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U.S. Securities and Exchange Commission
Attention: Vanessa A. Countryman, Secretary
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: File no. S7-05-20
Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets
Release no. 33-10763

Dear Sir or Madam,

We appreciate the opportunity to comment on the above mentioned release and are writing to you to comment in support of much of the Securities and Exchange Commission's ("SEC" or "Commission") proposal to harmonize existing securities exemptions put forth in the release on Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets. We would like to address several of the specific questions posed by the Commission regarding Integration, General Solicitation and Offering Communications, Regulation D, Regulation A, Crowdfunding, and Bad Actor Rules. We look forward to the Commission's response on the following comments.

Integration

We support the SEC's proposed and amended framework for integration and would like to address the following specific questions raised by the Commission.

(1) Should we adopt a comprehensive integration framework for registered and exempt offerings, as proposed? Should we replace the five factor test of integration, currently set forth in Rule 502(a), with the more recent approach to integration adopted in rulemakings involving Regulation A, Regulation Crowdfunding, and Rules 147 and 147A, as proposed?

We are of the opinion that the SEC should adopt the proposed framework for integration. Under the previous five factor test for integration, it was difficult for issuers to determine whether certain subsequent offers might be integrated into one single offering. The proposed framework removes this ambiguity and creates a clear approach that will ease issuers in understanding and complying with the rules. Moreover, this framework, which looks to the particular facts and circumstances, is a logical addition to the code as it codifies guidance previously issued by the SEC.

(2) Should we adopt specific safe harbors as part of the proposed integration framework? If so, are the proposed safe harbors appropriate?

We believe that the proposed safe harbor provisions are appropriate, and we strongly agree with the addition of these to the current framework. First, we believe these safe harbor provisions will provide further clarity to issuers who in the past were uncertain whether their offerings might trigger integration rules and were left only with one safe harbor provision upon which to rely. Second, the four proposed safe harbors create clear categories for issuers with bright line rules which will simplify compliance for issuers. Lastly, the proposed provisions would create one single framework to apply across all exemptions which will further ease compliance for issuers with multiple offerings under varying exemptions.

General Solicitation and Offering Communications

We would also like to address following specific questions raised by the Commission regarding general solicitation and offering communications.

(1) Should we, as proposed, provide a specific exception for communications in connection with a "demo-day" or similar event so that it would not be considered general solicitation if certain conditions are met?

The SEC has proposed that issuers be allowed to have a "demo-day" or similar event in order to solicit investments from the public. The SEC has indicated that a demo-day would be a seminar held by a college, university, higher education institution, local government, nonprofit, or angel investor group, incubator, or accelerator. The sponsors' actions would be required to meet certain requirements under the proposed framework which would not permit them to make investment recommendations or provide investment advice to attendees of the event; engage in any investment negotiations between the issuer and investors attending the event; charge attendees of the event any fees, other than reasonable administrative fees; receive any compensation for making introductions between attendees and issuers, or for investment negotiations between the parties; or receive any compensation with respect to the event that would require it to register as a broker or dealer or an investment adviser. Advertising for such an event would be limited as well.

We agree with the proposed limitations placed upon sponsors under the regulations, but it is our opinion that these demo-days are not limited enough. While the proposed demo-day provides much needed relief to issuers who have been uncertain of the definition of "general solicitation", the sponsors proposed in the regulations are likely to attract many non-accredited investors who will be ineligible for the majority of the exempt offerings which might be presented at a demo day. For this reason, we believe it would be more beneficial to limit the investor pool who may attend these demo day events. We request the Commission to consider a way to limit the pool of investors, perhaps by accredited status, in order to provide issuer with eligible investors and to provide investors with reasonable opportunities for investment.

(2) Should we, as proposed, require an issuer to provide the generic solicitation materials to non-accredited investors in a subsequent Rule 506(b) exempt offering if such Rule 506(b) offering is within 30 days of the generic solicitation?

We agree with the proposed regulations which would allow an issuer to provide generic solicitation materials to non-accredited investors in a subsequent Rule 506(b) offering if such offering is within 30 days of the generic solicitation. However, we request that any final regulations include further clarification. It is our opinion that any final regulations should explicitly state whether issuer may solicit any single potential investor regardless of whether there is a preexisting relationship between the investor and the issuer. Though the proposed regulations are clear that the investors to which the issuer generically solicits may be non-accredited, further clarification would ease compliance for issuers in understanding whether a relationship must be established with the non-accredited investor prior to providing solicitation materials regarding the subsequent 506(b) offering.

