



California Corporate & Securities Law

Thinking About Converting? You May Need The Commissioner's Approval!

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In 1999, the [Business Law Section](#) of the [California State Bar](#) sponsored [AB 197](#) (Ackerman). That bill established a comprehensive scheme under the California Corporations Code for the conversion of limited partnerships and limited liability companies into other forms of business entities. The bill, however, did not address the application of the Corporate Securities Law of 1968 to conversion transactions.

The following year, the Commissioner of Corporations requested that a clean-up bill, [AB 1894](#) (Ackerman), include provisions clarifying the status of entity conversion transactions under the CSL. AB 1894 added Corporations Code § 25005.1 to define “entity conversion transaction” and amended Corporations Code § 25120 to specifically list an “entity conversion transaction” as being subject to qualification unless exempt or not subject to qualification. Finally, the bill amended Corporations Code § 25103 to include specified entity conversion transactions as exempt from qualification under either Corporations Code § 25110 (issuer transactions) or § 25120 (recapitalizations and reorganizations).

Interestingly § 25005.1 was amended in 2002 to provide that an “entity conversion transaction” includes a “conversion that occurs entirely out of state”. This additional language is problematical in at least two respects.

First, the term “conversion” is nowhere defined in the CSL. Although the term is defined in Corporations Code § 161.9, that definition is not made expressly applicable to the CSL (See Corporations Code § 101).

Second, even assuming we know what a “conversion” is, the statute appears to apply to conversions occurring anywhere in the world regardless of any connection to California. This is not the case, however. Section 25005.1 is simply a definition. The requirement for qualification is found in § 25120 which is clearly limited to offers and sales in this state (*See* Corporations Code § 25008).

Finally, it should be noted that an “entity conversion transaction” does not include a transaction in which the interests in the entity resulting from the conversion to be held by the equity holders of the entity being converted are not securities.

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