

T W E N T Y - N I N T H A N N U A L

SEC Government-Business
Forum on
Small Business
Capital Formation



PROGRAM

November 18, 2010
Washington, DC



DIVISION OF
CORPORATION FINANCE

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

November 18, 2010

Dear Forum Participant:

Welcome to the 2010 SEC Government-Business Forum on Small Business Capital Formation.

The SEC has conducted these conferences annually since 1982. Previous forums have produced recommendations for federal agencies, Congress, and the private sector to improve the environment for small business capital formation in the United States. Many of these recommendations have been implemented, resulting in an improved and more efficient market for U.S. small businesses to raise capital.

We are pleased that representatives from about 10 private organizations concerned with small business capital formation will make presentations at this year's forum. We expect them to address the many complex issues facing small businesses today in the capital markets, including some provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, signed by President Obama on July 21.

Like last year, all forum panel discussions and breakout groups will be accessible both to those who attend the sessions in person in Washington, D.C. and to those who choose to participate through our Webcast and telephone conference calls. We hope this will lead to increased participation by a broader and more diverse group.

This year's forum offers a unique and timely opportunity for representatives of small businesses to provide input and develop recommendations. Federal agencies, Congress, and private market participants are looking for ways to improve small business capital formation as our economy recovers from the recession of the past few years. We trust you can help us come up with workable solutions to some of the regulatory problems faced by small businesses in filling their need for capital.

Very truly yours,

Gerald J. Laporte
Chief, Office of Small Business Policy

SEC Government-Business Forum on Small Business Capital Formation

*SEC Headquarters
Washington, D.C
November 18, 2010*

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2010 SEC Government-Business Forum on Small Business Capital Formation

*SEC Headquarters
Washington, D.C.
November 18, 2010*

Agenda

9:00 a.m.

Call to Order

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

Introduction of Commissioner

Meredith B. Cross, Director
SEC Division of Corporation Finance

Opening Remarks

SEC Commissioner Troy A. Paredes

9:15 a.m.

Panel Discussion: Selected Dodd-Frank Act Provisions Relating to Securities Regulation Impacting Small Business*

Moderator:

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

Topics and Panelists:

- ***Regulation D Changes: Accredited Investor Standards and “Bad Actor” Disqualification Rules***
 - Gerald J. Laporte, Chief, Office of Small Business Policy, SEC Division of Corporation Finance
 - Alan J. Berkeley, K&L Gates, Washington, D.C.

- ***“Say-on-Pay” Rules, Stock Exchange Listing Standards for Compensation Committees, and Other Provisions of Dodd-Frank Act Referencing Potential “Scaling” for Smaller Companies***
 - Thomas J. Kim, Chief Counsel, SEC Division of Corporation Finance
 - Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa, Florida

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

- ***Smaller Companies and Sarbanes-Oxley Section 404(b), Including Upcoming Section 404(b) Studies***
 - Brian T. Croteau, Deputy Chief Accountant, Professional Practice Group, SEC Office of the Chief Accountant
 - Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa, Florida
- ***Exemptions of Advisers to Venture Capital Funds and SBICs from Fund Investment Adviser Registration Requirement***
 - Tram N. Nguyen, Attorney-Adviser, Office of Investment Adviser Regulation, SEC Division of Investment Management
 - Brian T. Borders, Borders Law Group, Washington, D.C.

10:15 a.m. Break

10:25 a.m. Presentations by Organizations Concerned with Small Business Capital Formation*

American Bar Association, Business Law Section

Represented by Ann Yvonne Walker, Partner, Wilson Sonsini Goodrich & Rosati

Angel Capital Association

Marianne Hudson, Executive Director

Biotechnology Industry Organization

Shelly Mui-Lipnik, Director, Emerging Companies & Business Development

Center for Capital Markets Competitiveness, U.S. Chamber of Commerce

David T. Hirschmann, President and CEO

Investment Program Association

Kevin M. Hogan, Executive Director

National Association of Seed and Venture Funds

James A. Jaffe, President and CEO

National Association of Small Business Investment Companies

Brett T. Palmer, President

National Venture Capital Association

Mark G. Heesen, President

* SEC staff will be present to receive the presentations and ask questions, and one or more SEC Commissioners also may participate.

Real Estate Investment Securities Association

Represented by Deborah S. Froling, Partner, Arent Fox, LLP

Small- & Mid-Cap Companies Committee, Society of Corporate Secretaries & Governance Professionals

Steven H. Shapiro, Co-Chair of the Society's Small- & Mid-Cap Companies Committee, and General Counsel of Cole Taylor Bank, Chicago, IL

12:15 Introduction of Chairman
Meredith B. Cross, Director
SEC Division of Corporation Finance

Remarks

SEC Chairman Mary L. Schapiro

12:30 p.m. Lunch Break

2:00 p.m. Reassembly to Divide into Breakout Groups to Develop Recommendations
(SEC Auditorium)

- ▶ Private Placement and M&A Brokers Breakout Group
(to be escorted to Room 3000)
- ▶ Private Securities Offerings Breakout Group
(to be escorted to Room 5000)
- ▶ Securities Regulation of Smaller Public Companies Breakout Group
(to be escorted to Room 6000)

3:30 p.m. Break

3:45 p.m. Continuation of Breakout Group Discussions
(with same room assignments)

4:45 p.m. Plenary Session to Develop Next Steps
(Auditorium)

Moderator:

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

5:30 p.m. Networking Reception at Nearby Restaurant

**2010 SEC Government-Business
Forum on Small Business Capital Formation**

Breakout Group Rosters and Room Assignments

All forum participants are free to attend any of the 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 3:30 p.m. break with a staff escort.

***Private Placement and
M&A Brokers Breakout Group***

Room 3000 (3rd Floor)
Overflow: Rooms 3001 (3rd Floor) and
8000 (8th Floor)

Gregory C. Yadley, Moderator
Johanna Losert, SEC Staff Support
(Division of Corporation Finance)
Joanne Rutkowski, SEC Staff Support
(Division of Trading and Markets)

Registered to participate in person:

Abo, Martin
Berkowitz, Barry
Blackstone, Lilah
Chepucavage, Peter
Colish, Faith
Cornell, James
Devine, Mark
Flint, George
Hansen, Shane
Harden, Timothy
Harris, Adam
Heydari, Kamran
Hill, Michael
Huff, Andrew
Johnson, Gregg
Klis, Deborah
Lee, Wayne
Makens, Hugh H.
Nall, Michael
Nelson, John
Palmer, Brett
Priore, Kenneth

Reyes, Ines
Romano, John
Rusch, Al
Saltzburg, Mark
Stagner, Darold
Viola, Daniel G
Wood, Kwesi
Zayac, John

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

Adhikari, Mike
Adler, Joan
Barrett, Hicken
Baumwall, Douglas
Bickerstaff, George
Brice, Lisa
Cagnetta, Andrew
Cassata, Michael
Chamblee, Janae
Christman, Peter
Clawson, Patrick
Dahmer, Lee
Dempsey, Kevin
Devine, Mark
Dolliver, Frederick
Donohue, Patrick
Dupuis, Gregory
Egna, Steven
Elliott, Dan
Ertel, James
Gettel, Jim
Grava, Derrick
Gurrola, Robert
Hanayik, Stephanie

Hansrote, Paul
Hawkins, Matt
Hedman, Calvin
Hulett, Trevor
Isaacs, Gregory
Keenan, Francis
Keysser, Don
Knight, Brian
Kolak, Raymond
Kozich, David
Kraai, Jeff
Krick, Len
Lanza, George
Larson, Raymond
Lawson, Garit
LeBlanc, Jennifer
Lindahl, Thomas
Lloyd, Bell
Maak, Mike
Marks, Kenneth
McDaniel, Arne
Mellen, Chris
Olin, Clifford
Papay, Gary
Parker, Gary
Prabhu, Antony
Richards, Michael
Russek, Len
Sassi, Michael
Schechter, Adam
Schmidt, Brian
Steele, E. J.
Teten, David
Thomas, Diane
Thorsby, Mark
Tidwell, James
Turkel, Jonathan
Waugh, Robert

Private Securities Offerings

Breakout Group

Room 5000 (5th Floor)

Overflow: Room 5001 (5th Floor)

Brian Borders, Moderator

Tony Barone, SEC Staff Support

Karen Wiedemann, SEC Staff Support

Registered to participate in person:

Bagramian, Lev
Bailey, Robert
Behar, Steve
Blackledge, Eric
Brian, Parkinson
Chen, Karl
DeFranco, Leonard
Fleischman, Edward H.
Froling, Deborah
Goehring, Robert
Harris, Jean
Haseltine, William
Jones, Mark
Kesner, Harvey
Kulerman, Michele
McManus, J. Mike
McWilliams, Jelena
Miles, Theodore
Museles, Scott
Oakley, James
Parkinson, Brian
Reeves, Alfred
Rosenberg, Zachary
Rush, Brad
Stine, Stephen
Ugarte, II, Eduardo
Wenbert, David

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

Ahlm, Karl
Almanzar, Francisco
Asmah, Sam R.
Beale, John
Burk, James
Cohen, Susan
Eng, Martin
Garth, Neil
Hauser, Michael
Johnson, Latanja
Marchi, Liz
Noble, Susan
Perry, Dexter
Smith, Diane
Smith, Frederick
Trembath, Dawn

Winston, Kwame

Smaller Publicly Traded Companies

Breakout Group

Room 6000 (6th Floor)

Overflow: Rooms 6001 (6th Floor) and 9000
(9th Floor)

Ann Yvonne Walker, Moderator

Kevin O'Neill, SEC Staff Support

Gracin, Hank

Guvenoz, Erol

Kevan, John

Levine, David

Mabelle, David

Massey, Gene

Neff, John

Registered to participate in person:

Anderson, Reagan

Brennan, Thomas

Brodrick, Francisca

Durward, James

Edd, Jr., Robert L.

Feldman, Spencer

Feldman, David

Ford, Ladd

Fresk, Abrane

Friedman, Richard

Hatfield, Scott

Heese, Lisabeth

Hess, Eric

Liebolt, Lee

Loague, Dan

Niehoff, R. Nick

Rubin, Jeffrey

Sauvante, Michael

Sjoquist, Mary

Spinrad, Paul

Stein, Eric

Stevens, Robert

Vasilios, Mike

Verges, Philip

Weiss, Brendon

Wilcox, Kelly

Williams, Jillien

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

Bleakley, Elizabeth

Cole, Christopher

Cortese, Amy

Dina, Neal

Gawne, Cathryn

***2010 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-and-a-half-hours on November 18th, 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 18th. Rather, the time on November 18th will be used to commence general discussions of possible recommendations to be followed later by more specific drafting of recommendations after November 18th, 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 17, 2010.
- 5) After all three of the 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 the three securities law 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 4:45 p.m. on November 18th, all breakout group participants will reconvene in the SEC auditorium and each of the three 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 2009 FORUM PARTICIPANTS*

Set forth below are the recommendations of the 2009 Government-Business Forum on Small Business Capital Formation. The recommendations of the three securities regulation breakout groups are followed by the recommendations of the tax issues breakout group. These recommendations were developed initially in the breakout groups on the afternoon of November 19, 2009. After that date, the moderators of the breakout groups continued to work with their group participants to compile and edit further each group's recommendations.

