



NASAA

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August 15, 2012

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Ms. Murphy:

By letter dated July 3, 2012, the North American Securities Administrators Association, Inc. (NASAA) submitted comments to the Commission regarding Title II of the JOBS Act, which requires the Commission to amend Rule 506 to allow general solicitation. As President of NASAA, I write to express our deep concern that the Commission may choose to adopt an interim rule during its open meeting on August 22, 2012, while simultaneously soliciting comment on a proposed final rule. *Given the complexity of the issues involved in the changes to Rule 506, plus the enormous impact those changes will have on how these risky investments will be offered, we strongly urge the Commission to follow its normal course of publishing the proposed rule for public comment before it becomes effective.*

Many proponents of the changes to Rule 506 suggest the amendments are simple and straightforward, and we appreciate the pressure the Commission is under to act quickly. However, as our comment letter illustrates, the Commission must grapple with some very complex issues in its rulemaking. For example, the Commission must establish what it means for an issuer to take reasonable steps to verify that all purchasers are accredited, and the Commission should provide clarity by articulating the scope of ancillary services and compensation that are permissible for unregistered platforms. To avoid damage to Commission and state enforcement efforts, the Commission should also make changes to the Form D and its filing requirements.

We realize the JOBS Act contains a 90-day limit for the changes to Rule 506, but we note that many of the rulemakings required by the Dodd-Frank Act are long overdue. We encourage the Commission to prioritize investor-protection rules ahead of the exemptions in the JOBS Act, and we urge you to resist the pressure to act hastily, especially where ill-considered changes could have such devastating impacts on investors.

We would also remind the Commission of its obligation to conduct a rigorous cost-benefit analysis of rule changes. Although we do not believe that regulatory decisions based strictly upon costs and benefits necessarily yield the right results, the Commission should apply the same standards to an exemptive rulemaking that it applies to other rules that are less popular

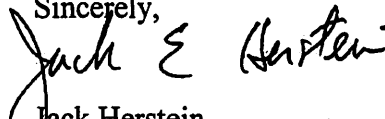
with the business community. A proper analysis of costs and benefits would require the Commission to defer action until comments are received on a proposed rule.

In this particular rulemaking, the Commission's evaluation of "costs" must include the losses sustained in low-quality investments that are marketable under the newly-expanded Rule 506 but would never have been sold successfully in a registered offering that required full disclosure. The costs must also include the amount investors will lose in fraudulent offerings as a result of the changes to Rule 506. For example, the Justice Department recently indicted two executives of Provident Royalties LLC in connection with a \$485 million fraud against 7,700 investors in private placements. In 2011, states brought more than 200 enforcement actions for fraudulent Rule 506 offerings. Unfortunately, the number of frauds and the amount of damages can be expected to increase when it becomes easier to solicit victims under Rule 506.

Failure of the new rule to strike the proper balance between capital formation and investor protection will be very damaging to the investing public and, ultimately, to the legitimate issuers who need investors. To craft the best possible rule, the Commission should first seek comment on a specific proposal, not just general comments on the possible rules that could be adopted under the JOBS Act. We realize that the Commission could adopt an interim rule with a subsequent comment period, but we are highly doubtful of the Commission's ability to make any significant revisions to a temporary rule once in place, especially a temporary rule with overly broad exemptive provisions. *Therefore, we again urge you to follow the standard rulemaking process by publishing for comment a specific proposed rule and not adopt an interim rule on August 22.*

Thank you very much for your consideration of NASAA's request.

Sincerely,



Jack Herstein
President

cc: Mary L. Shapiro, Chairman
Elisse B. Walter, Commissioner
Luis A. Aguilar, Commissioner
Troy A. Paredes, Commissioner
Daniel M. Gallagher, Commissioner
Lona Nallengara, Deputy Director, Division of Corporation Finance