

THIRTIETH ANNUAL

SEC Government-Business  
Forum on  
Small Business  
Capital Formation



Program

November 17, 2011  
Washington, DC



DIVISION OF  
CORPORATION FINANCE

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

November 17, 2011

Dear Forum Participant:

Welcome to the 2011 SEC Government–Business Forum on Small Business Capital Formation.

The Securities and Exchange Commission has conducted these gatherings annually since 1982. The Forum on Small Business Capital Formation provides an effective way for the SEC to learn about the important capital formation issues facing the small business sector. The Forum also provides small businesses and their advisors, investors and others with an opportunity to share perspectives and views on variety of topics important to them.

We are looking forward to today's discussions and the input and recommendations we will receive from participants on improving the environment for small business capital formation in the United States. The SEC has recently formed its Advisory Committee on Small and Emerging Companies. Several members of the committee will participate in today's sessions. We appreciate your participation in the Forum on Small Business Capital Formation.

Very truly yours,

A handwritten signature in black ink that reads "Gerald J. Laporte".

Gerald J. Laporte  
Chief, Office of Small Business Policy

# **SEC Government-Business Forum on Small Business Capital Formation**

*SEC Headquarters  
Washington, D.C  
November 17, 2011*

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# 2011 SEC Government-Business Forum on Small Business Capital Formation

*SEC Headquarters  
Washington, D.C.  
November 17, 2011*

## Agenda

**9:00 a.m.**

### **Call to Order**

Gerald J. Laporte, Chief, Office of Small Business Policy,  
SEC Division of Corporation Finance

### **Introduction of Chairman**

Meredith B. Cross, Director, SEC Division of Corporation Finance

### **Opening Remarks**

SEC Chairman Mary L. Schapiro

### **Introduction of Commissioner**

Meredith B. Cross, Director, SEC Division of Corporation Finance

### **Remarks**

SEC Commissioner Luis A. Aguilar

**9:30 a.m.**

### **Panel Discussion: Current Capital Formation Issues for Private Companies\***

#### **Moderators:**

Stephen M. Graham, Partner, Fenwick & West, LLP, Seattle, Washington  
Lona Nallengara, Deputy Director, SEC Division of Corporation Finance,

#### **Panelists:**

A. Heath Abshure, Arkansas Securities Commissioner  
Prof. C. Steven Bradford, University of Nebraska-Lincoln College of Law  
Yoichiro (Yokum) Taku, Partner, Wilson Sonsini Goodrich & Rosati, Palo  
Alto, California  
Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa,  
Florida

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\* One or more SEC Commissioners may participate in this discussion.

- 10:30 a.m. Introduction of Commissioner**  
Meredith B. Cross, Director, SEC Division of Corporation Finance
- Remarks**  
SEC Commissioner Elisse B. Walter
- 10:45 a.m. Break**
- 11:00 a.m. Introduction of Commissioner**  
Meredith B. Cross, Director, SEC Division of Corporation Finance
- Remarks**  
SEC Commissioner Daniel M. Gallagher
- 11:15 a.m. Panel Discussion: Initial Public Offerings and Securities Regulation Involving Smaller Public Companies\***
- Moderators:**
- Meredith B. Cross, Director, SEC Division of Corporation Finance  
Stephen M. Graham, Partner, Fenwick & West, LLP, Seattle, Washington
- Panelists:**
- Prof. John C. Coffee, Jr., Columbia University Law School, New York, New York  
Kathleen Weiss Hanley, Deputy Director and Deputy Chief Economist  
SEC Division of Risk, Strategy, and Financial Innovation  
John D. Hogoboom, Partner, Lowenstein Sandler, PC, Roseland, New Jersey  
David Weild, Senior Advisor, Capital Markets, Grant Thornton, LLP, and  
Chairman and CEO, Capital Markets Advisory Partners, New York, New York  
Gregory L. Wright, Chief Executive Officer, ThinkEquity, LLC
- 12:45 p.m. Introduction of Commissioner**  
Meredith B. Cross, Director, SEC Division of Corporation Finance
- Remarks**  
SEC Commissioner Troy A. Paredes
- 1:00 pm. Lunch Break**
- 2:00 p.m. Breakout Groups Assemble to Develop Recommendations**

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\* One or more SEC Commissioners may participate in this discussion.

*(Meet in Multipurpose Room (L-006) – under stairs across from Auditorium - for Room Assignments)*

- ▶ **Non-Public and Limited Offerings (Including Private Placement Broker-Dealer Issues) Breakout Group**  
*(SEC staff will escort to Room 5000)*

**Moderator:**

Brian T. Borders, Borders Law Group, Washington, D.C.

- ▶ **Securities Regulation of Smaller Public Companies Breakout Group**  
*(SEC staff will escort to Room 6000)*

**Moderator:**

Ann Yvonne Walker, Partner, Wilson Sonsini Goodrich & Rosati, Palo Alto, California

**3:15 p.m. Break**  
*(SEC staff will escort participants who wish to switch breakout groups)*

**3:30 p.m. Breakout Groups to Develop Recommendations (continued)**  
*(with same room assignments)*

**4:30 p.m. Plenary Session to Develop Next Steps**  
*(Meet in Multipurpose Room (L-006) – under stairs across from Auditorium)*

**Moderators:**

Gerald J. Laporte, Chief, Office of Small Business Policy, SEC Division of Corporation Finance

Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa, Florida

**5:00 p.m. Networking Reception at Nearby Restaurant**

**2011 SEC Government-Business  
Forum on Small Business Capital Formation**

**Breakout Group Rosters and Room Assignments**

*All forum participants are free to attend either of the two breakout group meetings, even though they are assigned to another breakout group. We may divide a breakout group into two rooms, depending upon the number of participants. Participants may change breakout groups at the 3:15 p.m. break with a staff escort.*

***Non-Public and Limited Offerings  
(Including Private Placement  
Broker-Dealer Issues) Breakout  
Group***

Room 5000 (5<sup>th</sup> Floor)

Overflow Room: Room 7000 (7<sup>th</sup> Floor)

***Brian Borders, Moderator***

***Tony Barone, SEC Staff Support***

***Karen Wiedemann, SEC Staff Support***

***Registered to participate in person:***

Adler, Joan  
Aguero, Gabriela  
Best, Jason  
Braun, David  
Burk, James  
Castro, Brian  
Cecala, Joe  
Clawson, Patrick  
Colish, Faith  
Cornell, James  
David, Burton  
Eaton, Jason  
Fleming, Rick  
Friedman, Richard  
Froling, Deborah  
Goehring, Robert  
Graminga, Giuseppe  
Guggenheim, Andy  
Hansen, Shane  
Hewitt, Martin  
Hidalgo, Edgar  
Huntz, John  
Jimenez, June

Jones, Mark  
Kesner, Harvey J.  
Krus, Cynthia  
Kulerman, Michele  
Levin, Richard  
Makinen, Marita  
McManus, J. Mike  
Miles, Theodore  
Molinari, Vincent  
Montagano, Christopher  
Museles, Scott  
Neiss, Sherwood  
O'Brien, Maureen  
Peterson, Peggy  
Preston, Diana  
Priore, Kenneth  
Rasmussen, Lynn  
Reeves, Alfred  
Rush, Brad  
Sauvante, Michael  
Sharpe, Steven  
Stanco, Tony  
Yadley, Gregory

***Registered to participate by telephone  
conference call:***

Adhikari, Mike  
Baase, Chad  
Baumwall, Douglas  
Bergin, Christine  
Black, Karla  
Bleakley, Elizabeth  
Blees, Christian  
Brown, James  
Bulkeley, Russell