Securities Regulation Recommendations

The final list of 26 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 securities law breakout groups[†]. The priority ranking is intended to provide guidance to the SEC as to the importance and urgency the forum 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.[‡]

<i>Priority Rank</i>	<i>Recommendation</i>
1	The SEC should not oppose the provision in legislation introduced as the "Investor Protection Act of 2009" that would permanently exempt smaller reporting companies from Section 404(b) of the Sarbanes-Oxley Act. [49 points]
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. [45 points]

* 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 from outside the SEC, who were responsible for developing them. The recommendations do not necessarily reflect the views of the SEC, its Commissioners or any of the SEC's staff members.

† In the poll, each of the 72 forum participants who attended the securities law breakout groups (not including SEC staff) was sent an e-mail message asking the participant to respond whether the SEC should give "high," "lower" or "no" priority to each of the 26 recommendations. We received 32 responses, a 44% response rate. Each "high priority" response was awarded two points, each "lower priority" response was given one point, and each "no priority" or blank response was not awarded any points, to arrive at the number of points following each recommendation in the list.

‡ Footnotes 1-16 below were written by the forum participants who drafted the recommendations and are an integral part of the recommendations.

- 3 The SEC should allow "private placement brokers" to raise capital through private placements of issuers' 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. * [44 points]
- 4 The Commission should adopt rules, in coordination with state securities regulators, assigning to the states primary regulatory supervision over merger and acquisition intermediaries and business brokers involving the purchase and sale of privately-owned businesses by creating a limited federal registration exemption from broker registration under Section 15 of the Securities Exchange Act. † [42 points]
- 5 The Commission should adopt rules as recommended by the American Bar Association in its Report and Recommendations of the Task Force on Private Placement Broker-Dealers, dated June 20, 2005. ‡ [41 points]
- 6(1) The SEC should relax the prohibitions against general solicitation and advertising found in Rule 502(c) of Regulation D under the Securities Act to parallel the "test the waters" provision of Rule 254 of Regulation A under the Act. § [40 points]
- 6(2) The SEC should increase the public equity float threshold for being a smaller reporting company from having a public float of less than \$75 million to less than \$250 million. ** [40 points]

* This recommendation is specifically highlighted from those found in the ABA Report and Recommendations of the Task Force on Private Placement Broker-Dealers, dated June 20, 2005.

† This recommendation is also specifically highlighted from those found in the ABA Report and Recommendations of the Task Force on Private Placement Broker-Dealers, dated June 20, 2005.

‡ This recommendation first appeared in the April 2006 Final Report of the SEC Advisory Committee on Smaller Public Companies, and was subsequently recommended by the SEC Government-Business Forum Final Reports issued in 2006, 2007 and 2008. The recommendations are intended to promote the Commission's twin missions of enhancing small business capital formation and protecting investors. These objectives can be met by bringing more unregulated or ineffectively-regulated activity into an appropriate regulatory environment that emphasizes disclosure and education in the area of private placement broker involvement. Action may be accelerated by the appointment of an advisory committee or designation of a working group involving SEC staff of the Office of Chief Counsel of the Division of Trading and Markets and the Office of Small Business Policy of the Division of Corporation Finance.

§ This recommendation appeared as No. 6 of the Securities Law Recommendations of the 2008 SEC Small Business Forum. It first appeared as Recommendation No. IV.P.5 of the Final Report of the Commission's Advisory Committee on Smaller Public Companies, dated April 23, 2006.

** This recommendation is based on the experiences of certain "still emerging" public companies with public floats of just more than \$75 million. Although \$250 million is the better threshold, lesser amounts

- 8(1) The SEC should amend the definition of "smaller reporting company" to add a less than \$100 million annual revenue threshold to the public float measurement to be classified as a "smaller reporting company."^{††} [39 points]
- 8(2) The SEC should codify the staff's no-action letter to Country Business, Inc. (Nov. 8, 2006), allowing for a "small business sale" exemption from federal broker-dealer registration. [39 points]
- 10 The SEC should amend Section 12(g)(1)(B) to increase the total assets test for requiring public company registration to an amount exceeding \$100 million, from the current \$10 million level.^{‡‡} [38 points]
- 11 The SEC should be prepared to postpone the June 15, 2011 implementation of XBRL for smaller reporting companies if and to the extent technological difficulties persist.^{§§} [37 points]
- 12 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.^{***} [35 points]
- 13(1) The SEC's Divisions of Corporation Finance and 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.^{†††} [34 points]

above \$125 million would be acceptable. Smaller reporting companies under these new thresholds would receive the benefit of potentially not being subject to Section 404(b) of the Sarbanes-Oxley Act.

^{††} This would take into consideration highly capital-intensive, innovative industries (such as biotechnology) which, by their nature, have public floats similar to accelerated filers but no or nominal product revenue.

