

New Law Allows for Regulation A+ Offerings by Reporting Companies

by Anthony Epps

On May 24, the Economic Growth, Regulatory Relief, and Consumer Protection Act (the “Act”) was signed into law. One of the purposes of the Act is to encourage capital formation by directing the Securities and Exchange Commission (“SEC”) to amend “Regulation A+” to allow SEC reporting issuers to use Regulation A+ when raising capital.

A Regulation A+ offering is an alternative to a traditional IPO that provides issuers with two tiers of offerings:

- Tier 1 consists of exempt offerings of up to \$20 million in a 12-month period, including not more than \$6 million in offers by selling securityholders that are affiliates of the issuer; and
- Tier 2 consists of exempt offerings of up to \$50 million in a 12-month period, including not more than \$15 million in offers by selling securityholders that are affiliates of the issuer.

Both tiers provide advantages compared to a traditional IPO, as in a Regulation A+ offering, companies may file a simplified offering statement rather than a standard full-length registration statement. In addition, in a Regulation A+ offering, companies may solicit shares directly from the general public and not just from accredited investors.

Previously, Regulation A+ was limited to private companies and unavailable to companies subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. The Act removes that restriction and allows public reporting companies to conduct a Regulation A+ offering. The Act also directs the SEC to deem that the periodic reports required under Section 13 for reporting companies satisfy the periodic and current reporting requirements of a Tier 2 offering under Regulation A+.

Smaller public companies that are not listed on either the Nasdaq or the NYSE, and are therefore subject to state securities regulation in respect of their capital raising activities, may find Regulation A+ especially attractive, because an offering under Tier 2 of

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Regulation A+ is preempted from state securities regulation other than the potential requirement to make a notice filing, consent to service of process, and pay a state filing fee.

The full text of the Act is available [here](#).