

**General Rules and Regulations
promulgated
under the
Securities Act of 1933**

Regulation D -- Preliminary Notes

1. The following rules relate to transactions exempted from the registration requirements of section 5 of the Securities Act of 1933 (the Act). Such transactions are not exempt from the anti fraud, civil liability, or other provisions of the federal securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under this regulation, in light of the circumstances under which it is furnished, not misleading.
2. Nothing in these rules obviates the need to comply with any applicable state law relating to the offer and sale of securities. Regulation D is intended to be a basic element in a uniform system of Federal-State limited offering exemptions consistent with the provisions of sections 18 and 19(c) of the Act. In those states that have adopted Regulation D, or any version of Regulation D, special attention should be directed to the applicable state laws and regulations, including those relating to registration of person who receive remuneration in connection with the offer and sale of securities, to disqualification of issuers and other persons associated with offerings based on state administrative orders or judgments, and to requirements for filings of notices of sales.
3. Attempted compliance with any rule in Regulation D does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption. For instance, an issuer's failure to satisfy all the terms and conditions of Rule 506 shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available.
4. These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resales of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.
5. These rules may be used for business combinations that involve sales by virtue of rule 145(a) or otherwise.
6. In view of the objectives of these rules and the policies underlying the Act, regulation D is not available to any issuer for any transaction or chain of transactions that, although in technical compliance with these rules, is part of a plan or scheme to evade the registration provisions of the Act. In such cases, registration under the Act is required.
7. Securities offered and sold outside the United States in accordance with Regulation S need not be registered under the Act. See Release No. 33-6863. Regulation S may be relied upon for such offers and sales even if coincident offers and sales are made in accordance with Regulation D inside the United States. Thus, for example, persons who are offered and sold securities in accordance with Regulation S would not be counted in the calculation of the number of purchasers under Regulation D. Similarly, proceeds from such sales would not be included in the aggregate offering price. The provisions of this note, however, do not apply if the issuer elects to rely solely on Regulation D for offers or sales to persons made outside the United States.

Rule 501 -- Definitions and Terms Used in Regulation D

As used in Regulation D, the following terms shall have the meaning indicated:

- a. *Accredited investor.* *Accredited investor* shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:
1. Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;
 2. Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
 3. Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
 4. Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
 5. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;
 6. Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
 7. Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) and
 8. Any entity in which all of the equity owners are accredited investors.
- b. *Affiliate.* An *affiliate* of, or person *affiliated* with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.
- c. *Aggregate offering price.* *Aggregate offering price* shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration to be received by an issuer for issuance of its securities. Where securities are being offered for both cash and non-cash

consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. Any portion of the aggregate offering price attributable to cash received in a foreign currency shall be translated into United States currency at the currency exchange rate in effect at a reasonable time prior to or on the date of the sale of the securities. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Such valuations of non-cash consideration must be reasonable at the time made.

- d. *Business combination.* *Business combination* shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Act and any transaction involving the acquisition by one issuer, in exchange for all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition).
- e. *Calculation of number of purchasers.* For purposes of calculating the number of purchasers under Rule 505(b) and Rule 506(b) only, the following shall apply:
1. The following purchasers shall be excluded:
 - i. Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;
 - ii. Any trust or estate in which a purchaser and any of the persons related to him as specified in paragraph (e)(1)(i) or (e)(1)(iii) of this section collectively have more than 50 percent of the beneficial interest (excluding contingent interests);
 - iii. Any corporation or other organization of which a purchaser and any of the persons related to him as specified in paragraph (e)(1)(i) or (e)(1)(ii) of this section collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and
 - iv. Any accredited investor.
 2. A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under paragraph (a)8 of this section, then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of Regulation D, except to the extent provided in paragraph (e)1 of this section.
 3. A non-contributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.
- f. *Executive officer.* *Executive officer* shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy making functions for the issuer.
- g. *Issuer.* The definition of the term *issuer* in section 2(a)(4) of the Act shall apply, except that in the case of a proceeding under the Federal Bankruptcy Code (11 U.S.C. 101 *et seq.*), the trustee

or debtor in possession shall be considered the issuer in an offering under a plan or reorganization, if the securities are to be issued under the plan.

