



H.S.B.C., LLC Reveals How SEC Regulation D Rule 506(c) Will Truly Affect Start-up Companies

HOUSTON, TX, July 11, 2013 /EINPresswire.com/ -- The financial community celebrated yesterday's SEC reversal of an 80 year old ban on [general solicitation](#)/advertising on private offerings. However, in the SEC's 116 page final ruling, there are certain elements that the news headlines have yet to fully cover.

The new SEC rule change eliminates the prohibition against general solicitation and general advertising in Rule 506 and Rule 144A offerings only.

Rule 506 of Regulation D is considered a "safe harbor" which allows for exemption for transactions by an issuer not involving a public offering. Rule 506 allows for a start-up or existing entity seeking an unlimited amount of funding to raise funds via an unlimited number of "accredited investors" and up to 35 other purchases.

Under the new rule change, Rule 506 will remain as Rule [506\(b\)](#) and Rule [506\(c\)](#) will be introduced. Rule 506(c) allows for general solicitation and advertising, and requires all investors to be accredited. It further shifts the onus on accreditation verification from the investor to the issuer.

In 2012 the SEC has estimated that \$173 Billion was raised via Regulation D Rule 506 offerings and \$636 Billion via Rule 144A offerings.

In adopting new Rule 506(c), the SEC has limited the sale of securities to accredited investors only, and increased verification standards.

Previously, Rule 506, had allowed for an unlimited number of accredited investors, and up to 35 non-accredited investing parties. Now, in order for an issuer to take part in general solicitation/advertising, the only investors who qualify for Rule 506(c) offerings are accredited investors. This clearly does not meet the JOBS Act mandate of allowing for more public investment (accredited and non-accredited investors) in start-ups.

The pool of potential investor parties, under Rule 506(c), will now be limited to approximately 8 million individuals who are accredited investors in the United States. This is less than 2.5% of the general population. While the SEC will surely be implementing further rules to allow for non-

accredited investors, based on the speed in which they adopt new rules, we can wait years for this to take place. In contrast, Rule 506(b) still allows for up to 35 non-accredited investors to partake in the offering.

In adopting new Rule 506(c), the SEC has raised accreditation verification standards.

As Rule 506(c) is limited to accredited investors only; the SEC will place greater emphasis on issuers to prove that they have taken "reasonable steps" to prove that investors are accredited. In response to requests, the SEC has released a non-exclusive list of steps that can be taken to prove that investors are accredited.

These include:

- Reviewing copies of any IRS form that reports the income of the purchaser and obtaining a written representation that the purchaser will likely continue to earn the necessary income in the current year.

- Receiving a written confirmation from a registered broker-dealer, SEC-registered investment adviser, licensed attorney, or certified public accountant that such entity or person has taken reasonable steps to verify the purchaser's accredited status.

Those who wish to partake in 506(c) offerings and generally solicit and advertise their offering must request personal and private financial information from investors to prove that they are accredited. Requesting such personal financial information has the effect of scaring off many potential investors. Whereas with Rule 506(b) no such back-up material is required, as the investor self-certifies that they are indeed an accredited investor. Thus the onus of burden, fault, and penalty shifts from the investor to the issuer with 506(c) offerings.

The "Big Winner" in the SEC's ban on general solicitation and general advertising will be Wall Street and not Main Street. Get ready for hedge fund TV commercials, radio spots, print advertising, and Internet ads/emails! The big winner in the lifting of general solicitation and advertising would be private equity funds and hedge funds.

Only 3% or 256,000 of the 8 million accredited investors in the US are active angels, and those angels invest \$21 billion each year. General solicitation will enable hedge funds and those with deep pockets to broadcast investment opportunities far and wide, giving the full 8 million possible investors a chance to find out about funds that interest them.

While John Q. Public's start-up fund raising request may reach a few more potential accredited investors through public solicitation/advertising under Rule 506(c), the fact remains that their budget cannot match those of hedge funds, and TV and radio ads would be out of the question for most. The benefits of public solicitation and advertising where only a fraction of investors can participate therefore does not match the benefit of 506(b) where any sophisticated investor

can participate.

Roger Trivelli, a partner with Head Start Business Consulting, sums it up " There are clearly benefits and pitfalls to those start-ups who wish to use 506(c). Based on comparing 506(b) and 506(c) side by side, the more advantageous option for start-ups with limited advertising budgets would be Rule 506(b) and to utilize broker/dealers or firms/agents working on a commission/finder's fee basis."

"The one similarity that remains, whether 506(b) or 506(c), a well written and properly structured Regulation D 506 Private Placement will be vital. This will assist in not only securing an investor, but in fully meeting all SEC requirements, both new and forthcoming."

Head Start Business Consulting, LLC was launched in 2005 in Houston, TX. The company's divisions include: www.headstartbusiness.com www.businessfundingtoday.com and www.fundingdocuments.com Since 2005 the company has assisted clients with documentation and fund raising in excess of \$2 Billion dollars.

Press release courtesy of Online PR Media: <http://bit.ly/18bvom1>

Paul Harris
H.S.B.C., LLC.
800-261-0341
[email us here](#)

This press release can be viewed online at: <https://www.einpresswire.com/article/158256638>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2023 Newsmatics Inc. All Right Reserved.