
From: Stephen Graham
Sent: Friday, September 23, 2011 3:24 PM
To: A. Heath Abshire; Brittany Price; Catherine Mott; Charlie Sundling; Christine Jacobs; Cynthia Mendoza; Dan Chace; Dan Squiller; David Bochnowski; Erikka Robinson; Laporte, Gerald; Gregory Yadley; Jay Scott; Jennifer Zepralka; Losert, Johanna; John Borer; Kara Jenny; Karyn Smith; Kathleen McGowan; Leroy Dennis; Milton Chang; Paul Maeder; Richard Leza; Sean Greene; Shannon Greene; Stephen Graham; Steve LeBlanc; Timothy Walsh; Hall, Venita
Subject: SEC Advisory Committee - Greetings from the Co-Chairs
Attachments: SKMBT_C36011092312220.pdf; SEC-AC Initial Issues Outline.doc

Dear Committee Members –

Please review the attached.

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September 23, 2011

Re: SEC Advisory Committee on Small and Emerging Companies

As co-chairs, we would like to thank you for agreeing to serve on the SEC's Advisory Committee on Small and Emerging Companies. We extend our welcome and look forward to collaborating with you in the coming months as we address the work of the Committee.

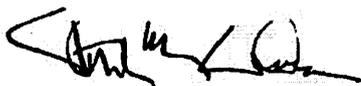
We have scheduled our first meeting for October 31 at the SEC's offices in Washington, D.C. We hope that you will be able to attend in person.

The focus of the Committee, of course, will be on regulatory programs that affect small and emerging companies, with a particular emphasis on capital formation. To help us begin to put together a discussion outline and materials for our initial meeting, please send us your ideas regarding the issues facing these companies and possible solutions. To serve as a catalyst, we have prepared the attached document outlining some of our own initial thoughts. We, of course, will be working with the SEC staff to set the Committee's agenda. In this regard, Chairman Schapiro has already noted a number of specific issues on which she would like the Committee's feedback and to which we will be giving priority (see "Chairman's List" on the attached).

Thanks again for serving. We look forward to seeing you soon.

Best regards,

Stephen M. Graham



M. Christine Jacobs



Securities and Exchange Commission

Advisory Committee on Small and Emerging Companies

September 23, 2011

1. General

- a. What SEC regulations hinder growth? What regulations adversely affect capital formation and are arguably of limited use in preventing fraud and protecting investors?
- b. Cost/benefit analysis re regulations designed to protect investors
- c. More vigorous enforcement of antifraud provisions
- d. Understanding small business pain

2. Private companies

- a. Rule 504 – Raise the \$1M limit. Many private companies and small businesses have suggested that the \$1M limit is restricting growth. A lot has changed since the early 1990s.
 - i. Raise the limit to \$10 or \$20M
 - ii. No cap at all?
- b. Regulation A
 - i. Is this a viable alternative? Can it be? Recast as truly a simplified IPO with a clear path to eventually becoming a '34 Act reporting company
 - ii. \$5M cap too low? Raise to \$20M?
 - iii. Where does the bill passed by the House Financial Services Committee stand, raising the limit to \$50M and pre-empting state disclosure laws?
 - iv. 500 shareholder limit too restrictive?
 - v. Some propose allowing private companies who make a Reg A offering to voluntarily file all periodic reports that would have been required for the 12 months after the offering. In turn, the company should be allowed to submit a simplified filing of Form 8-A granting it full reporting status while also qualifying it for a larger trading market.
- c. Regulation D
 - i. Lift/modify ban on advertising and general solicitation of private offerings.

- ii. Advertising/solicitation requirements harm capital formation because small companies cannot reach potential investors.
 - iii. Can we make the capital raising process easier and still protect investors?
 - d. Rule 506
 - i. Adverse effect of excluding primary residence from accredited investor net worth calculation?
 - ii. Allow inclusion of equity above a certain threshold
 - iii. Adopt an expertise and knowledge standard or risk assessment formula instead of current wealth-based standards.
 - e. Need more opportunities for liquidity for private company shareholders
 - f. Unavailability of the small IPO (30-50M?)
- 3. Public companies
 - a. Costs related to reporting and disclosure
 - i. Executive compensation
 - ii. Golden parachutes – only requirement should be disclosure
 - iii. Risk factors
 - b. Smaller reporting companies
 - i. Scaled back disclosure is helpful
 - ii. Increase public float requirement from \$75M
 - iii. Tie to revenues or profitability instead of just public float
 - iv. Refine reporting requirements, not just small and large
 - c. Three to five year exemption period for newly traded companies allowing for a transition to a full reporting schedule, regardless of public float or market cap
 - d. Sox 404
 - i. Is this still a real problem or a perception?
 - e. XBRL
 - f. IPOs

- i. Ways to reduce the cost
- ii. Explore ways to change the IPO process for smaller companies (market cap of less than \$250M?)
- iii. Decrease S-1 requirements

4. The Chairman's List

- a. 500-shareholder threshold for SEC reporting obligations
- b. Restrictions on general solicitation in unregistered offerings
- c. Restrictions on communications in public offerings
- d. New capital raising strategies that are designed to make it easier for smaller companies to raise capital
 - i. Crowdfunding
 - ii. Regulation A restructuring
- e. Further scaling of financial reporting and disclosure rules for smaller companies