Regulation D

Furthermore, we would also like to address following specific questions raised by the Commission regarding Regulation D offerings.

(1) Is the requirement to take reasonable steps to verify accredited investor status having an impact on the willingness of issuers to use Rule 506(c)?

Yes. The requirement to take reasonable steps to verify accredited investor status has negatively impacted issuers' willingness to use this exemption. Many investors do not feel comfortable with sharing their personal financial status for verification. This is usually due to personal preference and privacy concerns. Since issuers are aware that that investors are less likely to partake in an investment which requires verification of accredited investor status, issuers are less likely to use the exemption for concern of it limiting their investor pool even further than just by accredited status.

(2) Should we provide an additional method of verification, as proposed, that would allow an issuer to establish that an investor that the issuer has previously verified remains an accredited investor as of the time of sale, so long as the investor provides a written representation to that effect to the issuer and the issuer is not aware of information to the contrary?

Yes. We agree with the proposed regulation which would provide this additional method of verification for previously verified accredited investors. It is our opinion that this proposed regulation will allow for a myriad of benefits to investors as well as issuers. First, since issuers will not have to be concerned with enduring the process of verification repeatedly in subsequent offers, issuers will be more likely to rely upon the 506(c) exemption than they are now. Second, the inclusion of this provision would save issuers and investors valuable time and money. The process of compiling financial information and having CPAs or attorneys verify such information can be time consuming and expensive. If an investor that was previously verified could simply provided a written attestation that their financial status has not changed, then this time and money could be saved. Finally, investor personal financial data would be better protected as this

information would not have to be sent multiple times to issuers for each offering. Thus, this provision would decrease the chance of a breach of data. Therefore, we believe that this proposed verification method will be a great benefit to investors and issuers and should therefore be codified.

(3) The Commission has proposed to amend the definition of accredited investor to include new categories of natural persons and institutions. Are there additional verification methods that we should include in the non-exclusive list of reasonable verification methods in light of these proposed changes?

Yes, we believe additional verification methods should be included along with any amendments to the definition of an accredited investor. Our firm submitted comments to the SEC on the proposed change to the definition of accredited investor and we supported the decision to include individuals with professional designation and certifications in the definition of accredited investor. In that comment letter, we stated that we believe that, just as CPAs and licensed attorneys must verify the income and net worth of an investor under the current regime, licensed attorneys should be required to verify professional designations and certifications, as well as good standing, of hopeful accredited investors.

(4) Are the current financial statement information requirements in Rule 506(b) appropriate or should they be modified to align the information requirements contained in Rule 502(b) applicable to non-reporting companies with those of Regulation A, as proposed?

We agree with the proposed rule which would align the financial statement requirement of Rule 506(b) with Regulation A. It is our opinion that a Rule 506(b) offering that is less than $20 million should have the same financial statement requirement as a Regulation A Tier 1 offering. We believe that a Rule 506(b) offering should not be subject to the undue expense of producing audited financials if it is less than $20 million. Additionally, we agree with the proposed regulation which would require a Rule 506(b) offering of $20 million or more to produce the same financial statements as a Regulation A Tier 2 offering, including requirements for audited financial statements. We believe harmonizing the dollar amount thresholds between Regulation A and Regulation D will streamline compliance for issuers of exempt offerings.

(5) Should we, as proposed, increase the Rule 504 offering limit from $5 million to $10 million?

Yes. We agree with this proposed increase to the Rule 504 offering limit. It is our opinion that this exemption has largely remained unused by issuers for several reasons including this low offering limit. We believe that increasing the offering amount will enable more issuers to gain access to this exempt offering option and provide more investment opportunities to investors.

(6) Other Issues Regarding Regulation D

We would also like to speak to an issue that was not addressed in the proposed regulations: Rule 504 is currently not qualified as a covered security. Under Regulation D, Rule 506(b) and (c) are considered "covered securities" and thus do not need to comply with state blue sky laws through state registration or exemption. However, Rule 504, another exemption under Regulation D, is not considered a covered security. We believe that the exemptions under Regulation D should be harmonized such that Rule 504 offerings are considered covered securities as well. This would

greatly simplify the compliance requirements for issuers relying on Regulation D. We believe this would further promote access to the Rule 504 exemption for issuers that previously ignored this exemption due to the strict investment limit and the onerous requirement to comply with state blue sky laws.