Bush, Bill  
Cagnetta, Andrew  
Carlie, Kevin  
Chamblee, Janae  
Christman, Peter  
Cimasi, Robert James  
Cross, Amy  
Cushing, Todd  
De Lucia, Suzanne  
Donaldson, Ralph  
Dov, Gal  
Elliott, Dan  
Ertel, Joseph  
Ertel, Mike  
Frazier, Graeme  
Gardner, Lindsay  
Grava, Derrick  
Gurrola, Robert  
Henberger, John  
Horton, Nancy  
Hughes, Amy  
Jacobs, Bryan  
Johnson, John  
Keenan, Francis  
Knight, Brian  
Kolak, Raymond  
Krick, Len  
Laeha, David  
Lawson, Garit  
Massey, Gene  
Nall, Michael  
Papay, Gary  
Pastorino, Jessica  
Peregrin, Gerard  
Perkins, David  
Purcell, Linda J.  
Rodriguez, Richard  
Romano, John  
Russek, Len  
Sherrill, Carl  
Smith, Lori  
Stagner, Darold  
Stillman, Edward  
Suderman, Robert  
Uslaner, Steven  
Viola, Daniel  
Vonderbrink, Michele  
Warren, Jerry

Weiss, Lee  
Wendler, Brian  
Witt, Tim  
Yang, Thomas

### ***Smaller Publicly Traded Companies***

#### ***Breakout Group***

Room 6000 (6<sup>th</sup> Floor)  
Overflow Room: Multipurpose Room  
(Lower Level)

***Ann Yvonne Walker, Moderator***

***Johanna Losert, SEC Staff Support***

#### ***Registered to participate in person:***

Adu, George  
Behar, Steven Anthony  
Braden, John  
Bryant, Seth  
Chen, Karl  
Cole, Christopher  
Conner, Kevin J.  
Cundari, Stephen  
Dawson, Chasiti  
Deere, Molly  
Ellenoff, Douglas  
Feldman, Spencer  
Friedman, Richard  
Gracin, Hank  
Grossman, David  
Harden, Timothy  
Heese, Liz  
Hess, Eric  
Honeycutt, Jay  
Hunt, David  
Jillien, Williams  
Kendrick, James  
Kesner, Harvey J.  
Kulerman, Michele  
Ladd, Ford  
Levin, Richard  
Liebolt, Lee  
Lopez, David  
MacInnes, Andrew  
Miles, Theodore  
Murphy, A. John  
Newport, Lisa



Pangas, Harry  
Papageorgiou, Phoebe  
Price, Derric  
Shuman, Michael  
Stein, Eric  
Stevens, Robert  
Stoecklein, Donald  
Vasilios, Mike

***Registered to participate by telephone  
conference call:***

Askari, Ammar  
Baase, Chad  
Barbarosh, Milton  
Barkley, Charles  
Campbell, Hugh  
Donaldson, Ralph  
Fisher, David B.  
Gawne, Cathryn  
Lux, John  
Massey, Gene  
Maxwell, Brenda  
Muellerleile, Michael  
Niehoff, R. Nick  
Reuter, Mark  
Robbins, Jill Arlene  
Scheinfeld, Josh  
Sherrill, Carl  
Sin, Richard  
Uslaner, Steven  
Winterle, Robert  
Wood, Mark  
Yang, Thomas

***2011 SEC Government-Business  
Forum on Small Business Capital Formation***

**Forum Breakout Group Guidelines**

- 1) Telephone participants should not identify themselves upon entering or exiting the conference call. AT&T will not provide entry or exit beep notification when a caller enters or exits the conference call.
- 2) Moderators will start the breakout groups by asking all participants (both in person and telephone) to volunteer and propose recommendations to the group for discussion. As the breakout group will be allotted only two hours and fifteen minutes on November 17th, all participants must be mindful of the limited time available and allow time for other participants to speak. The breakout groups are not expected to develop final recommendations on the day of the forum, November 17th. Rather, the time on November 17th will be used to commence general discussions of possible recommendations to be followed later by more specific drafting of recommendations after November 17th, as explained below.
- 3) Callers participating by telephone conference call may interject and participate in the breakout group discussions as they feel appropriate, but they should identify themselves and their respective organizations when talking.
- 4) After the forum, the SEC staff will work with each breakout group moderator to circulate by e-mail a summary of the proposed recommendations to the participants of each breakout group. Our hope is that this will generate a post-forum e-mail dialogue among participants in each breakout group, which will eventually result in a finalized list of recommendations submitted by each breakout group moderator to the SEC staff by no later than December 16, 2011.
- 5) After both breakout groups have finalized their list of recommendations and submitted them to the SEC staff, the staff will circulate a ballot to all the participants of both breakout groups to vote to prioritize the list of recommendations to be included in the forum final report.
- 6) At the Plenary Session of the Forum at 4:30 p.m. on November 17th, all breakout group participants will reconvene in the SEC Multipurpose Room (L006-Lower Level) and both breakout group moderators will discuss in general the recommendations debated in their afternoon breakout groups.

# Guidelines for Drafting Recommendations

1. Recommendations should be **clear, concise** and **to the point**.
2. Recommendations should be presented in a way that permits a “Yes” or “No” vote on the entire recommendation by Forum participants (*e.g.*, no multiple subparagraphs requiring separate votes).
3. Ideally, recommendations should be stated in **one sentence**. In rare cases, a second or third sentence may be needed to make a recommendation comprehensible. **Clear and succinct** supporting language may be presented separately and may be considered or published with the recommendation if time and/or space permits in the assembly of Forum participants and/or final report of the Forum.
4. The entire breakout group should **carefully consider** each of its recommendations. Recommendations should not represent the views of a single participant or a small group of vocal participants. Breakout groups should filter the group’s recommendations for **desirability, workability and achievability**. A breakout group properly considering its recommendations most likely will not have time to report out more than a few recommendations.

# RECOMMENDATIONS OF 2010 FORUM<sup>1</sup>

Set forth below are the recommendations of the 2010 Government-Business Forum on Small Business Capital Formation. The recommendations of the forum breakout groups are followed by the recommendations of 14 leading small business and professional organizations concerned with capital formation that were invited to present recommendations to the forum in person and through written statements.

## Recommendations from Forum Breakout Groups

*Set forth below are the recommendations of the participants in the three breakout groups of the 2010 SEC Government-Business Forum on Small Business Capital Formation. These recommendations were developed initially in the three breakout groups of the forum on the afternoon of November 18, 2010. After that date, the moderators of the breakout groups continued to work with their group participants to refine each group's recommendations.*

*The final list of 36 securities law recommendations set forth below is presented in the order of priority established as the result of a poll of all participants in the three breakout groups.<sup>2</sup> The priority ranking is intended to provide guidance to the SEC as to the importance and urgency the breakout group participants assign to the recommendation. The number of points secured by each recommendation in the poll is given in brackets at the end of the recommendation in the list.*

**Priority  
Rank**

**Recommendation**

- |   |  |
|---|--|
| 1 | The SEC should specifically consider the impact of rulemaking on small business investing when implementing the Dodd-Frank Act. [83 points; avg. ranking 3.77] |
|---|--|

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<sup>1</sup> The SEC hosts the annual Government-Business Forum on Small Business Capital Formation, but does not seek to endorse or modify any of the forum's recommendations. The recommendations are solely the responsibility of the forum participants, excluding SEC staff, who were responsible for developing these recommendations. The recommendations do not necessarily reflect the views of the SEC, its Commissioners or any of the SEC's staff members.

