



SOUTH DAKOTA INVESTMENT COUNCIL

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September 24, 2019

Mr. Jay Clayton, Chairman
U.S. Securities and Exchange Commission
100 F Street Northeast
Washington, D.C. 20549
Dear Chairman Clayton:

This letter is in reference to the U.S. Securities and Exchange Commission's (SEC's) request for comment on File Number S7-08-19 which seeks "...to simplify, harmonize, and improve the exempt offering framework to promote capital formation and expand investment opportunities while maintaining appropriate investor protections." The South Dakota Investment Council seeks to provide comment on the definition of a "qualified institutional buyer" (QIB) for securities under Rule 144A.

The South Dakota Investment Council (Council) is responsible, per South Dakota law, for the management of financial assets for the State of South Dakota. The Council was created by the South Dakota Legislature in 1971 and became operational on July 1, 1972. Since that time, assets under management have grown from \$133 million to over \$15 billion as of June 30, 2019. The assets consist of the South Dakota Retirement System (SDRS), four state trust funds created per the South Dakota Constitution, and the state agency pooled fund known as the Cash Flow Fund.

CFR §230.144A – Private resales of securities to institutions defines *qualified institutional buyer* and includes several entities that qualify including (1) (D) "Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivision, for the benefit of its employees. This clearly includes the \$12.5 billion SDRS financial assets.

The \$1.6 billion of State assets other than the SDRS currently do not qualify under the QIB definitions for Rule 144A which provides a safe harbor for the resale of certain securities. The Council would encourage the expansion of the QIB definition to include other state financial assets. In South Dakota, the same organization responsible for investing in 144A securities for the SDRS also invests the other state financial assets.

State organizations have the expertise to evaluate the 144A securities and make prudent investments in these securities. This would increase the liquidity of the 144A securities and provide additional investment opportunities for state financial assets beyond the retirement system assets.

The Council requests that the SEC consider adding other state financial assets to the safe harbor qualifications already available for state pension funds.

Thank you for the opportunity to provide comment on this important issue. The Council stands ready to answer your questions or address any concerns.

Sincerely,

Matthew L. Clark
State Investment Officer

cc: Secretary, Securities and Exchange Commission