

The JOBS Act: New Opportunities for Capital-Raising

Greenbaum, Rowe, Smith & Davis LLP Client Alert
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On April 5, 2012, President Obama signed the Jumpstart Our Business Start-Ups Act, also known as the JOBS Act. Among other things, the law is designed to relax certain regulations governing securities offerings in an effort to facilitate the capitalization of start-up and other smaller companies. This Alert focuses on two significant changes, the so-called “crowdfunding” provisions and advertising of certain Rule 506 offerings.

Crowdfunding

Crowdfunding applies to an offering in which a company can solicit a large number of small investors through the internet, subject to various disclosure requirements. The JOBS Act will permit these offerings for up to \$1,000,000 over a twelve-month period.

- Investors with an annual income or net worth of less than \$100,000 will be limited to a maximum investment equal to the greater of \$2,000 or 5% of his or her annual income or net worth.
- If the investor’s annual income or net worth is greater than \$100,000, that investor will be limited to an investment equal to 10% of his or her annual income or net worth, not to exceed \$100,000.

Offerings must be made through a compliant broker or a funding portal. Within 270 days of the adoption of the JOBS Act, the Securities and Exchange Commission (SEC) must adopt regulations that will govern crowdfunding offerings.

General Solicitation of Certain Regulation D Offerings

Since its adoption by the SEC in 1982, Regulation D has prohibited the general advertising or solicitation of private offerings. The JOBS Act creates an exception in the case of Rule 506 offerings and will permit general solicitations, subject to the proviso that only accredited investors purchase securities in the offering.

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For an individual to qualify as an accredited investor, he or she must have a net worth of \$1,000,000, excluding the equity in the investor's principal residence, or annual income of \$200,000 (or \$300,000 if including the investor's spouse's income) in the past several years, with the reasonable expectation of meeting that minimum in the current year.

If you have any questions related to the JOBS Act or the broader subject of securities offerings, please contact the author of this Alert, W. Raymond Felton at rfelton@greenbaumlaw.com or 732-476-2670.