<sup>2</sup> In the poll, each of the 60 forum participants who attended the three breakout groups, either in person or by telephone conference call (not including SEC staff), was asked to respond whether the SEC should give "high," "lower" or "no" priority to each of the 36 recommendations. We received 22 responses, a 37% response rate. Each "high priority" response was awarded five points, each "lower priority" response was given three points, each "no priority" was given one point and each blank response was not awarded any points, to arrive at the number of points following each recommendation in the list. The total number of points for each recommendation was divided by the number of responses we received to determine the average ranking.

**Priority  
Rank**

**Recommendation**

- 2 The Commission should adopt a new private offering exemption from the registration requirements of the Securities Act that does not prohibit general solicitation and advertising for transactions with purchasers who do not need all the protections of the Securities Act’s registration requirements. [70 points; avg. ranking 3.18]
- 3A Provide better scaling of reporting requirements for publicly traded companies at the lower end of the spectrum. [69 points; avg. ranking 3.14]
- 3B In response to the study required by the Dodd-Frank Act, the exemption from the application of SOX Section 404(b) should be extended to companies with a public float of less than \$250 million. [69 points; avg. ranking 3.14]
- 4A The Regulation A \$5 million ceiling should be increased along with the 500 shareholders of record threshold in Section 12(g) of the Securities Exchange Act of 1934 in order to allow issuers to engage in general solicitation for larger aggregate amounts of capital without registration under either the Securities Act of 1933 or Securities Exchange Act of 1934. [68 points; avg. ranking 3.09]
- 4B Increase the amount of public float in the definition of “smaller reporting company” from \$75 million to \$250 million. [68 points; avg. ranking 3.09]
- 5 Add an alternative to Regulation A (call it Regulation A+), pursuant to which an issuer can raise more than \$5 million (up to a maximum of \$30 million) if it undertakes to file voluntarily all periodic reports under Exchange Act Section 13 for a period of one year from the date of the first sale of securities under the Regulation A+ offering. At the end of the year, the issuer would be permitted to use a Form 8-A short-form registration statement under the Exchange Act to register the class of equity securities that were offered under the Regulation A+ offering under Exchange Act Section 12(g). [67 points; avg. ranking 3.05]
- 6 Add an alternative test for smaller reporting company status, such that a company can qualify either if its public float is less than the specified amount (currently \$75 million) or if it had less than \$100 million in revenues for its last fiscal year. [65 points; avg. ranking 2.95]

**Priority  
Rank**

**Recommendation**

- 7A The Commission should allow “private placement brokers” to assist issuers in raising capital through private placements of their securities offered solely to “accredited investors” in amounts per issuer of up to 10% of the investor’s net worth (excluding his or her primary residence), with full written disclosure of the broker’s compensation and any relationship that would require disclosure under Item 404 of Regulation S-K, in aggregate amounts of up to \$20 million per issuer. [62 points; avg. ranking 2.82]
- 7B Preempt state laws that require state registration or qualification of Regulation A offerings by defining purchasers of securities in Regulation A offerings as “qualified purchasers” under Section 18 of the Securities Act. [62 points; avg. ranking 2.82]
- 8 The Commission should, by rule, adopt an exemption from federal broker-dealer registration and FINRA membership for merger and acquisition (M&A) intermediaries and business brokers involved in the purchase, sale, exchange or transfer of the ownership of privately-owned businesses, subject to the states exercising primary regulatory supervision over these activities under state securities laws. [59 points; avg. ranking 2.68]
- 9A Increase Section 12(g) asset threshold from \$10 million to \$100 million. [57 points; avg. ranking 2.59]
- 9B Raise deregistration threshold from 300 to 1,000 record holders. [57 points; avg. ranking 2.59]
- 9C Eliminate the 1/3 cap (or increase the cap) for the use of Form S-3 for primary offerings by companies with less than \$75 million in public float. [57 points; avg. ranking 2.59]
- 10 The S-3 eligibility requirements for primary offerings by companies with a public float of less than \$75 million currently exclude non-exchange traded companies. This requirement should be eliminated. [56 points; avg. ranking 2.55]
- 11A The SEC should not increase the accredited investor standards for either income or net worth. [55 points; avg. ranking 2.50]

**Priority  
Rank**

**Recommendation**

- 11B With respect to the corporate governance rules required to be promulgated by exchanges (and approved by the SEC) under the Dodd-Frank Act, non-management affiliates (i.e., persons who are affiliates by virtue of their status as large shareholders and not due to their status as an officer or director of the company) should not be disqualified from being “independent” for purposes of sitting on the compensation committee of smaller reporting companies. [55 points; avg. ranking 2.50]
- 12A The Commission should allow “private placement brokers” to assist non-accelerated filers or other smaller reporting companies in raising capital through private placements of their securities offered solely to “accredited investors” in amounts per issuer of up to 10% of the investor's net worth (excluding his or her primary residence), with full written disclosure of the broker’s compensation and any relationship that would require disclosure under Item 404 of Regulation S-K, in aggregate amounts of up to \$5 million per issuer. [54 points; avg. ranking 2.45]
- 12B Increase Section 12(g) threshold from 500 to 2,000 record holders. [54 points; avg. ranking 2.45]
- 13A Exempt smaller reporting companies from new Exchange Act Section 14A which mandates shareholder votes on (i) Say on Pay, (ii) Say on Frequency and (iii) Golden Parachutes. [53 points; avg. ranking 2.41]
- 13B Implement the rulemaking proposal on Rule 144(i) (dealing with the ability to use Rule 144 for securities of companies that were previously shell companies) requested in the petition for rulemaking letter dated October 1, 2008. [53 points; avg. ranking 2.41]
- 13C The SEC Division of Corporation Finance and its Division of Trading and Markets should immediately require from The Depository Trust Company (DTC) understandable rules and standards with strict timeframes for applications for trading eligibility with DTC. Similar rules and standards should be adopted by DTC with respect to providing electronic book-entry transfer services for smaller public companies. [53 points; avg. ranking 2.41]

**Priority  
Rank**

**Recommendation**

- 14A The Commission should, by rule, codify the SEC staff's no-action letters to *Country Business, Inc.* (Nov. 8, 2006) and *International Business Exchange Corp.* (December 12, 1986), in a "small business sale" exemption from federal broker-dealer registration and FINRA membership, thereby clearly articulating to merger and acquisition (M&A) intermediaries, business brokers and the public when broker-dealer registration is not required under federal securities law. [52 points; avg. ranking 2.36]
- 14B The SEC should clarify in its current guidance that non-recourse debt on the primary residence in excess of the value of the primary residence should not be deducted from the accredited investor net worth calculation. Current guidance is available from the SEC web site at <http://www.sec.gov/divisions/corpfin/guidance/securitiesactrules-interps.htm#255.47>. [52 points; avg. ranking 2.36]
- 15A A New *De Minimis* Exemption. Exempt from 1933 Act registration aggregate offerings of up to \$100,000, where each individual may invest no more than a certain maximum amount, say \$100 per individual. [51 points; avg. ranking 2.32]
- 15B Encourage states to accept reviewed unaudited financials for Regulation A offerings. [51 points; avg. ranking 2.32]
- 15C Reduce the holding periods for securities of reporting companies under Rule 144 from 6 to 4 months (with current public information) and 12 to 8 months (with no information requirement). [51 points; avg. ranking 2.32]
- 16 Increase the limit on the amount that can be raised in a Regulation A offering from \$5 million to \$30 million. [50 points; avg. ranking 2.27]
- 17 In implementing the Dodd-Frank Act regarding bad actor disqualification, the SEC should recognize that a simple technical violation does not rise to the level of bad actor disqualification. The SEC should provide a waiver mechanism. [48 points; avg. ranking 2.18]
- 18A For at-the-market offerings, officially recognize the pink sheet quotation system as an "established public market." [47 points; avg. ranking 2.14]



