accredited investor definition, and to impose “bad actor” restrictions on all Regulation D offerings.

1. The PSC strongly opposes the creation of Rule 507 for the purpose of permitting limited advertising for private offerings.

The PSC strongly objects to the creation of Rule 507, and in particular the proposal to permit advertising of Rule 507 offerings through all forms of print media. As stated in the Release, no more than 1.64% of U.S. households would qualify as “large accredited investors,” while approximately 8.47% of U.S. households qualify as accredited investors under present law. There appears to be no justification for permitting private placement issuers to advertise offerings for the purpose of attracting 1.64% of the population (large accredited investors), while simultaneously prohibiting those same issuers from engaging in any solicitation to reach 8.47% of the population (accredited investors). Rather, the SEC should limit all private placements under Rules 506 and 507 to those accredited or large accredited investors with whom the issuer or registered broker-dealer has a pre-existing relationship. Given the sizable financial resources of large accredited investors, these investors would most likely already have relationships with members of the securities industry, and would have the means to uncover private placement opportunities without general solicitation.

Moreover, the PSC believes that the use of general solicitation, along with the shortened holding periods under the proposed revisions to Rule 144¹ will enable issuers and private placement investors to condition the secondary market following the Rule 507 private placement. Specifically, the PSC is deeply concerned that the advertisements may generate interest in the general investing public throughout the 12 months holding period imposed by proposed Rule 144 (for non-affiliated investors of non-reporting companies). The Release notes the significant risks of permitting restricted securities to flow into the public market, and recounts the numerous “pump and dump” schemes that the SEC has encountered in recent years. Allowing general advertisement of Rule 507 offerings will only facilitate efforts by unscrupulous individuals and entities to channel restricted securities to public investors in the form of unregistered underwritings.

The PSC urges the SEC to reconsider allowing general solicitation in connection with a private offering to accredited or large accredited investors. The use of general solicitation in such situations provides little benefit to issuers seeking to raise capital, but poses serious risks to the general investing public.

2. The PSC strongly opposes the proposed revisions to the Regulation D integration safe harbor.

The integration doctrine has served for decades as an important policy tool in distinguishing between legitimate efforts to raise capital through multiple private placement offerings, and illegitimate efforts to avoid registration by dividing public offerings into smaller private offerings. Under the current policy, offers and sales occurring more than six months before a Regulation D offering, or occurring more than six months after the completion of a Regulation D offering would not be integrated with the Regulation D offering for purposes of calculating purchasers and aggregate amounts of the offering. This safe harbor provides issuers clear guidance on when and how to conduct private offerings.

The proposal to reduce the safe harbor from six months to 90 days will effectively double the number of private placements that issuers may conduct each year. Under the proposed safe harbor, an issuer could reach up to 140 non-accredited investors each year without providing those investors with the protections afforded by the registration provisions of federal and state law. These investors may not be entitled to receive the information necessary to evaluate the risks of the proposed investment, because the issuer would not be subject to the reporting and disclosure requirements imposed by registration. The PSC therefore opposes the proposed shortening of the integration safe harbor.

3. The PSC supports the SEC’s proposed application of bad actor disqualification to all Regulation D offerings.

The PSC Staff routinely reviews the enforcement history of all individuals and entities listed on issuers’ Form D. Where there is enforcement history, the PSC Staff requests additional information from the issuer to ensure that the issuer has made an adequate disclosure of the enforcement history and/or any associated risk of the enforcement history to the issuer. Those individuals and entities that have violated securities laws in prior offerings should be subject to greater state and federal scrutiny,

¹ See 72 Fed. Reg. 36822, Release No. 33-8813 (June 22, 2007).

and should have to comply with either registration requirements or stricter state exemption provisions until they have resolved the deficiencies in their controls and compliance regime.

The PSC encourages the SEC to apply disqualification provisions to all Regulation D offerings. Such a rule would enable the states to protect their citizens against recidivists by strictly monitoring violators of our state and federal securities laws.

Thank you for considering the PSC's comments on the Release. Should you have any questions regarding the comments in this letter, please contact the undersigned or Michael Byrne, Esq., Chief Counsel for the Pennsylvania Securities Commission at 717-787-8061.

Sincerely,

/s/ Robert M. Lam
Robert M. Lam
Chairman

/s/ Thomas A. Michlovic
Thomas A. Michlovic
Commissioner

/s/ Steven D. Irwin
Steven D. Irwin
Commissioner