

Regulation A+ May Become Available To SEC Reporting Issuers

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by Christopher L. Doerksen

On September 5, 2017, the U.S. House of Representatives overwhelmingly passed (by a vote of 403-3) the Improving Access to Capital Act. The Act directs the SEC to amend Regulation A+ to allow SEC reporting issuers to use Regulation A+ when raising capital, and to deem their SEC periodic reports to satisfy the periodic and current reporting requirements of Tier 2 of Regulation A+. The Act is now being considered by the Senate. If the Act becomes law, it will increase the alternatives available to SEC reporting companies in seeking additional capital.

Smaller public companies that are not listed on 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 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 filing fee.

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