***Priority  
Rank***

***Recommendation***

- 18B The SEC should study the impact of credit ratings on the availability and the cost of capital to smaller public companies, considering those market segments that include sub-investment grade issuers in emerging growth markets. [47 points; avg. ranking 2.14]
- 19 Exclude accredited investors from the number of record holders. [45 points; avg. ranking 2.05]
- 20 For the purpose of calculating the mid-sized private fund adviser exemption, assets under management of small business investment companies and venture capital funds should be excluded. [44 points; avg. ranking 2.00]
- 21A The SEC should exempt from the definition of investment adviser those entities that do minimal or incidental advice related to securities. See Section 202(a)(11)(F) of the Investment Advisers Act. [43 points; avg. ranking 1.95]
- 21B Make conflict minerals disclosure compliance more realistic and viable for all companies and significantly scale it back for smaller reporting companies. [43 points; avg. ranking 1.95]
- 22 The SEC should conduct education for entrepreneurs and practitioners on raising capital and addressing securities regulation in addition to the guidance provided on the SEC web site. [37 points; avg. ranking 1.68]

## **Recommendations from Organizations Concerned with Small Business Capital Formation<sup>3</sup>**

*The recommendations below came from 14 leading small business and professional organizations concerned with capital formation. Some recommendations were made during a panel presentation featuring representatives of these organizations at the small business forum on November 18, 2010. Others were made in written statements submitted to the forum by the organizations.*

*The organizations were invited to designate representatives to participate in the panel and to submit written statements. They were asked to make specific recommendations for government and private action to improve the environment for small business capital formation, focusing on improvements in securities regulation.*

*The SEC staff compiled the recommendations below from the organizations' panel presentations at the forum and their written submissions. Each of the organizations then authorized us to set forth their recommendations in this report as they appear below. To assure yourself of a detailed and complete presentation of the views of these organizations, you should consult the written transcript of the panel presentations available in the [Record of Proceedings](#) of the 2010 forum<sup>4</sup> or the written submissions of the organizations included in the [Appendix](#) to the 2010 forum final report.*

### **American Bankers Association** (Written Submission)

1. Update the shareholder threshold under Section 12(g) of the Exchange Act from 500 security holders to 2,000 security holders.
2. Amend the threshold under Sections 15(d) and 12(g)(4) of the Exchange Act permitting de-registration from 300 to 1,200 security holders to relieve the regulatory burden placed upon smaller public companies, in particular community banks and savings associations.

**American Bar Association, Section of Business Law** (Panel Presentation by Ann Yvonne Walker, Chair, Small Business Issuer Subcommittee of Federal Regulation of Securities Committee)<sup>5</sup>

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<sup>3</sup> Unlike the recommendations developed by the participants in the forum breakout groups, the recommendations from organizations are set forth in the alphabetical order of the name of the organization, and not in any particular order of priority or importance.

<sup>4</sup> Available at <http://www.sec.gov/info/smallbus/sbforumtrans-111810.pdf>.

<sup>5</sup> Ms. Walker explained in her presentation that she was not authorized to comment on behalf of the American Bar Association or its Section on Business Law. She participated in the panel presentation as Chair of the Small Business Issuer Subcommittee of the Federal Regulation of Securities Committee of the Section of Business Law, after consulting with the Chair of the Middle Market and Small Business Committee, the Chair of that

1. Phase in all new disclosure obligations for smaller reporting companies, since it is difficult for smaller companies to “muster the troops” to respond to new disclosure obligations.
2. Create an exemption for private placement broker-dealers, as recommended by the ABA Private Placement Broker-Dealer Task Force Report from 2005.
3. Expand the eligibility rules for Form S-3 to include companies that are current in their filings, but that do not have a class of securities registered on an exchange.
4. Exempt smaller reporting companies from the golden parachute vote provisions and, in particular, the chart in Item 402(t).
5. Require a say-on-pay vote every three years for smaller reporting companies and do not require a say-on-frequency vote by such companies until 2013.
6. Permit general solicitation for private placements, so long as the people who end up actually purchasing securities are accredited investors.
7. Regulate sales of securities but not offers.

**Angel Capital Association** (Written Submission and Panel Presentation by Marianne Hudson, Executive Director)

1. Maximize the number of accredited investors in the angel investor market by developing clear rules that do not punish individuals for negative value in their homes. In other words, do not debit non-recourse deficiencies of underwater mortgages from the calculation of net worth exclusive of the principal residence. Keep in mind that, under the laws of many states, mortgage debtors are often not liable for such deficiencies.
2. Make no adjustments to the annual income standard in Regulation D, including inflation adjustments.
3. In reviewing the accredited investor definition every four years, as required by the Dodd-Frank Act, consider not only the protection of investors, but also the importance to the economy of companies’ access to capital.
4. Consider lowering the standards for net worth and annual income in the definition of “accredited investor” in light of the current economy, as more is learned about the companies that receive angel investment, the jobs that are created as a result, and the relative lack of fraud in angel investment.
5. Permit general solicitation under a basic concept that no communication is a general solicitation if reasonable means or a screening process is used to ensure that such communication is directed only to accredited investors.

6. Do not develop new securities regulations that crimp the ability of private companies to help arrange liquidity for angel investors by listing their shares on private securities exchanges.

**Biotechnology Industry Organization** (Panel Presentation by Shelly Mui-Lipnik, Director of Emerging Companies and Business Development)

1. Make the R&D tax credit permanent.
2. Extend and expand the Therapeutic Discovery Project Credit program.
3. Raise the \$75 million dollar public float exemption for Sarbanes-Oxley Section 404(b) to \$250 million.

**Center for Capital Market Competitiveness, U.S. Chamber of Commerce** (Panel Presentation by David T. Hirschmann, President and CEO)

1. In exercising the discretion that the Dodd-Frank Act provides to regulators in determining whether to exempt or delay the applicability of new regulations to smaller public companies, consider whether the new regulation is essential, particularly in light of the cumulative effect of regulation on small business.
2. Increase the disclosure threshold for smaller public companies from the current \$75 million, and index that threshold going forward.
3. Consider other metrics that might be useful to determine appropriate regulation for smaller companies rather than relying solely on market capitalization.
4. Consider increasing the \$5 million offering limit under Regulation A that allows for simplified registration, since this ceiling has never been indexed or increased since 1992.
5. Ensure the diversity and robustness of capital formation options for start-ups and smaller growth companies through regulators' avoidance of selecting winners and losers among capital providers.

**Financial Executives International** (Written Submission)

1. Lower the corporate tax rate in the United States.
2. Make permanent the extension of all current individual tax rates, and index the alternative minimum tax to inflation.
3. Revise the estate tax to avoid unduly penalizing going concerns that wish to survive the death of an owner.
4. Protect the Interest Charge Domestic International Sales Corporation (IC-DISC) in any future tax reform efforts.
5. Make permanent the research and development tax credit, and increase the alternative simplified credit.

6. Preserve the last-in, first-out (LIFO) inventory accounting method for American businesses that maintain inventories.
7. Provide companies tax credits or a tax holiday over a specified length of time to businesses that make capital investments in the U.S. by building or expanding a new facility.
8. Simplify rules pertaining to S corporations, and provide greater flexibility to their owners.
9. Fully repeal the 1099 reporting requirement found in the Patient Protection and Affordable Care Act.
10. Adopt the proposals as recommended by the ABA in its Report and Recommendations of the Task Force on Private Placement Broker-Dealers, dated June 20, 2005, and subsequently adopted/recommended by the SEC Government-Business Forums on Small Business Capital Formation of 2006, 2007, 2008 and 2009.

