



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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February 19, 2014

The Honorable Mary Jo White
Chair
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Dear Chair White:

We, the undersigned past and present Officers, Directors, and Organizational Chairs of the North American Securities Administrators Association (“NASAA”), write to voice our objection to the Commission’s attempt to preempt state authority over small corporate offerings through its Proposed Rule Amendments for Small and Additional Issues Exemptions under Section 3(b) of the Securities Act (“Regulation A+ Proposal”).

Individually, we represent states spanning the entire geographical and political landscape of this great nation. While we each have unique constituencies and challenges facing our distinct sovereign interests, we stand united on two core principles: (1) protecting investors and (2) helping small businesses access the capital they need to start their companies and grow much-needed jobs for the economy.

State regulators have particular strengths that uniquely qualify them to effectively oversee Regulation A+ offerings. Because we are geographically close and accessible to both investors and local businesses, we are often in a better position than the Commission to communicate with them about the offering to prevent abuse and improve the overall quality of the deal for investor and business alike.

Our proximity to investors also puts us in the best position to deal aggressively with securities law violations when they do occur. States are typically the first responders for investors robbed or cheated out of their investments. We and our state peers fielded more than 10,000 investor complaints and conducted more than 5,800 investigations in the last reporting year. The most serious violations we uncovered were criminally prosecuted, resulting in 1,361 years of incarceration. More than \$694 million of misappropriated or lost wealth was returned to investors in state-issued restitution orders. Notably, many of these cases originated from federal exemptions that preempt state review. Regulation D offerings, for example, were the most common product or scheme reported by the states in 2013. It is the fourth consecutive year Regulation D deals have topped the state list.

We cannot do our job – protect investors or help small businesses access capital and grow their companies – where the Commission attempts to prohibit our review as contemplated in the Regulation A+ Proposal. As the Commission is aware, NASAA already has developed a new coordinated, streamlined multi-state review program that will ease regulatory burdens for filers without sacrificing investor protection.¹

¹ NASAA Executive Director Russ Iuculano, NASAA Past President Heath Abshure, NASAA President Andrea Seidt, and members of NASAA’s Corporation Finance Section and projects groups all have met personally with Commission staff and various Commissioners to provide details and updates regarding the program. NASAA President Seidt also submitted a letter, pre-release, to Chair White summarizing the components of the new system. See NASAA letter to Chair White re Rulemaking under Title IV of the JOBS Act (December 12, 2013), available at: <http://www.nasaa.org/wp-content/uploads/2011/07/NASAA-Letter-to-SEC-Regarding-Regulation-A+.pdf>.

With the new program, Regulation A+ filings will be made in one place and distributed electronically to all states. Lead examiners will be appointed as the primary point of contact for a filer, and each state will be given ten business days for review. The lead examiners alone will interact with the issuer to resolve any deficiencies, and once they determine an application should be cleared, the decision is binding on all participating states. On January 30, 2014, the NASAA Board of Directors submitted this new program to the members for a vote by electronic ballot with a March 7 deadline. Each of the 18 states represented on this letter has already voted to approve the measure.

Industry commenters already have taken notice of the benefits the new state program will offer, with at least one commenter withdrawing a previous call for preemption of blue sky review.² The commenter also expressed doubts regarding the viability of the Commission's "qualified purchaser" approach to achieving state preemption. Uncertainty regarding the rule's ability to withstand a legal challenge, he explained, may discourage companies like his regional investment bank clients from utilizing the federal exemption. *Id.*; see also House Committee Report 112-206; Congressional Record Volume 157, Number 166 at H7229-H7232.

The states also question the legal sufficiency of the proposal. The National Securities Markets Improvements Act of 1996 is clear that the Commission is to define "qualified purchaser" consistent with, not contrary to, the public interest and the protection of investors.³ The logical and legally sound path for the Commission to follow is to work with the states in revitalizing the filing process. There is no doubt in our minds that the Commission and the states, standing together, will be much more effective in protecting our citizens and making Regulation A+ a success for small business filers than we could ever hope to be standing apart.

NASAA and its member states will have additional comments regarding other aspects to the Regulation A+ Proposal, but we thought it was important to separately address this most significant point as early as possible in the comment process. If you have any questions regarding this letter, please contact NASAA President Andrea Seidt or NASAA General Counsel Joseph Brady, who are prepared to discuss further.

Please also accept this letter as a formal request from NASAA and a delegation of the undersigned states for a meeting with Chair White and the Commission's Division of Corporation Finance leadership prior to the end of the public comment period, March 24, 2014.

NASAA also intends to request meetings with each of the Commissioners and representatives of the Reg A+ rule writing team to discuss more comprehensively the state perspective on the risks of preemption.

Thank you for your consideration.



Andrea Seidt
NASAA President
Ohio Securities Commissioner



William Beatty
NASAA President-Elect
Washington Securities Director



A. Heath Abshire
NASAA Past-President
Arkansas Securities Commissioner



Melanie Senter Lubin
NASAA Treasurer
Maryland Securities Commissioner



Judith Shaw
NASAA Secretary
Maine Securities Administrator



Joseph P. Borg
NASAA Board Member
Alabama Securities Director



Michael Rothman
NASAA Board Member
Minnesota Commissioner of
Commerce



Daphne Smith
NASAA Board Member
Tennessee Asst. Securities
Commissioner



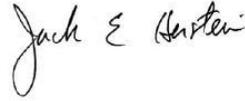
Keith Woodwell
NASAA Ombudsman
Utah Securities Director

² See January 17, 2014 comment letter from Mike Liles, Jr., Attorney at Karr Tuttle Campbell.

³ Section 18(b)(3) of the Securities Act of 1933, 15 U.S.C. 77r(b)(3).



Lynne Egan
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Montana Deputy Securities Commissioner



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Wisconsin Securities Administrator



Ronald Thomas
Former NASAA New Member Advocate
Virginia Securities & Retail Franchising Director

cc: The Honorable Luis A. Aguilar, Commissioner
The Honorable Daniel M. Gallagher, Commissioner
The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner