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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, Release Nos. 33-9497; 34-71120; 39-2493

Ladies and Gentlemen:

This letter is submitted on behalf of Canaccord Genuity Inc. ("Canaccord Genuity") in response to the request of the Securities and Exchange Commission (the "SEC") for comments relating to the proposed rules that the SEC has put forward pursuant to its December 18, 2013 proposing release referenced above (the "Proposing Release").[1] Canaccord Genuity wishes to recognize, and offer its appreciation to, the SEC for its thoughtful Proposing Release. The framework established in the Proposing Release for Regulation A offerings represents significant progress in helping to advance the goals of the JOBS Act. Regulation A, if properly implemented, may prove to be a useful capital-raising alternative to exempt offerings made pursuant to Rule 506 and registered initial public offerings made in reliance on the IPO "on ramp" established by Title I of the JOBS Act. For companies in certain industries, Regulation A offers the promise of a public offering with appropriately tailored requirements. Canaccord supports the proposed rules, and is pleased to submit this letter offering a few suggestions intended to ensure that the final rules result in a practical approach that will be well-received by market participants.

Through its principal subsidiaries, Canaccord Genuity Group Inc. is a leading independent, full-service financial services firm, with operations in two principal segments of the securities industry: wealth management and capital markets. Since its establishment in 1950, Canaccord has been driven by an unwavering commitment to building lasting client relationships. We achieve this by generating value for our individual, institutional and corporate clients through comprehensive investment solutions, brokerage services and investment banking services. Canaccord Genuity, our

[1] 78 Fed. Reg. 3926 (Jan. 23, 2014).

capital markets division, provides investment banking, sales and trading, research and corporate services to our corporate and institutional clients. Our capital markets professionals are dedicated to client service, combining the passion of an independent culture with the professionalism of experienced management. We provide effective liquidity and high-quality execution in Canada, the United States, Europe, Asia, and Australia. Our integrated team brings unique global perspective and focused industry expertise to our full service offerings in Mining and Metals, Energy, Technology, Life Sciences, Consumer Products, Real Estate, Infrastructure, Sustainability and Cleantech, Financials, Agriculture and Fertilizers, Media and Telecommunications, Transportation and Industrial Products, Paper and Forestry Products, Investment Trusts, Support Services, Structured Products, Aerospace and Defense, Leisure, and Private Equity. Canaccord Genuity is committed to fueling the entrepreneurial economy by identifying emerging opportunities and facilitating long-term growth. We bring businesses and investors together, powering the diverse engines that drive global innovation and success. During calendar 2013 Canaccord Genuity acted as underwriter or placement agent in more than 180 equity public offerings globally, in almost half of which the firm acted as a lead manager. The firm provides fundamental research coverage to the institutional investor market on approximately 950 companies worldwide, with about 50% of these companies having a market capitalization of less than $1.0B. We also note that our firm acts as a market maker in over 8,500 publicly-traded stocks, including over 6,000 stocks traded over-the-counter.

In light of our commitment to helping entrepreneurial, early stage, and growth companies, we believe that the final rules implementing Regulation A should provide a cost-effective approach for private companies to access the public markets, encourage appropriately tailored and clear disclosure, and lead to a robust secondary market. Institutional investors will be attracted to investing in promising Regulation A issuers if they believe that there will be an active and liquid secondary market in the securities. Many institutional investors have limits on the percentage of their assets that they can invest in securities that are considered “restricted securities” and are illiquid. In order to encourage investment by institutions, we believe the final rules must take this into account.

Comments

Eligible Issuers

We believe the SEC should maintain the existing categories of Regulation A issuer eligibility requirements, but also consider including companies organized in jurisdictions with robust securities regulation systems, such as the United Kingdom and other countries in the European Union, Australia, and Asian markets such as Singapore and Hong Kong. The SEC could include such jurisdictions at the outset, or do so over time after having some experience with the new rules. We see no compelling reason not to include companies organized in such countries, with appropriate protections to ensure the ability to enforce the U.S. securities laws similar to those applicable to registered transactions by foreign private issuers. In our experience, foreign companies with strong ties to the U.S. can successfully seek capital from U.S. investors, which can enhance job creation in the U.S. as well as provide U.S. investors with broader global investment opportunities. In any case, it should be clear that the exemption would be available to Canadian or other foreign companies that have securities listed on a designated offshore securities exchange, such as the Toronto Stock

Exchange's Venture Exchange. We agree that the exemption should not be available to issuers that are SEC-reporting companies.

Offering Limitations and Secondary Sales

We support the elimination of the last sentence of Rule 251(b), which prohibits affiliate resales unless the issuer has had net income from continuing operations in at least one of its last two fiscal years. This limitation may not be appropriate for technology and healthcare companies that devote their resources to research and development.

