

99 City Road
London EC1Y 1AX
Tel: +44.20.7972.9600
Fax: +44.20.7972.9602
www.friedfrank.com



October 9, 2007

By E-Mail to: rule-comments@sec.gov

Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549-1090

Re: **Revisions of Limited Offering Exemptions in Regulation D (File Number S7-18-07)**

Dear Ms. Morris:

We appreciate the opportunity to comment on the proposed revisions of limited offering exemptions in Regulation D set forth in Release No. 33-8828 (the "Release") by the Securities and Exchange Commission (the "Commission"). Our comments are based on our experience representing issuers, selling securityholders and other market participants, although the comments are solely our own and are not intended to express the views of our clients.

We strongly support the Commission's aim to "clarify and modernize [its] rules to bring them into line with the realities of modern market practice and communications technologies without compromising investor protection". While many of the proposed changes are helpful, we believe that more far-reaching changes are appropriate due to the significant changes in the market that have taken place since Regulation D was promulgated.

In recent years, the market in unregistered securities has become much larger and more sophisticated. The adoption of Rule 144A has resulted in a tremendous increase in the volume of unregistered securities sold to qualified institutional buyers ("QIBs"). Another change has taken place in the field of information and communications. The amount and availability of information has grown rapidly, most recently due to the advent of the Internet, and much information that would previously remain private now comes into the public domain. Media interest in private companies that issue unregistered securities has also proliferated, and aggressive press inquiries and reporting often render confidentiality of information virtually impossible.

We believe that the combination of substantial presence of very sophisticated purchasers and extensive public availability of information about private issuers and unregistered securities, closely followed by the market in a manner comparable to public issuers and registered securities, warrants a rethinking of some aspects of

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Regulation D. One such aspect is the regulation of manner of sale in Rule 502(c), which prohibits “general solicitation” and “general advertising”. In light of the developments described above, we would welcome an initiative from the Commission to revise or eliminate the manner-of-sale limitation, by reinterpretation or rule change, at least as concerns sales to QIBs. Given the sophistication of QIBs, we believe it would be appropriate for the Commission to amend Regulation D to enable private placements to QIBs to be done on a basis where more information can flow to potential purchasers without the concern that the historical concept of “general solicitation” has been violated. We would welcome rulemaking or Commission interpretative relief to address this issue.

The fact that Regulation D is only available to issuers is not addressed in the Release. We believe that the inapplicability of the exemption to, for example, transactions carried out through intermediaries or resales of restricted securities decreases its effectiveness in the current market. For that reason, we would support an expansion of the scope of the exemption to cover a broader range of deals that satisfy the requirements of Regulation D but involve persons other than the issuer, and do not see any serious investor protection issues that would result from such an expansion.

Another aspect of Regulation D that is not addressed in the Release is the information requirement applicable to non-reporting issuers. Under Rule 502(b)(2)(i), a non-reporting issuer must furnish the permitted limited number of purchasers who are non-accredited investors with information essentially corresponding to the requirements of a registration statement, including audited financial statements. In our view, this one-size-fits-all requirement is too rigid in today’s diversified markets and undermines the role of Regulation D as a flexible alternative to public, registered offerings. We consequently believe that issuers should be given greater latitude to tailor the content of the furnished information to the requirements of the specific deal and specific purchasers, within the boundaries of the general anti-fraud provisions.

We fully support the movement represented by proposed Rule 507 toward permitting certain kinds of publicity in an offering directed at sophisticated investors. However, we believe that the Rule as proposed would be of limited utility. It is unavailable for investment vehicles structured in reliance on Section 3(c)(1) or 3(c)(7) of the Investment Company Act, and therefore could not be used by most private equity and venture capital funds and many hedge funds. Without clarification from the Commission, the limited advertising permitted under the proposed Rule may constitute “directed selling efforts” for purposes of Regulation S, which would make the Rule unavailable if a concurrent offshore offering were undertaken.

Proposed Rule 507 also creates a new category of investors, “large accredited investors”, to add to the already lengthy list of types of investors—QIBs, “accredited investors” and “qualified purchasers”—that, in overlapping but not identical circumstances, are eligible to participate in securities offerings that would not meet the regulatory requirements for a public offering. The Release also resolicits comment on the concept of “accredited natural persons”, a new subset of accredited investors for

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certain Rule 506 purposes. These categories all serve the same fundamental regulatory objective of identifying investors that are able to fend for themselves and thus do not need the full protection of the securities laws. The variations and inconsistencies among them reflect the history and specific regulatory context of their development much more than any technical or policy-based differences. We believe that the market would benefit greatly, and the process of raising capital from sophisticated investors would be simplified and enhanced, by the reconciliation and rationalization of these existing categories into one standard for institutions and one for individuals.

We appreciate your consideration of our comments. If you have any questions regarding this letter, please contact Timothy Peterson at 011-44-20-7972-9676 or Karen Wiedemann at 011-44-20-7972-9624.

Very truly yours,

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON (LONDON) LLP