



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

July 10, 2018

Jonathan R. Tuttle, Esq.
Debevoise & Plimpton LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: In the Matter of Oaktree Capital Management, L.P.
Oaktree Capital Group, LLC – Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act

Dear Mr. Tuttle:

This is in response to your letter dated July 10, 2018, written on behalf of Oaktree Capital Group, LLC (“Oaktree”) and constituting an application for relief from Oaktree being considered an “ineligible issuer” under clause (1)(vi) of the definition of ineligible issuer in Rule 405 of the Securities Act of 1933 (“Securities Act”). Oaktree requests relief from being considered an ineligible issuer under Rule 405, due to the entry on July 10, 2018 of a Commission Order (“Order”) pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Oaktree Capital Management, L.P. (“OCM”). The Order requires that, among other things, OCM cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder.

Based on the facts and representations in your letter, and assuming OCM complies with the Order, we have determined that Oaktree has made a showing of good cause under clause (2) of the definition of ineligible issuer in Rule 405 and that Oaktree will not be considered an ineligible issuer by reason of the entry of the Order. Accordingly, the relief described above from Oaktree being an ineligible issuer under Rule 405 of the Securities Act is hereby granted. Any different facts from those represented or failure to comply with the terms of the Order would require us to revisit our determination that good cause has been shown and could constitute grounds to revoke or further condition the waiver. The Commission reserves the right, in its sole discretion, to revoke or further condition the waiver under those circumstances.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Sincerely,

/s/

Tim Henseler
Chief, Office of Enforcement Liaison
Division of Corporation Finance

July 10, 2018

VIA FIRST CLASS MAIL AND E-MAIL

Tim Henseler, Esq.
Chief, Office of Enforcement Liaison
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-7553

In the Matter of Oaktree Capital Management, L.P.

Dear Mr. Henseler:

We submit this letter on behalf of our client, Oaktree Capital Group, LLC (the “Parent Company”), a reporting company registered under Section 12 of the Securities Exchange Act of 1934 (the “Exchange Act”), in connection with the anticipated settlement of an administrative proceeding (the “Proceeding”) brought against the Parent Company’s indirect subsidiary Oaktree Capital Management, L.P. (the “Settling Firm”) (together the “Oaktree Parties”), an investment adviser registered under the Investment Advisers Act of 1940 (the “Advisers Act”), by the United States Securities and Exchange Commission (the “Commission”). Based on an agreement with the Staff of the Enforcement Division, the Settling Firm is a respondent in the above-captioned civil administrative proceeding concerning compliance with Rule 206(4)-5 under the Advisers Act.

The Parent Company seeks to maintain its ability to qualify as a “well-known seasoned issuer” pursuant to Rule 405 adopted by the Commission under the Securities Act of 1933 (the “Securities Act”) with respect to offerings that it would seek to undertake from time to time. We hereby respectfully request a determination by the Commission or the Division of Corporation Finance (the “Division”), acting pursuant to authority duly delegated by the Commission, that the Parent Company should not be considered an “ineligible issuer” as a result of the Order, which is described below. Consistent with the framework outlined in the Division’s Revised Statement on Well-Known Seasoned Issuer Waivers (“Revised Statement”),¹ the Parent Company respectfully submits that relief from the ineligible issuer provisions is appropriate in the

¹ Division of Corporation Finance, Revised Statement on Well-Known Seasoned Issuer Waivers (April 24, 2014), available at <http://www.sec.gov/divisions/corpfin/guidance/wksi-waivers-interp-031214.htm> (the “Division’s Statement”).

circumstances of this case for the reasons set forth below. The Parent Company requests that this determination be made effective upon the entry of the Order.

BACKGROUND

The Settling Firm and the Staff of the Enforcement Division have reached an agreement to resolve the above-captioned matter. Under the terms of the resolution, the Commission is initiating a settled administrative proceeding under Section 203(e) and 203(k) of the Advisers Act by filing an order instituting administrative and cease-and-desist proceedings (the “Order”) finding that the Settling Firm failed to comply with Rule 206(4)-5 under the Advisers Act. The Order will also find that, in three instances, the Settling Firm provided advisory services for compensation for two years to a governmental investor after a “covered associate” of the Settling Firm made a campaign contribution to a candidate for a governmental position that had the ability to influence the selection of investment advisers for that governmental investor.