^{‡‡} This recommendation appeared as No. 14 of the Securities Law Recommendations of the 2008 SEC Small Business Forum.

^{§§} Through media reports, smaller public company representatives are led to believe that the first wave of large accelerated filers using XBRL data tagging are experiencing certain technical difficulties with the implementation of this interactive data format.

^{***} This recommendation was one of 12 involving smaller public companies included in the 2008 SEC Small Business Forum. It is included separately to emphasize its importance.

^{†††} As a result of apparent policy changes at The Depository Trust Company (DTC) in 2009, numerous smaller public companies have experienced significant unexplained delays and, in some cases, denials of applications for their securities to become eligible for deposit at DTC. Due to this, potential investors are unable to purchase shares through electronic exchanges over the Internet using their chosen broker.

- 13(2) The Commission should not change the current financial standards in the accredited investor definition. [34 points]
- 15(1) 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. [31 points]
- 15(2) The SEC should exclude accredited investors, large accredited investors and qualified institutional buyers from the 500 shareholders of record calculation in Section 12(g) under the Securities Exchange Act for purposes of becoming a public company.⁺⁺⁺ [31 points]
- 15(3) The SEC should establish a publicly available data bank that identifies persons who have been held liable for securities fraud within a certain time period (e.g., five years) in legal proceedings at the state or federal level, including issuers, officers, directors and broker-dealers. [31 points]
- 18(1) The SEC should 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.^{§§§} [30 points]
- 18(2) The SEC should reduce the "notice and access" advance mailing requirement for smaller reporting company proxy statements to 30 days (from 40 days) to enable maximum small public company participation and cost savings by such companies.^{****} [30 points]
- 18(3) To provide liquidity for privately placed securities, the SEC should consider extending the Rule 144A exemption beyond qualified institutional buyers. For example, the SEC should establish a new Rule

⁺⁺⁺ The term "accredited investor" is defined in 17 CFR 230.501(a) of Regulation D; the term "large accredited investor" was proposed in SEC Release No. 33-8828 (Aug. 3 2007), but never adopted; and the term "qualified institutional buyer" is defined in 17 CFR 230.144A(a)(1). Investors already determined not to require the protections of registration under the Securities Act should not be included in determining the Section 12(g) threshold necessary for triggering periodic reporting and other obligations under the Securities Exchange Act, particularly in light of the increasing time period required before a company can achieve a public offering in today's environment.

^{§§§} This recommendation appeared as No. 9 of the Securities Law Recommendations of the 2008 SEC Small Business Forum.

^{****} Smaller reporting companies may need longer preparation times than those required in other reporting and filing contexts.

- 144A-type exemption limited to trading among purchasers who do not need the protections of Securities Act registration.^{††††} [30 points]
- 21 NASAA or the SEC should identify on its Web site states that participate in coordinated review programs for registration statements, as well as coordinated exemptions from registration and qualification requirements. [26 points]
- 22 Implement the rulemaking proposal on Rule 144(i) requested in the petition for rulemaking letter of David N. Feldman, dated Oct. 1, 2008.^{††††} [25 points]
- 23(1) Permit forward incorporation by reference in all Form S-1 registration statements. Also, consider limited application to true secondary offerings on behalf of selling shareholders but exclude primary offerings.^{§§§§} [24 points]
- 23(2) The SEC should adopt new accreditation standards that are not limited to serving as proxies for an investor’s financial sophistication or that are limited by the guidelines set forth by the Supreme Court in the Ralston Purina case. [24 points]
- 25 The SEC should revisit the "penny stock" rules as being too restrictive on some smaller reporting companies and harming their growth prospects by limiting their trading. [23 points]
- 26 Given the increasing use of convertible preferred stock this year, in part, to structure “down round” protection for investors, the SEC should consider including within “public float” calculations, both common and convertible preferred equity of a company, in which the number of shares of convertible preferred stock would be included on an as-if-converted-to-common-stock basis for purposes of registration limitation calculations under General Instructions I.B.1 and I.B.6 of Form S-3 and the guidelines for Rule 415. [20 points]

^{††††} This recommendation appeared as No. 8 of the Securities Law Recommendations of the 2008 SEC Small Business Forum.

^{††††} The petition proposes an amendment that would remove the prohibition in Rule 144(i) on shareholders who acquired shares when an issuer was a “shell company” or former “shell company” from relying on Rule 144 if the issuer is not current in its SEC filings at the time of sale. The petition is available on the SEC Web site at <http://www.sec.gov/rules/petitions/2008/petn4-572.pdf>.

^{§§§§} This recommendation includes a new proposal to limit application of forward incorporation by reference by excluding primary offerings.

Tax Recommendations

The tax issues breakout group developed the following 12 recommendations, which are not set forth in any particular order.

1. The forum planning process should be expanded to increase and maximize attendance and to improve the quality of recommendations at future SEC forums on small business capital formation. We recommend the following changes:
 - A. Require the participation in the planning process by representatives of at least the six following groups:
 - Department of the Treasury;
 - Small Business Administration;
 - former participants of the forum;
 - Financial Industry Regulatory Authority;
 - Congress; and
 - Executive Branch.
 - B. The forum planning group should meet on a regular basis throughout the year to nominate, discuss and deliberate content for the forum. Minutes should be kept of the group's meetings and sent to all of its members and the group should approve the forum final agenda. Specifically, the group should make decisions on the following aspects of the forum:
 - format,
 - content,
 - speakers,
 - location, and
 - length of time.
 - C. Two weeks advance notice should be given before each meeting of the forum planning group, and attendees should be permitted to participate in person or via telephone conference call.

