

Selected Integration Issues in Small Business Financing

- Company A completes a 4(a)(2) or 506(b) offering (or other exempt offering that does not permit general solicitation) and now wants to do a 506(c) offering of a similar security.
 - May it do so?
 - What is the relevance of the five-factor test under 502(a)?
 - Does Rule 152 apply?
 - Is the 506(c) transition guidance helpful?
 - Are the firewall safe-harbors for separate exempt offerings relevant?

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- Company B undertakes a 506(c) offering (which may be completed, abandoned or ongoing) and now wants to do a 4(a)(2) or 506(b) offering of a similar security.
 - May it do so?
 - Is the 2007 Regulation D Proposing Release guidance applicable?
 - Does it matter if the prior offering is completed, abandoned or ongoing?

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- Company C undertakes a 506(c) offering and wants to convert to a registered offering.
 - May it do so?
 - Does it matter if the offerings are sequential or side-by-side?
 - What is the relationship to permitted test-the-waters activities?
 - May offerees in the 506(c) offering purchase in the registered offering?