**Independent Community Bankers of America** (Written Submission)

1. Reconsider the Commission proposal not to exempt smaller reporting companies from the say-on-pay or golden parachute votes.
2. Do not require smaller reporting companies to comply with the requirements of Section 953 of the Dodd-Frank Act found in Item 402 of Regulation S-K.
3. Exempt smaller reporting companies from the new claw back policies (Section 954 of Dodd-Frank) because this provision will make it more difficult to find qualified officers and directors for publicly traded small banks.
4. Exempt smaller reporting companies from the proxy access rule because of the disproportionate burden it places on small community banks and other smaller issuers.
5. Utilize the discretion that Congress has explicitly delegated to the Commission to minimize the regulatory burden on small issuers from the corporate governance provisions of the Dodd-Frank Act that disproportionately burden publicly-traded community banks.
6. Update the shareholder threshold above which companies must register a class of securities under Section 12(g) of the Exchange Act from the current 500 to 2,000, and increase the shareholder threshold below which companies may de-register a class of securities under Section 12(g) of the Exchange Act to 1,700.

**Investment Program Association** (Panel Presentation by Kevin M. Hogan, Executive Director)

1. Work with the state securities regulators to reduce the redundancies in federal and state regulation of offerings by the investment program industry which result in an estimated 9 to 12 months for some products ultimately to be approved.
2. Adopt a more effective technology centered electronic order entry system for the investment program industry similar to that in the mutual fund and annuity industries.

**National Association of Seed and Venture Funds** (Written Submission and Panel Presentation by James A. Jaffe, President and CEO)

1. Adopt a comprehensive legislative initiative regarding angel investor tax credits, with specific attention to the areas of immediate behavioral reward, venture eligibility, and investment eligibility, similar to what has been enacted in 21 states to facilitate capital to early-stage companies.

**National Association of Small Business Investment Companies** (Written Submission and Panel Presentation by Brett T. Palmer, President)

1. Raise the asset threshold for registration from \$150 million (Regulation E) to enable small business funds to raise more capital for investing in small businesses.
2. Establish a venture definition, and therefore registration exclusion, that protects all funds that invest directly in “small businesses.” Small business is clearly defined in the Small Business Investment Act. This should not be the only option for qualifying for the venture exemption, but it should be at least one of the available options for exemption.
3. Define “Private Equity Fund” as one that makes equity, debt, and/or debt with equity featured investments.
4. Apply the registration triggering threshold exclusively to funds that are otherwise non-exempt. For example, a \$75 million small business fund would be forced to register if it also had a \$90 million SBIC. For fund managers that have both an SBIC fund and a non-SBIC fund, the capital under management from the SBIC should not be included in the registration trigger.
5. Minimize the record keeping burden for exempt funds. If exempt from registration, offer these funds a true exemption from the burden. The SEC should recognize the SBA as the functional regulator of SBICs.
6. Create a “Registration Light” system for funds that invest primarily in small business. The middle-market funds that have more than \$150 million in assets under management but are still below the \$500 million level should not be required to register with the SEC in the same manner as a fund with billions of dollars of assets under management.

7. Minimize the negative impact of the Volcker Rule on small investment funds, and consider the following specific recommendations:
  - While SBIC investments are explicitly permitted, do not pose any additional restrictions on investments in SBICs.
  - Do not limit independent limited partners in bank-sponsored funds to existing trust, fiduciary, or investment advisory clients of the banking entity.
  - When implementing the Volcker Rule, raise the 3% Tier-1 capital limit on bank investments in a small investment fund.
  - Allow a bank to be a sponsor of an SBIC or other small business fund while still being permitted to provide custodial services to the fund.
  - Define “Private Equity Fund” as one that makes equity, debt, and/or debt with equity featured investments.
  - Do not force the divestiture of illiquid assets by small investment funds all at one time.

**National Venture Capital Association** (Written Submission and Panel Presentation by Mark G. Heesen, President)

1. Raise the \$75 million dollar public float exemption for [Sarbanes-Oxley] Section 404(b) to \$250 million.

**Real Estate Investment Securities Association** (Written Submission and Panel Presentation by Deborah S. Froling, REISA Legislative/Regulatory Task Force)

1. Do not apply a fiduciary standard to the independent broker-dealer community, including REISA members who are brokers, because it would reduce small business capital formation and reduce or eliminate a large portion of their traditional day-to-day business. Because private placements under Regulation D would likely be considered “illiquid” investments under a fiduciary standard of care, small businesses and real estate investments packaged as Regulation D offerings could be eliminated from the alternatives that could be recommended by REISA member broker-dealers to their clients, who are sophisticated, accredited investors.
2. With respect to disqualification rules for felons and other bad actors as required by the Dodd-Frank Act:
  - Clearly identify the persons who would disqualify an issuer or broker-dealer from taking advantage of Regulation D for capital raising activities. For example, would “persons” subject to this disqualification include officers or directors or just owners, and, if owners would it be 10%, 20% or more beneficial owners or would it include only “control persons.”

- Clearly define what is meant by a “final order,” especially in a case where an order has been issued by a state regulator but such order is in the process of being challenged or otherwise appealed through judicial or administrative proceedings.
  - Address the potential for misapplication of the standard of “any law or regulation that prohibits fraudulent, manipulative or deceptive conduct.” There are states where minor and technical violations of rules or regulations, such as recordkeeping requirements or filing notices, are deemed to be fraudulent conduct and would therefore disqualify issuers from making use of Rule 506 for acts that would not normally fit within the definition of fraudulent or deceptive acts.
  - Preclude the adoption of rules that would deem minor rule violations as “fraudulent, manipulative or deceptive conduct” in order to reduce or eliminate the use of Rule 506 for offerings in their state.
  - Provide a mechanism by which an issuer may request a waiver from disqualification “upon a showing of good cause,” particularly in light of the 10-year look back whereby a person may have entered into a settlement agreement with a state regulator prior to the enactment of the Dodd-Frank Act which would otherwise provide the basis for a disqualification now.
3. Exclude both the value of the primary residence and the mortgage debt from the calculation of net worth to qualify as an accredited investor, including underwater mortgage debt.
  4. If the Commission is inclined to add an “invested assets” test for accredited investor status, as suggested by the North American Securities Administrators Association, Inc., then require that only one qualification be met of the following: (1) net worth, (2) income or (3) invested assets.
  5. Do not require investment adviser registration for REISA members who are sponsors and advisors to non-traded REIT clients, if their advice includes incidental advice regarding securities.
  6. Reject efforts to raise capital gains taxes on the commercial real estate sector by treating the carried interest earned by partners in partnerships as ordinary income rather than long-term capital gains income.
  7. Establish a federally backed credit facility for originating new commercial real estate loans, possibly by expanding the FDIC’s existing public-private investment fund program (the “PPIP Legacy Loans Program”) or through a new privately funded guarantee program.
  8. Encourage non-U.S. debt and equity investment in U.S. real estate by amending or repealing the outdated Foreign Investment in Real Property Tax Act (FIRPTA), which applies to equity investments.
  9. Continue to apply pressure upon banks and loan servicers to extend performing loans, based on cash-flow analysis.