- D. The full agenda with invited speakers, as approved by the forum planning group, should be provided to all prospective forum attendees at least one month before the forum to allow adequate time for their travel arrangements.
2. Make the research and development tax credit permanent.
 3. In the broader context of research and development, in an effort to facilitate jobs creation, the process for importing and exporting small business technology should be expedited and made more small business friendly.
 4. Simplify the qualified home office deduction by providing a limited, optional standard home office business deduction. Fifty-three percent of America's small businesses are home-based. The requirements to qualify for and calculate the deduction are confusing for taxpayers and do not account for changes in technology that affect the way business is conducted. Consequently, many at-home workers do not take advantage of the home office business deduction. The Internal Revenue Service National Taxpayer Advocate supports simplification of the home office business deduction.*
 5. Modernize the "use rules" for a "qualified home office" to permit 20 percent *de minimis* personal activity in a home office, similar to the personal use that normally occurs in other business and governmental office environments.
 6. Modernize Internal Revenue Code Section 280F(a)(1) concerning the depreciation limitation on "luxury" automobiles and light trucks to reflect the current average cost of vehicles necessary for normal business use. The inflation adjustment formula specified in the original legislation was flawed by its limitation to basic automobiles like those that existed in the 1980s, without allowance for the safety and fuel economy features mandated on current vehicles. This resulted in only a 20% increase in the limit since 1986 even though the general inflation increase during that period was over 90%. The current law limits the cost recovery for a new vehicle over the normal 5-year depreciation period to only \$15,000. The average new car price in 2006 was \$28,450.
 7. Equalize the alternative minimum tax ("AMT") exemption on business income for businesses that report income on a personal income tax return with the \$7.5 million, 3--year average gross income exemption that is now given to C corporation business entities, provided that the reporting individual materially participates in the business. The reporting of business income by S corporations and other entities that report "pass-through" income on the personal return, even when it has to be re-invested back into the business, results in a phase-out of the personal AMT exemption, which causes the AMT to be assessed at much lower income levels. This results in an inequitable AMT tax impact on the business income that would not apply to a small C corporation business under the same circumstances.

* See "Legislative Recommendations," Vol. 1, Section Two, National Taxpayer Advocate 2007 Annual Report to Congress, available at http://www.irs.gov/pub/irs-utl/arc_2007_vol_1_legislativerec.pdf.

8. Increase the deductible percentage for business meal expenses to 80 percent for small businesses. Small businesses usually do not have tax deductible onsite conference rooms and client entertainment facilities that are often available to larger businesses. Personal meetings with existing or potential customers at a restaurant are one of the primary methods of client development for small businesses. Limitations could be put on the gross income size of a business and the maximum per person amount that would qualify for the 80 percent deduction.
9. Permanently reform the estate tax, effective as of its scheduled demise on January 1, 2010, to provide a unified gift and estate tax exemption of \$5 million per person, indexed for inflation, with a re-valuation of the tax basis of non-cash assets at the time of death and the portability of any remaining tax credit to a spouse. The variation in exemption levels resulting from prior legislation has made estate planning difficult for businesses and individuals. A failure to re-value inherited assets at the time of death, as will occur as of January 1, 2010 under current law, can create a major capital gains tax burden for descendants and significant tax determination problems for tax preparers and the IRS. Also, limit the top rate to 35%.
10. Make permanent the current \$250,000 IRC Section 179 small business expensing provisions to stimulate business investment in new equipment and technologies. Small businesses often pay high interest rates to purchase new equipment in order to grow their businesses and create new jobs. The ability to recover the cost of a limited amount of new investment in the year of purchase, rather than over a long depreciation period, can be a critical factor in helping a small business survive and grow.
11. Congress should set reasonable and equitable standards for state taxation of non-resident businesses. As state governments have experienced revenue shortages, state legislatures have created expanded non-resident business activity taxes that they are trying to impose on national Internet or mail-order businesses with no physical nexus in their state. If this is allowed to continue, small businesses could potentially have to calculate and pay one or more taxes in all 50 states. Because many of these state taxes allow credits for taxes paid in other states, they do not create significant net new revenue for all the states combined, but would create a major accounting and tax preparation impediment, as well as potential tax penalty cost, for small businesses which are not prepared to deal with this level of complexity.
12. Congress should enact a tax credit option for direct investment in a qualified small business to encourage investment in small businesses. IRC Section 1202 provides a reduction in the capital gain recognized on the sale of stock in a successful qualified small business, but the current lower capital gains rates and AMT impacts have greatly reduced its incentive value. IRC Section 1244 also allows taking an ordinary loss on an investment in stock of an unsuccessful small business, but neither Section 1202 or 1244 provides any immediate tax incentive at the time of the investment to offset the much higher risk of loss and lack of market liquidity on an investment in stock of a small business.

