
SEC Issues Guidance for Regulation D “Bad Actor” Disqualification

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Earlier this year, Rule 506, a part of Regulation D under the Securities Act, was amended by adding a paragraph that prohibits issuers and others from participating in Rule 506 offerings if, among other things, they have been convicted of, or are subject to court or administrative sanctions for, securities fraud or other violations of specified laws. The new provision became effective on September 23, 2013. The new provision applies to the bad acts of the issuer and any of its predecessors and affiliated issuers, the issuer’s participating directors and officers, beneficial owners of at least 20% of the issuer’s outstanding voting equity, significant shareholders, promoters, investment managers, and compensated solicitors involved in the offering (each a “covered person”). Prior to the amendment, Rule 506 did not impose any bad actor disqualification requirements.

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