Additionally, we request that preemption for Rule 506 offerings be further clarified by the Commission. Currently, the majority of issuers that our firm represents rely upon Rule 506(b) or 506(c). As these are covered securities, our clients do not have to comply with state blue sky laws by registering or finding a state exemption. However, recently, we have experienced issues with states requiring issuers to register in state when issuers generally solicit investors, even though this activity is allowed under Rule 506(c). For example, in Arizona, whenever an issuer generally solicits to investors in state, it must register as a broker dealer because there is no Rule 506(c) equivalent under the state's securities exemptions. Since Rule 506(c) is a covered security, it is our opinion that such registration should not be required if the issuer remains in compliance with the terms of a Rule 506(c) offering under the federal regulations. We request the Commission provide clarification as to whether states may impose such licensing requirements upon issuers who are offering a covered security and thus are exempt from compliance with state blue sky laws.

Regulation A

Additionally, we would like to address following specific question raised by the Commission regarding Regulation A offerings.

(1) Should we, as proposed, increase the Regulation A Tier 2 offering limit from $50 million to $75 million?

Yes. We agree with the proposed regulation that would increase the Regulation A Tier 2 offering limit from $50 million to $75 million. We support many of the public comments made, and cited in the proposed regulations, which stated that this increase will attract a more seasoned pool of investors as well as institutional investors to the market. We believe this increase in the offering limit will further the goal of these proposed regulations by improving access to capital in private markets.

Crowdfunding

Moreover, we would like to address following specific question raised by the Commission regarding Crowdfunding offerings.

(1) Should we, as proposed, increase the Regulation Crowdfunding offering limit from $1.07 million to $5 million? Should we remove investment limits for accredited investors in Regulation Crowdfunding offerings as proposed?

Yes. We agree with the Commissions proposal to increase the Crowdfunding offering limit to $5 million for non-accredited investors and to remove investment limits for accredited investors. Again, we believe this increase in the limit will further the goal of these proposed regulations by improving access to capital in private markets.

Bad Actor Rules

Additionally, we would like to address following specific questions raised by the Commission regarding the Bad Actor Rules.

(1) Instead of disqualifying Regulation A or Regulation Crowdfunding issuers affected by disqualifying events that first arise or occur during an ongoing offering, should we allow such issuers to continue the offering but require them to disclose the disqualifying event, and provide investors with the option to cancel their investment commitments and obtain a refund of invested funds?

Yes. We agree with this proposed amendment to allow issuers who experience a disqualifying event during an offering to continue the offering but require disclosure of the disqualifying event. However, the proposed regulations highlight an important issue. This provision, if amended according to these proposed regulations, would then become inconsistent with Regulation D Rule 506(d) which may cause issuer and investor confusion. For this reason, we believe that all bad actor provisions should be uniform across the securities exemptions in order to facilitate issuer compliance and investor understanding. Therefore, as we agree with this proposal, we would respectfully request a similar provision be incorporated into Regulation D as well.

(2) Should we, as proposed, revise the language in Rule 503(a) to more closely track the requirement in Rule 262(a) of Regulation A by including "any promoter connected with the issuer in any capacity at the time of filing, any offer after filing, or such sale"?

Yes, we agree with the Commission's proposal to revise the language of Rule 503(a) to more closely track the requirement in Rule 262(a) of Regulation A. As previously mentioned, we believe that all bad actor provisions under federally exempt securities should be uniform in order to aid compliance and understanding. We believe that this proposed change would be a beneficial step towards harmonizing the bad actor rules; however, we propose that additional harmonization is necessary. Further, it is our opinion that the provisions regarding bad actors should be either uniform or connected in the code such that bad actor waivers cover bad actor provisions for all exemptions. We recently experienced an issue with a client who was subject to a consent order from a state in which the consent order asserted that the state would waive bad actor disqualifications under Regulation D. The client believed this was to cover all bad actor disqualifications and offered securities under Regulation A. After the offering was qualified by the SEC, the state then flagged the consent order as a disqualifying event under Regulation A which caused the client to undergo a costly rescission offer. We believe that if these bad actor provisions were harmonized so that waivers and exemptions from bad actor qualification were consistent across exemptions, this issue might have been avoided. This example shows that the current framework is complex to navigate and requires further amendments in order to harmonize the bad actor rules for all federal securities exemptions.

Again, we appreciate the opportunity to comment on these proposed regulations which we strongly believe will facilitate capital formation and expand investment opportunities by improving access to capital in private markets. We look forward to reviewing the SEC's response to this and other

comments. If you have any questions or would like to discuss these comments please feel free to reach out to us at [redacted] or at [redacted].

Best,

/s/ Kevin Kim

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Partner, Corporate and Securities
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