Two of the contributions were made in 2014. One of those contributions, in the amount of \$1,000, was returned to the covered associate who made the contribution. The other was a \$500 contribution. The third contribution was a \$1,400 contribution made in 2016.² The covered associate subsequently requested that the campaign return the contribution. These contributions were made to public officials or candidates for public office in Rhode Island, California, and Los Angeles. The holders of these offices have the ability to influence the selection of investment advisers for the Employees’ Retirement System of Rhode Island, through the Rhode Island Investment Commission; the California State Teachers’ Retirement System; the Water and Power Employees’ Retirement Plan of the City of Los Angeles; the Los Angeles City Employees’ Retirement System; and the Los Angeles Fire and Police Pension System. All of those entities have invested in funds advised by the Settling Firm.

Without admitting or denying the matters set forth in the Order, except as to the jurisdiction of the Commission, the Settling Firm will consent to the entry of the Order, finding that it violated Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder, and will agree to a censure, to cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder, and to pay a civil monetary penalty of \$100,000.

² Rule 206(4)-5 has a *de minimis* exception, which permits covered associates to make aggregate contributions without triggering the two-year time out of up to \$350, per election, to an elected official or candidate for whom the covered associate is entitled to vote, and up to \$150, per election, to an elected official or candidate for whom the covered associate is not entitled to vote. *See* Rule 206(4)-5(b)(1).

DISCUSSION

Effective on December 1, 2005, the Commission reformed and revised the registration, communications, and offering procedures under the Securities Act.³ As part of these reforms, the Commission created a category of issuer defined under Rule 405 as a well-known seasoned issuer (“WKSI”). A WKSI is eligible under the rules, among other things, to register securities for offer and sale under an “automatic shelf registration statement,” as so defined. A WKSI is also eligible for the benefits of a streamlined registration process including the use of free-writing prospectuses in registered offerings pursuant to Rules 164 and 433 under the Securities Act. These benefits, however, are unavailable to issuers defined as “ineligible issuers”⁴ under Rule 405.

An issuer is an “ineligible issuer,” as defined under Rule 405, if, among other things, “[w]ithin the past three years, ... the issuer or any entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that: (A) Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws; (B) Requires that the person cease and desist from violating the anti-fraud provisions of the federal securities laws; or (C) Determines that the person violated the anti-fraud provisions of the federal securities laws,” Rule 405(1)(vi). Notwithstanding the foregoing, paragraph (2) of the definition provides that an issuer “shall not be an ineligible issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer.” The Commission has delegated authority to the Division of Corporation Finance to make such a determination pursuant to 17 CFR § 200.30-1(a)(10). The Order would render the Parent Company an ineligible issuer for a period of three years after the Order is entered, precluding the Parent Company from qualifying as a WKSI and having the benefits of automatic shelf registration and other provisions of the Securities Offering Reform for three years.

As set forth above, Rule 405 authorizes the Commission to determine for good cause that an issuer shall not be an ineligible issuer, notwithstanding that the issuer or a subsidiary of the issuer becomes subject to an otherwise disqualifying order. The Parent Company believes that there is good cause for the Commission to make such a determination based on the Division’s Statement on granting such waivers, on the following grounds:

³ Securities Offering Reform, Securities Act Release No. 8591, Exchange Act Release No. 52,056, Investment Company Act Release No. 26,993, 70 Fed. Reg. 44,722, 44,790 (Aug. 3, 2005).

⁴ This request for relief is not intended to be limited solely for the purpose of continuing to qualify as a WKSI, but for all purposes of the definition of “ineligible issuer” under Rule 405.

1. The Persons Responsible for, and the Duration of, the Alleged Conduct.

No employee of the Oaktree Parties was named as a respondent or charged with any violation of the securities laws in connection with the conduct described in the Order. Furthermore, the Order will find that the provision of advisory services for compensation in violation of Rule 206(4)-5 of the Advisers Act resulted from conduct that constituted a violation of the Settling Party's compliance policies.

The violations reflected in the Order are non-scienter based violations of the Advisers Act that took place in 2014 and 2016. The Order will not include any findings that there were intentional or reckless violations of the Advisers Act or the Exchange Act, which governs the Parent Company issuer, involving disclosure for which the Parent Company or any subsidiary was responsible. Similarly, the Order will not involve a criminal conviction and neither the Parent Company nor the Settling Firm has ever been the named party in a criminal matter involving disclosure for which the Parent Company or any subsidiary was responsible.⁵

The violations and the underlying conduct described in the Order do not pertain to activities undertaken by the Oaktree Parties, their affiliates, or their subsidiaries in connection with the Parent Company's role as an issuer of securities (or any disclosure related thereto) or any of its filings with the Commission. Most importantly, neither the provision of advisory services for compensation nor the conduct related to the campaign contributions described in the Order involved material misstatements or omissions in the Parent Company's public disclosures or materially impacted the Parent Company's financial statements. Likewise, the Order does not find any weaknesses or violations associated with the robust disclosure and other internal controls maintained by the Parent Company in connection with its preparation and review of its financial statements and Commission filings. Finally, the Order will not include any findings that employees of the Parent Company responsible for preparation of the Parent Company's financial statements and filings with the Commission knew of or were involved in the conduct or ignored any red flags with respect to the conduct. Rather, the conduct described in the Order involved three employees of the Settling Firm who made campaign contributions in violation of the Settling Party's compliance policies and the Settling Firm's continued provision of advisory services for compensation following those contributions. These employees were not and are not responsible for preparation of the Parent Company's financial statements and Commission filings.

