

March 19, 2014

Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-11-13, *Proposed Rule Amendments for Small and Additional Issues Exemptions Under Section 3(b) of the Securities Act*

McGladrey LLP appreciates the opportunity to offer our comments on SEC File No. S7-11-13, *Proposed Rule Amendments for Small and Additional Issues Exemptions Under Section 3(b) of the Securities Act*. McGladrey LLP is a national CPA firm that serves both public and private companies in a variety of industries. We focus primarily on serving middle market companies and public sector entities and have served hundreds of companies that have raised capital through offerings of securities that were exempt from the registration requirements of the Securities Act of 1933.

We support the SEC's efforts to "craft a workable revision of Regulation A that would both promote small company capital formation and provide for meaningful investor protection."¹ We believe that, especially when promoting small company capital formation, the costs of accessing capital should be reasonable in comparison to the amount of capital to be raised. However, as discussed below, we believe some of the potential costs associated with certain requirements of the proposed rule amendments could outweigh the benefits and thereby could discourage private companies from taking advantage of the Regulation A exemption. We offer our observations on certain of the proposed audit requirements and financial information requirements.

Audit requirements

Most audits of private company financial statements are conducted in accordance with U.S. generally accepted auditing standards (GAAS) as promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA). The proposed Regulation A rule amendments, if finalized, would require issuers conducting Tier 2 offerings to provide financial statements that are audited in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB). The proposed amendments also require that the auditor be independent in accordance with SEC independence rules. Because the standards of the PCAOB are not the same as GAAS, a private company desiring to conduct a Tier 2 offering, whose current financial statements were previously audited in accordance with GAAS or whose auditor was not independent under SEC rules, would be required to have its financial statements re-audited. We believe the cost of a re-audit would outweigh any potential incremental benefits of providing re-audited financial statements to investors.

Accordingly, we recommend that the SEC permit issuers conducting Tier 2 offerings to provide financial statements that are audited in accordance with either PCAOB standards or U.S. generally accepted auditing standards by an auditor who is independent under either SEC or AICPA independence rules. This would allow the use of audited financial statements that already are available, while still providing meaningful investor protection.

¹ SEC File No. S7-11-13, page 8

Regulation A allows Tier 1 issuers to provide audited financial statements to the extent an audit was obtained for other purposes and the audits were performed in accordance with either AICPA or PCAOB standards. The auditor of a Tier 1 issuer must comply with SEC independence rules. We believe Tier 1 issuer financial statements that already are available should be allowed to be provided in an offering, even if the auditor does not comply with SEC independence rules.

Financial information requirements

In December 2013, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2013-12, *Definition of a Public Business Entity: An Addition to the Master Glossary*, which provides a definition of a *public business entity* that will be used by the FASB to specify the scope of future accounting and reporting guidance. This definition also is used as a starting point for determining which entities will be permitted to take advantage of the private-company accounting alternatives developed by the Private Company Council as those alternatives are included within U.S. generally accepted accounting principles (GAAP). The FASB already has issued some Accounting Standards Updates that incorporate into GAAP simplified accounting alternatives for private companies, and more are on the horizon.

Per the proposed rule amendments to Regulation A, unless the issuer is a Canadian company, financial statements must be prepared in accordance with U.S. GAAP. We believe a domestic company offering securities under Regulation A would meet the FASB's definition of a public business entity. Therefore, absent any specific transitional guidance, if a domestic company would have taken advantage of any of the private-company accounting alternatives in its financial statements prior to a Regulation A offering, those financial statements would need to be revised to retrospectively apply U.S. GAAP as if it were a public company. Thus, the cost savings originally achieved by electing a simplified accounting alternative could be surpassed by the costs incurred to retrospectively adjust the financial statements for a Regulation A offering. Also, if the prior financial statements had been audited, the revised financial statements would need to be re-audited, causing the private company to incur even more costs.

Due to the potential for many private companies incurring incremental costs to retrospectively adjust financial statements included in Regulation A offerings, we encourage the SEC to work with the FASB to implement a solution that would accommodate the inclusion of private company financial statements in offerings of up to a specified maximum amount (*e.g.*, \$10,000,000 or \$20,000,000) whereby such financial statements would not need to be restated to reverse the impacts of any private company alternatives adopted.

We would be pleased to respond to any questions the Board or its staff may have about our comments. Please direct any questions to Scott Pohlman, National Director of SEC Services, at 612.455.9499.

Sincerely,

A handwritten signature in black ink that reads "McGladrey LLP". The signature is written in a cursive, flowing style.

McGladrey LLP