Panelist and Moderator Biographies

Alan Berkeley has practiced securities law in Washington, D.C. since the late 1960's. During the course of his ongoing career, his practice has included corporate, Board and management counseling and crisis response, corporate transactions (including mergers, acquisitions, financing transactions for privately-held and public companies), regulatory and enforcement matters at the SEC and other securities regulatory bodies. In addition to teaching business planning at Georgetown and George Washington law schools in past years, he has for more than 25 years chaired the annual ALI-ABA program on private placements and an ALI-ABA Fundamentals of Securities Law course. In the last six years he has gained additional perspective on corporate and securities law as a registered foreign lawyer in his firm's London office. Mr. Berkeley, a partner at K&L Gates, is a graduate of Cornell University and of Georgetown University's law school. He is an elected member of the American Law Institute and has chaired various ABA, FBA and DC Bar securities law committees and subcommittees. This past summer, Mr. Berkeley had the distinct honor of serving as an External Ph.D. Examiner at the School of Law, Trinity College, Dublin.

Brian Borders founded Borders Law Group in 2003 and has been practicing law in Washington, D.C. for nearly 25 years. His practice is focused on legislative and administrative initiatives affecting securities regulation, corporate affairs, accounting standards and audit rules applicable to public and private companies, including venture capital funds. He also counsels clients on compliance and enforcement matters, as well as business opportunities related to regulatory change. His clients include trade associations, public and private companies and individuals. Mr. Borders currently serves as Co-chair of the NASDAQ Listing and Hearings Review Council. He is also a member of the Planning Committee of the Annual SEC Forum on Small Business Capital Formation, the Public Policy Council of the Certified Financial Planner Board of Standards and various American Bar Association committees. He previously served as a public governor on the boards of NASD (now FINRA), and the NASDAQ Stock Market. His experience also includes 10 years as president of the Association of Publicly Traded Companies, a non-profit business association of over 500 small-cap and mid-cap companies, and service as legislative counsel to a senior member of the Senate Banking Committee during the 100th and 101st congresses. Mr. Borders earned his J.D. at the University of California, Hastings College of the Law, where he was a member of the Order of the Coif and the editorial board of the Hastings Law Journal. He is a graduate of the United States Military Academy at West Point and served in the Army in a variety of command and staff positions.

Meredith B. Cross is the Director of the Division of Corporation Finance at the U.S. Securities and Exchange Commission. Before joining the Commission 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 faced by public and private companies in capital raising and financial reporting. Ms. Cross also worked in the Division of Corporation Finance before joining that firm in 1998. 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 Chief Counsel and Deputy Director. Before her previous tenure at the SEC, Ms. Cross worked in private practice in Atlanta. She earned her undergraduate degree from Duke University in 1979 and her law degree from Vanderbilt University Law School in 1982.

Brian Croteau is the Deputy Chief Accountant of the Professional Practice Group within the Office of the Chief Accountant (OCA) at the U.S. Securities and Exchange Commission in Washington, D.C. In this position, he plays a key role in the Commission's work related to overseeing the activities of the Public Company Accounting Oversight Board (PCAOB), managing the resolution of auditor independence issues and ethical matters, and monitoring audit and independence standard setting internationally. He also provides advice and develops positions on issues related to performance of audits, including auditor independence, that are referred to the OCA due to their complexity or policy implications. Brian has also served as Senior Associate Chief Accountant in the Professional Practice Group of OCA during his previous tenure at the SEC from 2004-2007. Prior to returning to the SEC in June 2010, Brian was a Partner in the National Office of PricewaterhouseCoopers LLP (PwC) from 2007-2010. Mr. Croteau was active on numerous task forces of the AICPA and the Center for Audit Quality. Brian worked as a senior manager in the Hartford, Connecticut office of PwC prior to joining the SEC staff in 2004. During his previous ten years of employment with PwC from 1994-2004, he managed the audits of both public and private companies. Brian is a Certified Public Accountant and a member of the AICPA. Brian earned his B.B.A. in accounting from the University of Massachusetts at Amherst. He was named 2007 accounting alumnus of the year of the UMass-Amherst Eisenberg School of Management.

Deborah S. Froling is a member of Arent Fox LLP's Corporate/Securities and Real Estate Groups in the Washington, D.C. office. She has extensive experience in public and private offerings of debt, equity and convertible securities as both issuer's and underwriter's counsel, primarily for real estate companies, including REITs, tenant in common syndications, as well as equipment financing companies. She has also worked with public and private company clients providing general corporate counseling and advising on periodic and annual reporting and other Securities and Exchange Commission disclosure requirements. Deborah started her career at the Securities and Exchange Commission's Division of Corporation Finance as an Attorney-Advisor in the real estate group and worked in private practice at two national law firms in Washington, D.C. as well as a nationally recognized law firm in real estate securities in Richmond, Virginia prior to joining Arent Fox LLP. Deborah is a member of numerous professional associations, including the Real Estate Securities Investment Association, where she is a member of the Legislative and Regulatory Committee and Due Diligence Committee, the Investment Program Association, where she is a member of the Legal and Regulatory Committee, the American Bar Association's Section of Business Law, where she is a member of the leadership of the State Securities Subcommittee, and Deborah serves as Treasurer and a member of the Executive Board of the National Association of Women Lawyers. Deborah is a graduate of the Columbus School of Law at The Catholic University of America and the College of William and Mary.

