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NEW SEC RULES ALLOW PRIVATE COMPANIES ACCESS TO LARGER AMOUNTS OF CAPITAL (REGULATION A+)

Many companies should be able to take advantage of new SEC rules that will permit them to sell up to \$50 million of securities to investors in a 12-month period without “going public.”

TWO TIER SCHEME

Rules for the new Regulation A+ avenue for raising capital, which were announced by the SEC on March 25, provide for a two-tier system as follows:

- Companies will be able to offer up to \$20 million worth of securities to investors in Tier 1 offerings generally without having to provide audited financial statements or ongoing reports to the SEC
- Companies that wish to raise from \$20 million to \$50 million will be able to do so by means of a Tier 2 offering, which will require audited financial statements for investors and ongoing annual and semiannual reports to the SEC that will be less detailed than public company reports

HIGHLIGHTS

- Most U.S. or Canadian based private companies will be eligible
- Most securities (other than asset-backed securities) will be eligible for sale
- Companies will be able to make Tier 2 offerings only to accredited investors who meet certain income or net worth tests, and non-accredited investors whose purchases are limited by their net worth and income
- Companies offering securities for sale will be able to send sales materials via the internet
- Issuing companies will be able to “test the waters” by using solicitation materials before a required offering statement is filed, or filed publicly, with the SEC
- The new rules become effective June 19, 2015.

There are significant nuances to the rules regarding eligibility, prescribed offering statements, filing requirements, and solicitation of investors. There are also so-called “bad actor disqualifications” that prohibit the use of Regulation A+ if certain individuals are involved.

For a more detailed and comprehensive examination of this subject, please see our [Burns & Levinson Securities Law Update](#). ■

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EXPLANATORY NOTES:

This update is intended to call your attention to various statements by the SEC of possible interest and relevance to you, but it is not intended to constitute a legal opinion or definitive summary of all interpretations and legal information that could be material to you. Please contact a member of the Securities Law Group at Burns & Levinson if you have any questions about these interpretive statements or if you want to learn more about our expertise in this area.

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