We suggest that the SEC modify the proposed limitation on sales of securities by selling security holders in Tier 2 offerings. We understand that the SEC has carried forward to Tier 2 offerings the proportionate offering size limitations in current Regulation A; however, it is not clear that these percentages are based on any market-driven or investor protection related rationale. In order for Regulation A offerings to be viewed by issuers and institutional investors as a viable financing alternative, holders of securities of an issuer that completes a Regulation A offering must have liquidity opportunities. In addition, a venture capital or private equity investor will be more likely to invest in an emerging business if it views a Regulation A offering as an attractive liquidity opportunity. For companies in certain sectors, a traditional IPO (even considering the accommodations brought about by Title I of the JOBS Act) may not be a realistic, viable or reliable opportunity. Limiting the availability of the exemption for selling security holders is likely to limit the liquidity of the issuer's securities and as a result the potential appeal of Regulation A.

As noted above, it is not clear that there is any basis for the 30% limitation on sales by selling security holders. Generally, the market has been effective in evaluating the participation of selling security holders in IPOs. Institutional investors often require a certain size of offering to ensure robust aftermarket trading, and there is no compelling reason to regulate primary versus secondary sales. In fact, in many cases including secondary sales in an offering can enhance the success of the offering for all investors. In addition, in our experience a traditional IPO may only include primary shares, but after the completion of the IPO, if the securities have traded as expected, there is often demand for additional shares, which can be provided by selling stockholders. Again, this is generally beneficial to all investors by increasing public float and overall market liquidity after the offering. The alternative for secondary sales would be disorganized sales under Rule 144, which often can have a detrimental effect on trading by creating significant overhang. An organized secondary offering under Regulation A may be a far preferable result. In summary, historically market forces have been effective in determining whether and when secondary shares can be sold, so we believe the market should decide this question rather than having an arbitrary percentage limit. It is not apparent that there is an investor protection concern raised by sales by selling security holders. Nevertheless, if the SEC believes it is appropriate to include a percentage limit on sales by selling security holders, then this limit should be subject to periodic review.

State Preemption

We support the SEC's approach, defining "qualified purchaser" under the Securities Act of 1933, as amended (the "Securities Act") in a manner that effectively exempts Tier 2 offerings from state blue sky laws.

Tier 2 offerings will not be feasible if the offering must undergo state review. The state review process is unfamiliar to many and will add a degree of uncertainty. Although we understand that state securities regulators have devised a coordinated review process, the review process still would involve a merit review and the application of archaic Statements of Policy. A purchaser in a Tier 2 offering will have access through EDGAR to detailed disclosures concerning the issuer and the offering. By virtue of having ready access to this information, an offeree in a Tier 2 offering will be able to fend for itself and make an informed investment decision. The offering statement used in a Tier 2 offering will be reviewed by the SEC prior to its qualification. This will provide enhanced protection for offerees. We believe imposing the uncertainty of the state review process on Regulation A offerings will substantially chill the use of these offerings by many companies, who would be unwilling to undertake the market risk associated with potential delays. Such companies are then forced into the more expensive, but predictable process of a traditional registered IPO.

The proposed rules would incorporate an investment limit for Tier 2 offerings whereby the amount to be invested by any investor would be limited to the greater of 10% of the investor's net worth or annual income. It should be made clear in the final rule that this investment limit was intended to apply only to natural persons and not to institutions. Accredited investors should be excluded from the investment limit. There is no investment limit in a Rule 506 offering made to accredited investors, and there are no specific disclosure requirements for such an offering. We do not believe that a limit imposed on investments by accredited investors in a Tier 2 offering as to which there are robust disclosure requirements and required SEC review adds any meaningful investor protection. In fact, we believe the investor protections provided by the Regulation A process as proposed are greater than those provided in a Rule 506 offering.

In any event, if the final rule retains the investment limit, the inadvertent effect of the investment limit and the application of the holder of record threshold under the Securities Exchange Act of 1934 will be to encourage issuers to exclude non-accredited investors from their Regulation A offerings. This will impact adversely secondary market liquidity.

Disclosure Requirements

We generally support the ongoing reporting requirements proposed by the SEC. Investors and research analysts will require timely information from Regulation A issuers. We note below a few modest suggestions. An issuer contemplating a Regulation A offering must be willing to comply with the disclosure requirements. As proposed, the disclosures required in the offering statement are detailed and an issuer will need to engage sophisticated securities counsel. If Regulation A is understood to be a middle ground for smaller issuers or issuers in certain sectors between a Rule 506 offering and a traditional IPO, then it stands to reason that the disclosure requirements should be scaled. The SEC should consider referencing the Regulation S-K requirements as to each required disclosure item but then provide disclosure accommodations based on the issuer's size. The SEC also should provide a form for voluntary disclosures by Tier 2 issuers. A Tier 2 issuer with a broad market following may want to furnish to the SEC through EDGAR under the cover of a form (like Form 6-K used for foreign private issuers) its quarterly results.

The financial statement requirements for Tier 2 issuers should not make a Regulation A offering prohibitively expensive. The audit requirements should be limited to U.S. Generally Accepted Auditing Standards (U.S. G.A.A.S.) that would be applicable to audits of private companies. The final rule should make clear that financial statements also may be prepared in accordance with International Financial Reporting Standards (IFRS) as adopted by the International Accounting Standards Board.

