

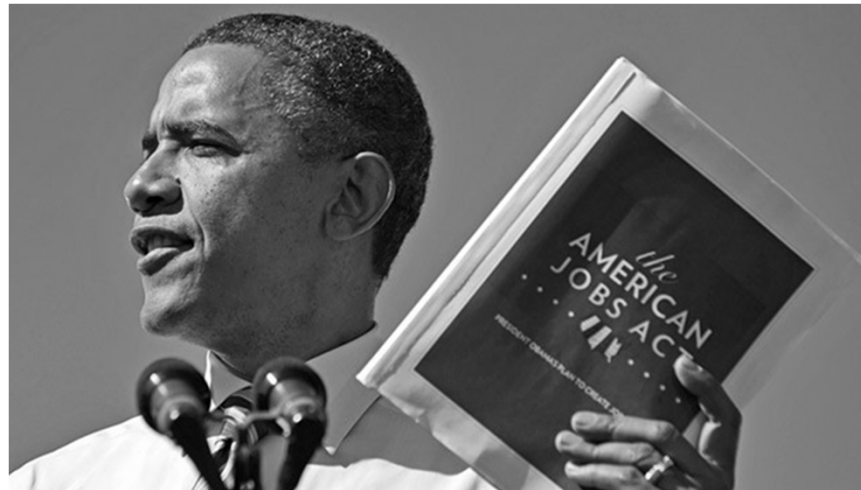
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# JOBs Act Update

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# Overview of JOBS Act

- Title I – IPO on-ramp provisions
- Title II – Relief from ban on general solicitation
- Title III – Crowdfunding
- Title IV – New “mini-public offering” exemption
- Titles V and VI - Relaxation of mandatory Exchange Act registration standard for record holders



# New Regulation D, Rule 506(c)

- **Effective September 23, 2013**

- **Permits general solicitation provided:**

- All purchasers are accredited investors
- The issuer takes “reasonable steps” to verify that the purchasers are all accredited investors.



# Reasonable steps

■ Relying on representation/  
check box will not work



■ **Objective determination**

- in the context of the particular facts and circumstances of each purchaser and transaction.

■ **Factors to be considered :**

- nature of the purchaser
- type of accredited investor that the purchaser claims to be
- amount and type of information that the issuer has about the purchaser
- the nature of the offering
  - the manner in which the purchaser was solicited
  - the terms of the offering, such as a minimum investment amount

# Safe harbor verification methods

## ■ Income test

- tax returns for the two most recent years, **plus** a written representation for the current year.

## ■ Net worth test, one or more of the following types of documentation

- **Assets:** bank statements, brokerage statements, other statements, CDs, tax assessments, and independent appraisal reports
- **Liabilities:** credit report; **plus:** written representation that all liabilities disclosed
- Dated within the prior 3 months

## ■ Alternative to either of the above

- Written confirmation from
  - a registered broker-dealer
  - SEC-registered investment adviser
  - licensed attorney
  - certified public accountant
- that it has taken reasonable steps within the prior 3 months to verify the purchaser's accredited status



# No bad actors



## ■ Provisions of Dodd-Frank Act

## ■ Persons with various regulatory violations cannot participate in any Rule 506 offering

- Directors and certain officers, general partners, and managing members of the issuer
- 20% beneficial owners of the issuer
- Promoters
- Investment managers and principals of pooled investment funds
- People compensated for soliciting investors (and their affiliated persons)

## ■ Further due diligence needed to identify bad actors

# Proposed rules – New Form D req'ts

- Filed 15 days in advance of general solicitation
- Expanded information about
  - the issuer
  - the offered securities
  - types of investors in the offering
  - use of proceeds
  - types of general solicitation used
  - methods used to verify accredited investor status
- Update requirement, including report on completion

You may not send a completed printout of this form to the SEC to satisfy a filing obligation. You can only satisfy an SEC filing obligation by submitting the information required by this form to the SEC in electronic format online at <https://www.onlineforms.edgarfiling.sec.gov>.

**FORM D** U.S. Securities and Exchange Commission  
Washington, DC 20549

Notice of Exempt Offering of Securities (See instructions beginning on page 5)  
Intentional misstatements or omissions of fact constitute federal criminal violations. See 18 U.S.C. 1001.

OMB APPROVAL  
OMB Number: 3235-0076  
Expires: August 31, 2015  
Estimated average burden hours per response: 4.00

**Item 1. Issuer's Identity**

Name of Issuer: \_\_\_\_\_

Jurisdiction of Incorporation/Organization: \_\_\_\_\_

Year of Incorporation/Organization (Select one)  
 Over Five Years Ago  Within Last Five Years (specify year) \_\_\_\_\_  Yet to Be Formed

Previous Name(s)  None \_\_\_\_\_

Entity Type (Select one)  
 Corporation  
 Limited Partnership  
 Limited Liability Company  
 General Partnership  
 Business Trust  
 Other (Specify) \_\_\_\_\_

*If more than one issuer is filing this notice, check this box  and identify additional issuer(s) by attaching Items 1 and 2 Continuation Page(s).*

**Item 2. Principal Place of Business and Contact Information**

# Limited relief from broker-dealer rules

## ■ Title II exempts from BD registration req't:

- Operating a platform or mechanism to offer, sell and purchase securities sold under Rule 506
- For providing ancillary due diligence services and standardized transaction documents.

## ■ Exception applies only if

- No compensation in connection with the purchase or sale of securities,
- No possession of customer funds
- No FINRA “bad boy” disqualification

## ■ Provides no relief to “finders”



# Other “crowdfunding” rules not proposed

- Section 4(6) “crowdfunding” exemption (Title III)
- Regulation A+ (Title IV)