**Small Business & Entrepreneurship Council** (Written Submission)

1. Create an exemption for small business offerings (debt or equity) of less than \$1,000,000, that:
  - Limits the maximum contribution by any one individual to no more than 10% of their prior year's stated income or up to \$10,000/ individual.
  - Requires a set of standardized and automated procedures for these financing offerings (debt or equity) to reduce time and expense for all parties while maintaining transparency. Use a modified SCOR form, especially for those companies that are just ideas and do not have financials yet.
  - Have investors take an online "test" on the risks involved in private offerings before being allowed to invest.
  - Allow the creation of channels/sites where ideas, individuals, companies and investors can meet, be vetted by the organization hosting those channels and entrepreneurial funding may take place. Consider requiring registration of these channel/sites for transparency purposes.

**Society of Corporate Secretaries & Governance Professionals** (Written Submission and Panel Presentation by Stephen H. Shapiro, Co-Chair, Small and Mid-Cap Companies Committee)

1. Increase the public equity float threshold for being a smaller reporting company from having a public float of less than \$75 million to at least less than \$250 million.
2. Exempt companies with a public float of less than \$250 million from Section 404(b) of the Sarbanes Oxley Act.
3. Adopt a new private offering exemption from the registration requirements of the Securities Act that does not prohibit general solicitation and advertising for transactions with purchasers who do not need all the protections of the Securities Act registration requirements.
4. Eliminate the one-third of market capitalization limit for primary offerings by smaller public companies in General Instruction I.B.6(a) of Form S-3 and General Instruction I.B.5(a) of Form F-3.
5. Shorten the integration safe harbor in Regulation D from six months to 90 days, and further consider shortening such period to 30 days, as recommended by the April 2006 Final Report of the SEC Advisory Committee on Smaller Public Companies.
6. Apply scaled regulation to Section 1502 "Conflict Minerals" disclosure that requires all reporting companies to disclose annually whether "conflict minerals"

(including gold) in products manufactured by their companies originated in the Democratic Republic of the Congo or an adjoining country.

7. Exempt smaller reporting companies from the requirements of Section 14A of the Exchange Act, notwithstanding the instruction to new Rule 14a-21, for the reason that such companies would nevertheless be compelled to include CD&A disclosure or risk an unfavorable shareholder vote.

## 2011 SEC Government-Business Forum on Small Business Capital Formation

### Biographies of Panelists and Moderators

**A. Heath Abshure** is the Arkansas Securities Commissioner. He was appointed Commissioner in December 2007 by Governor Mike Beebe. In this role, Mr. Abshure oversees the Arkansas Securities Department, the state agency charged with oversight of all aspects of the securities industry, as well as certain aspects of the mortgage lending and money services industries. Mr. Abshure serves as Chairman of the North American Securities Administrators Association (NASAA) Corporation Finance Section Committee. He is a board member of Economics Arkansas, a private, non-profit, educational organization founded in 1962 to promote economic literacy in Arkansas, and serves as an Adjunct Professor at the University of Arkansas at Little Rock Law School, William H. Bowen School of Law, teaching Securities Regulation. Mr. Abshure began his legal career with the Little Rock firm of Giroir Gregory Holmes & Hoover. In 2000, Mr. Abshure joined the U.S. Securities and Exchange Commission, where he served as Senior Attorney-Adviser in the Office of the Administrative Law Judges. In July 2002, he returned to Little Rock and joined the firm of Williams & Anderson, specializing in corporate securities and municipal bond issues. Mr. Abshure graduated, *cum laude*, from Christian Brothers University in Memphis, Tennessee, with a bachelor's degree in Business Administration. He obtained his law degree from the University of Arkansas at Little Rock, William H. Bowen School of Law, with high honors. While working at the SEC, Mr. Abshure attended the Georgetown University Law Center and obtained a Master of Laws with distinction in Securities and Financial Regulation.

**Luis A. Aguilar** is a Commissioner of the Securities and Exchange Commission. Commissioner Aguilar represents the Commission as its liaison to both the North American Securities Administrators Association (NASAA) and to the Council of Securities Regulators of the Americas (COSRA). He has served as the primary sponsor of the SEC's Investor Advisory Committee. Before his appointment as SEC Commissioner, Mr. Aguilar was a partner with the international law firm of McKenna Long & Aldridge, LLP, specializing in securities law. During his career, his practice included matters pertaining to general corporate and business law, international transactions, investment companies and investment advisers, securities law, and corporate finance. He also focused on issues related to corporate governance, public and private offerings (IPOs and secondary offerings), mergers and acquisitions, mutual funds, investment advisers, broker-dealers, and other aspects of federal and state securities laws and regulations. Commissioner Aguilar's previous experience includes serving as the general counsel, executive vice president, and corporate secretary of INVESCO, with responsibility for all legal and compliance matters regarding INVESCO Institutional. He also was INVESCO's managing director for Latin America in the late 1990's. His career also includes tenure as a partner at several prominent national law firms and an earlier tenure as an attorney at the Securities and Exchange Commission. Commissioner Aguilar has successfully completed Series 7, 24, 63, and 65 examinations in connection with serving as president and a director of a registered broker-dealer. Commissioner Aguilar is a graduate of the University of Georgia School of Law, and also received a master of laws degree in taxation from Emory University.

**Professor C. Steven Bradford** is the Earl Dunlap Distinguished Professor of Law at the University of Nebraska–Lincoln College of Law. He teaches in the areas of securities regulation, corporate law, and accounting for lawyers. Professor Bradford is the author of numerous articles on securities regulation, including *Does Size Matter? An Economic Analysis of Small Business Exemptions from Regulation*, 8 J. Small and Emerging Bus. L. 1 (2001); *Securities Regulation and Small Business: Rule 504 and the Case for an Unconditional Exemption*, 5 J. Small and Emerging Bus. L. 1 (2001); *Expanding the Non-Transactional Revolution: A New Approach to Securities Registration Exemptions*, 50 Emory L. J. 437 (2000); and *Transaction Exemptions in the Securities Act of 1933: An Economic Analysis*, 45 Emory L. J. 591 (1996). His latest article is *Crowdfunding and the Federal Securities Laws*, available at <http://ssrn.com/abstract=1916184>. Professor Bradford received his B.S., *summa cum laude*, from Utah State University, an M.P.P. from Harvard University, and his J.D., *magna cum laude*, from Harvard Law School.

**Professor John C. Coffee, Jr.** is the Adolf A. Berle Professor of Law at Columbia University Law School and Director of its Center on Corporate Governance. He is a Fellow at the American Academy of Arts and Sciences and has been repeatedly listed by the National Law Journal as among its “100 Most Influential Lawyers in America.” Professor Coffee has been a member of the Legal Advisory Board to the New York Stock Exchange, the Legal Advisory Board of the NASD, the Market Regulation Committee of the NASD, and the Economic Advisory Board to Nasdaq. He served as a reporter to the American Law Institute for its Principles of Corporate Governance: Analysis and Recommendations, was a member of the SEC’s Advisory Committee on the Capital Formation and Regulatory Processes, and served as Chairperson of the Section on Business Associations of the Association of American Law Schools. Professor Coffee has testified repeatedly before Committees of both the Senate and the House during the drafting of the PSLRA, the Sarbanes-Oxley Act, and the Dodd-Frank Act and on other occasions. Professor Coffee is the author or editor of several widely used books and casebooks on corporations, securities regulation, takeovers, and business organization and finance, including Coffee and Sale, *Cases and Materials on Securities Regulation* (11<sup>th</sup> ed. 2007), Choper, Coffee and Gilson, *Cases and Materials on Corporations* (7<sup>th</sup> ed. 2008), Klein and Coffee, *Business Organization and Finance* (10<sup>th</sup> ed. 2007), and Coffee, *Gatekeepers: The Professions and Corporate Governance* (Oxford University Press 2006) and Coffee, Lowenstein, and Rose-Ackerman, *Knights, Raiders and Targets: The Impact of the Hostile Takeover* (Oxford University Press 1988). Professor Coffee has also been a visiting professor of law at Harvard, Stanford, Michigan and Virginia law schools and at several foreign law schools and began his teaching career at Georgetown University Law Center. According to a recent survey of law review citations, Professor Coffee is the most cited law professor in law reviews in the combined corporate, commercial, and business law field. Before entering academia, he practiced corporate law as an associate with the firm of Cravath, Swaine & Moore in New York City. He is a graduate of the Yale Law School and Amherst College.

**Meredith B. Cross** is the Director of the Division of Corporation Finance at the Securities and Exchange Commission. Prior to joining the staff in June 2009, Ms. Cross was a partner at Wilmer Cutler Pickering Hale and Dorr LLP in Washington, D.C., where she advised clients on corporate and securities matters and was involved with the full range of issues

faceted by public and private companies in capital raising and financial reporting. Since rejoining the staff, Ms. Cross has led a broad array of key initiatives, including changes to the proxy rules and a concept release on the U.S. proxy system, and revisions to the disclosure, reporting, and offering process for asset-backed securities. Currently, Ms. Cross is leading the Division's efforts to implement a wide assortment of provisions enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Ms. Cross also worked in the Division of Corporation Finance prior to joining WilmerHale. She began her previous tenure at the SEC in September 1990 as an Attorney Fellow in the Office of Chief Counsel, and served in a variety of capacities within the Division, including Deputy Chief Counsel, Chief Counsel, Associate Director, and finally, Deputy Director. Before her previous tenure at the SEC, Ms. Cross worked in private practice in the securities department of King & Spalding in Atlanta. She earned her undergraduate degree, *cum laude*, from Duke University in 1979, and her law degree in 1982 from Vanderbilt University Law School.

**Daniel M. Gallagher** is a Commissioner of the Securities and Exchange Commission. Before his appointment as SEC Commissioner, he was a partner in the Washington, D.C., office of WilmerHale. Commissioner Gallagher's first tenure at the SEC began in January 2006, serving as a counsel to SEC Commissioner Paul S. Atkins and later as a counsel to SEC Chairman Christopher Cox. He worked primarily on major matters before the Commission involving the Division of Trading and Markets and the Division of Enforcement. After joining the Division of Trading and Markets as a Deputy Director in 2008, he played a key role in the SEC's response to the financial crisis and other key issues before the Commission at the time, including credit rating agencies and credit default swaps. He served as Co-Acting Director of the Trading and Markets Division from April 2009 to January 2010. Prior to his initial SEC service as a staff member, Commissioner Gallagher was the General Counsel and Senior Vice President of Fiserv Securities, Inc., where he was responsible for managing all of the firm's legal and regulatory matters. Commissioner Gallagher began his career in private practice, advising clients on broker-dealer regulatory issues, and representing clients in SEC and SRO enforcement proceedings. Commissioner Gallagher earned his J.D., *magna cum laude*, from the Catholic University of America, where he was a member of the law review. He graduated from Georgetown University with a B.A. in English.

**Stephen M. Graham** is Co-Chair of Fenwick & West's Life Sciences Practice, is a partner in the corporate group and is a member of the firm's executive committee. He is resident in the firm's Seattle office, where he is the Managing Partner. Mr. Graham focuses his practice in the areas of private and public mergers and acquisitions, public offerings, private placements, and corporate governance matters, including advising boards of directors and audit, compensation and nominating/corporate governance committees, preparation and filing of periodic SEC reports, and other securities law compliance, including Sarbanes-Oxley Act matters and disclosure issues with respect to Rule 10b-5 and Regulation FD. His diverse practice is focused on the representation of emerging and established high growth companies. Mr. Graham has represented companies and investment banks in numerous initial public offerings, a wide variety of merger and acquisition transactions, and private offerings of debt and equity. Mr. Graham has been recognized by Chambers USA as one of the top corporate and mergers and acquisitions lawyers in Washington State. He is also a "Super Lawyer" award recipient, 2000-2011, was ranked as one of the Top 100 Super Lawyers in 2005 by

Washington Law & Politics, received the Top Lawyers award from Seattle Magazine in 2003, is listed in Who's Who in America by Marquis Biographical Reference, and is a member of Pi Sigma Alpha. He is active in community affairs, currently serving on the Board of Directors of the Fred Hutchinson Cancer Research Center, the Institute for Systems Biology and the Washington Biotechnology & Biomedical Association. Mr. Graham also serves as a member of the College of Liberal Arts and Sciences Dean's Advisory Council of Iowa State University. Prior to joining Fenwick & West, Mr. Graham was a corporate partner with Orrick, Herrington & Sutcliffe LLP, where he was the Chair of the global Corporate Practice Group. Mr. Graham received his J.D. from Yale Law School and his B.S. from Iowa State University.

**Kathleen Weiss Hanley** is Deputy Director and Deputy Chief Economist of the Division of Risk, Strategy, and Financial Innovation at the Securities and Exchange Commission. Ms. Hanley assumed her current position at the Commission in 2011. Prior to that time, she was a Senior Economist at the Board of Governors of the Federal Reserve System and a senior financial economist at the SEC. She has been on the faculty at the University of Maryland as an associate professor (with tenure) and at the University of Michigan as an assistant professor. Hanley has written extensively on the topic of corporate finance with an emphasis on initial public offerings, price stabilization, short selling, disclosure, litigation risk and closed-end funds. Her research has been published in leading finance journals such as the *Journal of Finance*, the *Journal of Financial Economics*, the *Review of Financial Studies*, the *Journal of Financial Intermediation*, and *Financial Management*. She has been an associate editor at the *Journal of Financial Research* and a Practitioner Director of the Financial Management Association. She received her Ph.D. in Finance from the University of Florida and her undergraduate degree from Indiana University.

**John D. Hogoboom** is a founding member of the Lowenstein Sandler Specialty Finance Group. Mr. Hogoboom specializes in mergers and acquisitions, public and private securities offerings, private equity investments and general corporate and securities law. Mr. Hogoboom is listed among *The Best Lawyers in America* in the 2007-2012 editions of the publication in both the corporate law and securities law categories. Mr. Hogoboom received his B.S. degree, *magna cum laude*, from the Wharton School of the University of Pennsylvania. He received his J.D. degree, *cum laude*, from the University of Pennsylvania School of Law, where he served as Editor of the University of Pennsylvania Law Review.

**Lona Nallengara** is the Deputy Director—Legal and Regulatory Policy in the Division of Corporation Finance of the U.S. Securities and Exchange Commission. Mr. Nallengara oversees the Division of Corporation Finance's Offices of Chief Counsel, Enforcement Liaison, International Corporate Finance, Mergers & Acquisitions and Small Business Policy and is involved in the Division's extensive rulemaking agenda. Prior to joining the Commission in March 2011, Mr. Nallengara was a partner at Shearman & Sterling LLP in New York, where he advised public companies and financial institutions on capital raising activities, corporate governance, public reporting and mergers and acquisitions. Mr. Nallengara earned his law degree from Osgoode Hall Law School in Toronto and his undergraduate degree in political science from the University of Western Ontario in London, Canada.