Rule 144 and Rule 15c2-11

We agree that compliance with Tier 2 reporting obligations should be deemed to furnish adequate "current information" under Rule 144(c)(2), "reasonably current" financial information for purposes of Rule 144A(d)(4)(ii)(A), and "reasonably current" financial information under Rule 15c2-11(g). We believe that the ongoing reporting requirements for Tier 2 issuers will provide sufficient information for these purposes. The ability to rely on Rule 144 will be essential to secondary market liquidity for Tier 2 offerings. Also, having a broker initiate quotations pursuant to Rule 15c2-11 will be important for those issuers that do not voluntarily seek to list their securities on a national securities exchange. Rule 15c2-11(g) should be amended to provide that an issuer that is current in its Tier 2 reporting obligations under Regulation A would be deemed to have "reasonably current" financial information, even if its most current balance sheet is as of a date up to nine months old and it had not provided other updated information.

Regulation A IPO

For some companies, a Regulation A offering may be the equivalent of an IPO. Although we believe that many private companies will choose to conduct exempt offerings pursuant to Rule 506 and public offerings under Regulation A and not seek to subject themselves to Exchange Act reporting requirements, the Tier 2 offering framework should be flexible enough to facilitate the process of voluntarily listing on a national securities exchange. As we noted above, the JOBS Act Title I on-ramp has proven to be helpful to many emerging growth companies. Consider that in 2013, the median deal size of U.S. IPOs (170 offerings) was $136 million, and for the first two months of 2014 (35 offerings) was $86 million. For a variety of reasons, smaller IPOs are not as common as they once were, but for some companies a Tier 2 Regulation A offering combined with a listing on a national securities exchange may prove to be a right-sized equivalent.

Currently, the Proposing Release contemplates that a Tier 2 issuer that wants to apply to have its securities listed on a national securities exchange would have to prepare and file a Registration Statement on Form 10. This seems a cumbersome and expensive process. A Tier 2 issuer will have had its offering statement reviewed and qualified by the SEC. The Form 10 disclosure requirements are substantially similar to the requirements for the Regulation A offering statement. In addition, Regulation A contains provisions for ongoing disclosure, as noted above. We suggest that the SEC consider modifying this approach by creating a path for Tier 2 issuers to list on a national securities exchange without requiring Exchange Act registration. Similar to the IPO on-ramp provided by the JOBS Act for emerging growth companies, the SEC could provide that for some period of time, or until a size threshold is met, companies would be exempt from Exchange Act reporting. There could then be a transition to Exchange Act reporting once applicable thresholds are crossed.

If the SEC determines to continue to require Tier 2 issuers to register their securities under the Exchange Act to list on a national securities exchange, then the SEC should modify its proposed approach. The SEC could amend Form 8-A so that it could be used by an issuer that completed a Tier 2 offering and that chooses to list its securities on a national securities exchange. Another alternative for the SEC to consider would be to allow Tier 2 issuers to use Form 8-A for the listing and within a period of time under cover of an amended Form 8-A or on a Form 10 that would be deemed automatically effective provide any disclosure items that are required by that form and which were not included in the issuer's Regulation A offering statement.

Facilitating a listing would be consistent with the original intent to amend the offering threshold of current Regulation A. The higher offering threshold was determined by reference to the listing requirements of the securities exchanges. The underlying premise was that an issuer would be able to complete a Regulation A offering and voluntarily apply to list its securities on an exchange. A listing would, of course, lead to a more robust secondary market for the issuer's securities.

Communications and Research Safe Harbors

The SEC should consider formulating limited safe harbors for regular communications by Tier 2 issuers. A company that is contemplating a Tier 2 Regulation A offering should be able to communicate with its shareholders and with its business partners with legal certainty that these regularly released communications will not be treated as "testing the waters" communications or otherwise as offering related communications. The SEC also should implement measures that will facilitate research coverage for Tier 2 issuers. An investment bank will want to ensure that research reports published about a Tier 2 issuer will not constitute offering related communications and will want to understand the rules that will be applicable to such materials. In our experience, effective research coverage in the aftermarket is critical to a company successfully raising capital, in particular with fundamental long term institutional investors who expect robust secondary trading in the securities in which they invest. Congress made this clear in its treatment of research coverage regarding emerging growth companies in the JOBS Act.

Conclusion

We believe the Proposing Release goes a long way to making a meaningful difference in raising equity capital for the companies that we believe will create more than their share of good jobs in the United States and abroad. With the changes noted above, we believe Regulation A can be effective tool in achieving the legislative goals of the JOBS Act. Without them, we fear that

Regulation A will be relegated to a capital raising tool for companies unable to attract high quality institutional investors, both private equity and venture capital, as well as patient, fundamental long-term investors in public markets.

We appreciate the opportunity to submit these comments. We are available to discuss these matters with the SEC and its Staff and to respond to questions.

Sincerely,

Andrew F. Viles
Senior Managing Director, U.S. General Counsel