Mark G. Heesen is President of the National Venture Capital Association. Mr. Heesen has advocated for the venture capital industry, entrepreneurship and innovation for nearly two

decades, first as NVCA's head of public policy and, since 1999 as the Association's president. Mr. Heesen is engaged in legislative and regulatory issues surrounding information technology, life sciences and clean technology investing, providing strategic direction for the NVCA professional staff and managing a board of 26 venture capital practitioners. He has taken a leadership position on behalf of the venture capital industry on issues such as carried interest taxation, financial services reform, the FDA regulatory approval process, highly skilled immigration, patent reform, U.S. competitiveness issues, energy reform, support for basic research funding and countless other policy issues that impact America's entrepreneurial ecosystem. As the primary spokesperson for the venture capital industry, Mr. Heesen is often called upon by the financial media, NVCA members, limited partners, and regional associations to offer insights and perspectives on trends and developments occurring within the asset class. He is a frequent presenter at industry conferences, a familiar and trusted source in news articles focusing on the venture industry, and a recurrent guest on CNBC and Bloomberg Television. Prior to his work at NVCA, Mr. Heesen was an aide to a former Governor of Pennsylvania and was Deputy Director for Federal Funds reporting to the Texas Legislature. He received a law degree with an emphasis in taxation from the Dickinson School of Law in 1984.

David T. Hirschmann is senior vice president of the U.S. Chamber of Commerce and executive vice president of the National Chamber Foundation (NCF). NCF is responsible for driving the policy debate on key issues by formulating arguments, developing options, and influencing thinking to move the American business agenda forward. Mr. Hirschmann oversees Chamber initiatives ranging from strengthening capital markets to fighting intellectual property theft. Mr. Hirschmann is also president of the U.S. Chamber Center for Capital Markets Competitiveness (CCMC). In this capacity, he leads the Chamber's initiative dedicated to making U.S. capital markets the most fair, efficient, transparent, and attractive in the world. This effort addresses domestic and international securities regulation, as well as challenges to the auditing profession, proxy rules, business due process, and a host of other issues.

Kevin M. Hogan is the Executive Director of the Investment Program Association. Mr. Hogan has more than 30 years of experience across a diverse range of financial services responsibilities, including product development, strategic planning and sales/marketing management. Before joining the IPA, Kevin was Senior Vice President, Product Development and Marketing for LPL Financial, where he was responsible for brokerage product sales and marketing including annuities, mutual funds, alternative investments, retirement plans and cash products. Previously, he worked at Scudder Investments in Chicago as head of annuity product marketing, spent 15 years at CNA Financial Corp. in Chicago as chief marketing officer of the variable life and annuity division and held a senior management role with Metropolitan Life. As Executive Director of the IPA, Kevin helps set strategic direction for the organization, manages operations, and oversees the IPA's membership-driven committee structure.

Marianne Hudson is Executive Director of the Angel Capital Association and Angel Capital Education Foundation in Overland Park, KS (Kansas City, MO area). Ms. Hudson leads two nonprofit organizations: the Angel Capital Association (ACA), the professional alliance of angel groups in North America, with 20 affiliates and 150 member groups representing 6,500 individual accredited investors, and the Angel Capital Education Foundation (ACEF), which provides information, education, and research about angel investing to investors, policy makers,

university leaders, entrepreneurial support professionals, and entrepreneurs. ACEF was founded by the Ewing Marion Kauffman Foundation in 2005 and spun out of Kauffman as an independent charitable organization in March, 2007. Ms. Hudson led the angel initiative at the Kauffman Foundation that resulted in ACEF and also oversaw many of the Foundation's entrepreneurial education and mentoring programs designed to ensure that more entrepreneurs develop sustainable, innovative businesses. Ms. Hudson has worked in the entrepreneurial support field for more than 20 years. She holds a B.A. in Economics and Political Science from the University of Kansas and an M.A. in Public Policy from Rutgers University.

Jim Jaffe is President and Chief Executive Officer of the National Association of Seed and Venture Funds in Philadelphia, Pennsylvania. He has managed a private equity fund and spent nine years in Eastern Europe and Asia investing in small businesses in emerging economies. He serves on the boards of the National Business Incubation Association, Murex Investments and CDC Development Solutions. Mr. Jaffe was chief executive officer of NASVF located in Philadelphia, Pennsylvania, a national association with 650 members and 150 organizations. NASVF advances innovation capital and is a catalyst in bringing together capital, information and technology in the early-stage investing community. He has served as Managing General Partner of Murex, in Philadelphia, Pennsylvania and Senior Vice President of SEAF (Small Enterprise Assistance Funds) in Zagreb, Croatia. He was also Chief of Party of EnviroVentures, an innovative venture capital fund investing in environmental businesses in the Philippines. In addition, Mr. Jaffe also served as Managing Director of Metacenter, a USAID sponsored program that provided microfinance, business incubation and technical assistance for SMEs in L'viv, Ukraine. Both positions were at Counterpart International, an NGO based in Washington, D.C. Mr. Jaffe served as Managing Partner, Nicholas, Feder and Jaffe in Chicago, Illinois, a private equity firm. He served as President and CEO of Kearney National in Chicago, Illinois, a public company traded on the American Stock Exchange. Mr. Jaffe served as President and CEO of DKM Enterprises in Chicago, Illinois, a privately held group of 12 companies.

Thomas J. Kim is the Chief Counsel and an Associate Director of the Division of Corporation Finance at the Securities and Exchange Commission. From 1995 to 1996, Mr. Kim served as a law clerk to the Hon. Louis F. Oberdorfer, U.S. District Court for the District of Columbia. Mr. Kim earned his J.D., *magna cum laude*, from Harvard Law School, where he was an editor of the Harvard Law Review. He graduated *summa cum laude* from Yale College with a B.A. in English.