**Troy A. Paredes** is a Commissioner of the Securities and Exchange Commission. Before his appointment as SEC Commissioner, he was a tenured professor at Washington University School of Law in St. Louis, Missouri. He also held a courtesy appointment at Washington University's Olin Business School. Commissioner Paredes primarily taught and researched in the areas of securities regulation and corporate governance. During his tenure as a professor, Commissioner Paredes made presentations around the country on securities law and corporate governance, and he served as an expert on various legal matters. As a professor, Commissioner Paredes has authored articles addressing these topics, and he is also a co-author (beginning with the 4th edition) of a multi-volume securities regulation treatise with Louis Loss and Joel Seligman entitled *Securities Regulation*. Before joining Washington University's faculty in 2001, Commissioner Paredes practiced law at prominent national law firms. As a practicing lawyer, Commissioner Paredes worked on a variety of transactions and legal matters involving financings, mergers and acquisitions, and corporate governance. Commissioner Paredes received his bachelor's degree in economics from the University of California at Berkeley and his J.D. from Yale Law School.

**Chairman Mary L. Schapiro** is the 29th Chairman of the Securities and Exchange Commission. Chairman Schapiro was appointed by President Barack Obama on January 20, 2009, unanimously confirmed by the U.S. Senate, and sworn in on January 27, 2009. She is the first woman to serve as the agency's permanent Chairman. Before becoming SEC Chairman, she was CEO of the Financial Industry Regulatory Authority (FINRA)—the largest non-governmental regulator for all securities firms doing business with the U.S. public. Chairman Schapiro joined the organization in 1996 as President of NASD Regulation, and was named Vice Chairman in 2002. In 2006, she was named NASD's Chairman and CEO. The following year, she led the organization's consolidation with NYSE Member Regulation to form FINRA. Chairman Schapiro previously served as a Commissioner of the SEC from December 1988 to October 1994. She was appointed by President Ronald Reagan, reappointed by President George H.W. Bush in 1989, and named Acting Chairman by President Bill Clinton in 1993. She left the SEC when President Clinton appointed her Chairman of the Commodity Futures Trading Commission, where she served until 1996. A 1977 graduate of Franklin and Marshall College in Lancaster, Pennsylvania, Chairman Schapiro earned a Juris Doctor degree, with honors, from George Washington University in 1980.

**Yoichiro (Yokum) Taku** is a corporate and securities partner in the Palo Alto office of Wilson Sonsini Goodrich & Rosati. Yokum represents technology and growth companies at all stages of development, through private financings, strategic transactions, public offerings, and mergers and acquisitions. He also represents investors in venture capital financings. Yokum has advised numerous entrepreneurs from initial company formation to liquidity event. At any time, Yokum typically represents numerous start-up companies seeking venture financing, private companies that have received financing, and publicly traded companies. Yokum also closely works with several incubators. He maintains a personal blog at [www.startupcompanylawyer.com](http://www.startupcompanylawyer.com). Yokum is the Chairman of the Angel Venture Financing Subcommittee of the American Bar Association Business Law Section Committee on Venture Capital and Private Equity. Yokum received a B.A. from the University of Minnesota in 1990 and a J.D. from the University of Chicago Law School in 1993.

**Elisse B. Walter** is a Commissioner of the Securities and Exchange Commission. She served as Acting Chairman during January 2009. Before her appointment as an SEC Commissioner, Ms. Walter served as Senior Executive Vice President, Regulatory Policy & Programs, for FINRA. She held the same position at NASD before its 2007 consolidation with NYSE Member Regulation. Ms. Walter coordinated policy issues across FINRA and oversaw a number of departments including Investment Company Regulation, Member Education and Training, Investor Education and Emerging Regulatory Issues. She also served on the Board of Directors of the FINRA Investor Education Foundation. Before joining NASD, Ms. Walter served as the General Counsel of the Commodity Futures Trading Commission. Before joining the CFTC in 1994, Ms. Walter was the Deputy Director of the Division of Corporation Finance of the Securities and Exchange Commission. She served on the SEC's staff beginning in 1977, both in that Division and in the Office of the General Counsel. Before joining the SEC, Ms. Walter was an attorney with a private law firm. Ms. Walter graduated from Yale University with a B.A., *cum laude*, in mathematics and received her J.D. degree, *cum laude*, from Harvard Law School.

**David Weild, IV** oversees Capital Markets and Institutional Acceptance at Grant Thornton, a “Global Six’ Audit, Tax and Advisory Firm.” He is also Chairman and CEO of Capital Markets Advisory Partners, a firm that specializes in equity capital markets advice to issuers. He is a former Vice Chairman and executive committee member of The NASDAQ Stock Market, where he had line responsibility for the global listings businesses of NASDAQ. David and co-author, Ed Kim, are noted for their work that was first to identify how changes in stock market structure are harming capital formation and job growth in the United States. Their studies *Why are IPOs in the ICU?* and *Market structure is causing the IPO crisis—and more; A wake up call for America* have been cited in over 100 articles, including articles in The Economist, The Wall Street Journal, The New York Times and The Financial Times. These studies have also been cited by Congressmen, Senators and the Executive Branch of the U.S. Government, including most recently in the Interim Report of the White House’s Job Council, led by Jeffrey Immelt, CEO of General Electric, and the IPO Task Force Report to the U.S. Treasury, led by Kate Mitchell, former Chairman of the National Venture Capital Association (NVCA). David was also a member of the NYSE and NVCA’s Blue Ribbon Panel to restore liquidity in the U.S. venture capital industry, and his work was cited in the NVCA’s final report. David has testified in Congress and at the CFTC-SEC Joint Panel on Emerging Regulatory Issues. Prior to NASDAQ, David spent 14 years at Prudential Securities in senior management roles, including President of PrudentialSecurities.com, Head of Corporate Finance, Head of Technology Investment Banking and Head of Global Equity Capital Markets. He oversaw more than 1,000 IPO's, follow-on offerings and convertible transactions and was an innovator in new issue systems and transaction structures. David holds an M.B.A. from the Stern School of Business and a B.A. from Wesleyan University. He studied on exchange at The Sorbonne, Ecole des Haute Etudes Commerciales and The Stockholm School of Economics.

**Greg Wright** is CEO of ThinkEquity LLC, an investment bank focused on the growth sectors of the economy. ThinkEquity provides research, equity financing, M&A advisory, institutional sales and trading, wealth management and asset management services to institutional investors, corporate and private clients, venture capitalists, entrepreneurs, and financial sponsors. As a Panmure Gordon company, ThinkEquity accesses the combined



financial expertise of professionals based in San Francisco, New York, Boston, Chicago, London, Liverpool, and Geneva. Previously, Greg worked for Merrill Lynch's investment banking group as a Managing Director and Head of Corporate Finance for Merrill Lynch in Europe.

**Gregory C. Yadley** is a partner and Chair of the Corporate Practice Group in the Tampa, Florida, office of Shumaker, Loop & Kendrick, LLP. His principal areas of practice are securities, mergers and acquisitions, banking, corporate and general business law.

Mr. Yadley has represented business entities of all sizes, including closely-held and family businesses and large and small public companies. He regularly represents these clients in financing transactions, mergers and acquisitions, contract negotiations and disputes, strategic planning, legal compliance and general corporate matters. He has extensive experience in securities matters, including advising clients with regard to their private and public offerings of securities (including initial public offerings) and their ongoing disclosure obligations.

Mr. Yadley is an adjunct professor at the University of Florida Levin College of Law, a frequent lecturer and contributor to legal periodicals, Chair of the American Bar Association Business Law Section Middle Market and Small Business Committee and past Chair of the Florida Bar Business Law Section, Co-Editor of The Florida Bar *Florida Corporate Practice Manual* and Co-Director of the annual Federal Securities Institute. Mr. Yadley obtained his B.A. degree, *cum laude*, with Highest Honors in English from Dartmouth College and received his J.D. degree, *cum laude*, from George Washington University.

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