Accordingly, three isolated occurrences that are in no way related to public disclosures should not cast doubt on the ability of the Parent Company to produce reliable

⁵ The Division Statement, *supra* note 1, notes that an issuer's burden to show good cause that a waiver is justified would be significantly greater in cases where there is a criminal conviction or scienter based violation involving disclosure for which the issuer or any of its subsidiaries was responsible.

disclosures to investors going forward and result in the Parent Company being disqualified from the safe harbors that may apply to it, or any of its current and future affiliates.

2. Remedial Steps Taken.

The Settling Firm has fully cooperated with the Securities and Exchange Commission's inquiry into this matter and responded voluntarily to all document requests by the Staff. In addition, the Settling Firm has been proactive in undertaking efforts to strengthen its existing compliance program and training with respect to political and has taken actions against the three individuals who made the relevant campaign contributions because each violated the Settling Firm's compliance policies, namely issued penalties and additional in-person training. Most significantly, in October 2017, the Settling Firm amended its Political Activity Policy to prohibit staff from engaging in political activity, including making campaign contributions, associated with state and local office holders and candidates, announced this change to staff, and updated its policies, reference guides and tools, and procedures accordingly.

3. Impact on the Parent Company if the Waiver Request is Denied.

As an ineligible issuer, the Parent Company would, among other things, lose the ability to:

- file automatic shelf registration statements to register an indeterminate amount of securities;
- offer additional securities of the classes covered by a registration statement without filing a new registration statement;
- allow the Parent Company to include certain information omitted from the registration statement at the time of effectiveness through the filing of prospectus supplements or incorporated Exchange Act reports;
- take advantage of the "pay as you go" filing fee payment process; and
- qualify a new indenture under the Trust Indenture Act of 1939, if needed, without filing or having the Commission declare effective a new registration statement.

The Parent Company maintains an automatic shelf registration statement in order to facilitate timely issuance of securities responsive to market conditions. The automatic shelf registration process provides the Parent Company with a critical means of access to the capital markets in a timely and efficient manner. Since 2013, the Parent Company has made five offerings of common or preferred units pursuant to its shelf registration

statement, most recently earlier this month, for total net proceeds of more than \$1.2 billion. The Parent Company, like other institutions, faces changing regulatory and market conditions and uncertainties. Without the ability to utilize an automatic shelf registration statement, the Parent Company may be unable to react quickly to such changing requirements and conditions, which could lead to investor harm. Furthermore, if the Parent Company was unable to avail itself of the automatic shelf registration and the other benefits available to a WKSI, it would put the Parent Company at a disadvantage compared to other issuers, particularly other issuers within Parent Company's industry.

The Parent Company respectfully submits that disqualification from being eligible for WKSI status would be an unduly severe consequence in light of the conduct described in the Order. Denial of this request would hinder necessary access to the capital markets by significantly increasing the time, labor, and cost of such access, a result that the Parent Company believes would be inequitable to its unitholders and its clients. Inasmuch as the conduct described in the Order does not relate in any manner to capital raising by the Parent Company, the revocation of WKSI status is a penalty without causal nexus to the instances at issue.

CONCLUSION

In light of the foregoing, subjecting the Parent Company to ineligible issuer status is not necessary under the circumstances, either in the public interest or for the protection of investors, and good cause exists for the grant of the requested relief. Accordingly, we respectfully request that the Commission, or the Division of Corporation Finance, acting pursuant to authority duly delegated by the Commission and pursuant to paragraph (2) of the definition of "ineligible issuer" in Rule 405, determine that under the circumstances the Parent Company, and any of its current and future affiliates, will not be considered an "ineligible issuer" within the meaning of Rule 405 as a result of the Order. We further request that this determination be made effective upon entry of the Order and, with respect to the potential effect of the Order, be applicable for all purposes of the definition of "ineligible issuer." If you have any questions regarding this request, please contact me at 202-383-8124 or jrtuttle@debevoise.com.

Sincerely yours,



Jonathan R. Tuttle