Gerald J. Laporte serves as Chief of the Office of Small Business Policy in the SEC's Division of Corporation Finance, Washington, D.C. He has practiced law in Washington since 1976, including a previous tenure at the SEC from 1982 to 1987. Before rejoining the SEC in late 2002, Mr. Laporte practiced with the firm of Hogan & Hartson LLP. From 1997 to 1998, Mr. Laporte served as Chairman of the Corporation, Finance and Securities Law Section of the District of Columbia Bar. He holds a J.D. degree, awarded with honors, from the George Washington University Law School, where he was Managing Editor of the law review. He also holds an M.A. degree in political science from Georgetown University, and degrees from the University of Ottawa, Canada, and Sacred Heart Seminary College, Detroit.

Shelly Mui-Lipnik is the Director of Capital Formation and Financial Services Policy at the Biotechnology Industry Organization (BIO). Shelly is the lead policy staff on tax, securities and accounting policy issues impacting emerging biotechnology companies. Prior to joining BIO, Shelly worked on employee benefits policy issues in Hewitt Associates' Washington office. In addition, Shelly has worked on Title I of ERISA on behalf of the U.S. Department of Labor for several years. Shelly received a Masters in Taxation (LLM) and Certificate in Employee Benefits from Georgetown University Law Center, a Juris Doctorate (JD) from Syracuse University College of Law and a Bachelor of Science (BS) in International Business from University of Maryland. She is a member of the New York Bar and District of Columbia Bar.

Tram N. Nguyen is an Attorney-Adviser in the Office of Investment Adviser Regulation of the SEC's Division of Investment Management, Washington, D.C. Before joining the Commission staff in May 2010, Ms. Nguyen practiced with the firm of Dechert LLP in Washington, D.C. for nearly five years. Before that time, Ms. Nguyen practiced law in New York City at Katten Muchin Rosenman LLP and Fried, Frank, Harris, Shriver & Jacobson LLP. In private practice, Ms. Nguyen focused on hedge funds and private equity funds, advising clients on fund related issues including fund formation, structuring and compliance and private offering requirements, and also advised financial institutions and investment advisers on requirements under the Investment Advisers Act. She holds a Juris Doctor degree from Columbia University School of Law, a Master of Arts degree from Harvard University and a Bachelor of Arts degree, *magna cum laude*, from Princeton University.

Brett T. Palmer is the president of the National Association of Small Business Investment Companies (NASBIC). In this role, Mr. Palmer works to foster a strong and profitable SBIC community and a healthy environment for the private equity industry. He serves as NASBIC's principal liaison and lobbyist with Congress, the Executive branch, and other industry organizations. Mr. Palmer brings years of valuable public policy and advocacy experience to NASBIC. In the executive branch he has held senior positions as Assistant Secretary of Commerce for Legislative Affairs and as Deputy Assistant Secretary for Trade Legislation. In Congress, Mr. Palmer served in a number of capacities including Policy Assistant to the Speaker of the House. Mr. Palmer graduated from Davidson College with a degree in history.

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 U.S. 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. Chairman Schapiro was named the Financial Women's Association Public Sector Woman of the Year in 2000. She received a Visionary Award from the National Council on Economic Education (NCEE) in 2008, honoring her as a "champion of economic empowerment."

Steve Shapiro is Vice President, General Counsel and Corporate Secretary of Cole Taylor Bank, a bank based in the Chicago area. In this capacity, Mr. Shapiro is responsible for all legal, compliance and corporate governance matters for this traded \$4.7 billion bank and its publicly traded holding company. Mr. Shapiro's legal expertise is in corporate governance, financings, mergers and acquisitions and securities and banking law. He is nationally recognized speaking on these and other topics, author of numerous articles and founder of several continuing legal education programs. He is a two-time President of the Chicago Chapter of the Society of Corporate Secretaries and Corporate Governance Professionals and currently serves on its Advisory Committee. He also serves the Society on national basis as a member of its Policy Advisory Committee and the co-Chairman of its Small and Mid-Cap Company Committee. Mr. Shapiro was just named Corporate Governance Professional of the Year for Small and Mid-Cap Companies by *Corporate Secretary Magazine*. He graduated *cum laude* from Columbia University in 1979 and from the University of Chicago Law School in 1984.

Ann Yvonne Walker is a corporate securities partner in the law firm of Wilson, Sonsini, Goodrich & Rosati in Palo Alto, California, where she has practiced law since graduating from law school in 1979. She primarily represents high technology companies located in the "Silicon Valley" and specializes in corporate and securities law, including public offerings, mergers and acquisitions, corporate governance matters and general corporate representation, with a particular emphasis on public company disclosure obligations and SEC compliance issues. Ms. Walker is an active member of the Federal Regulation of Securities Committee of the Section of Business Law of the American Bar Association. She has served on drafting teams for many ABA comment letters on SEC releases, principally relating to the numerous SEC rulemaking projects

relating to the Sarbanes-Oxley Act of 2002, the Section 16 rules, the executive compensation disclosure rules, Form S-8, Rule 701, securities offering reform and rules for smaller reporting companies, and is currently involved with ABA comment letters in process relating to the Proxy Plumbng Concept Release and the rulemaking required by the Dodd-Frank Act. Ms. Walker is also active in the State Bar of California. She graduated from Burlingame High School as co-valedictorian in 1972, received her B.S. in Mathematics (with distinction) from Stanford University in 1976 and her J.D. from Stanford Law School in 1979.

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, past Chair of the Florida Bar Business Law Section and subcommittees of the American Bar Association 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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