h. *Purchaser representative.* *Purchaser representative* shall mean any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:

1. Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the purchaser is:
 - i. A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;
 - ii. A trust or estate in which the purchaser representative and any persons related to him as specified in paragraph (h)(1)(i) or (h)(1)(iii) of this section collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or
 - iii. A corporation or other organization of which the purchaser representative and any persons related to him as specified in paragraph (h)(1)(i) or (h)(1)(ii) of this section collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests;
2. Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;
3. Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and
4. Discloses to the purchaser in writing a reasonable time prior to the sale of securities to that purchaser any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1: A person acting as a purchaser representative should consider the applicability of the registration and antifraud provisions relating to brokers and dealers under the Securities Exchange Act of 1934 (*Exchange Act*) and relating to investment advisers under the Investment Advisers Act of 1940.

Note 2: The acknowledgment required by paragraph (h)(3) and the disclosure required by paragraph (h)(4) of this section must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for *all securities transactions* or *all private placements*, is not sufficient.

Note 3: Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer or its affiliates does not relieve the purchaser representative of his obligation to act in the interest of the purchaser.

Rule 502 -- General Conditions to Be Met

The following conditions shall be applicable to offers and sales made under Regulation D:

- a. *Integration.* All sales that are part of the same Regulation D offering must meet all of the terms and conditions of Regulation D. Offers and sales that are made more than six months before the start of a Regulation D offering or are made more than six months after completion of a Regulation D offering will not be considered part of that Regulation D offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under Regulation D, other than those offers or sales of securities under an employee benefit plan as defined in rule 405 under the Act.

Note: The term *offering* is not defined in the Act or in Regulation D. If the issuer offers or sells securities for which the safe harbor rule in paragraph (a) of this Rule 502 is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e. are considered *integrated*) depends on the particular facts and circumstances. Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States in compliance with Regulation S. See Release No. 33-6863.

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under Regulation D:

- a. Whether the sales are part of a single plan of financing;
 - b. Whether the sales involve issuance of the same class of securities;
 - c. Whether the sales have been made at or about the same time;
 - d. Whether the same type of consideration is being received; and
 - e. Whether the sales are made for the same general purpose.
- b. *Information requirements-*
- f. *When information must be furnished.* If the issuer sells securities under Rule 505 or Rule 506 to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in paragraph (b)(2) of this section to such purchaser a reasonable time prior to sale. The issuer is not required to furnish the specified information to purchasers when it sells securities under Rule 504, or to any accredited investor.

Note: When an issuer provides information to investors pursuant to paragraph (b)1, it should consider providing such information to accredited investors as well, in view of the anti-fraud provisions of the federal securities laws.
 - g. *Type of information to be furnished.*
 - i. If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser, to the extent material to an understanding of the issuer, its business and the securities being offered:
 - A. *Non-financial statement information.* If the issuer is eligible to use Regulation A, the same kind of information as would be required in Part II of Form 1-A. If the issuer is not eligible to use Regulation A, the same kind of information as required in Part I of a registration statement filed under the Securities Act on the form that the issuer would be entitled to use.

B. *Financial statement information.*

1. *Offerings up to \$2,000,000.* The information required in Item 310 of Regulation S-B, except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.
2. *Offerings up to \$7,500,000.* The financial statement information required in Form SB-2. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of Federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.
3. *Offerings over \$7,500,000.* The financial statement as would be required in a registration statement filed under the Act on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of Federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

- C. If the issuer is a foreign private issuer eligible to use Form 20-F, the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Act on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by paragraph (b)2(i) (B) (1), (2) or (3) of this section, as appropriate.

- ii. If the issuer is subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the information specified in paragraph (b)2(ii)(A) or (B) of this section, and in either event the information specified in paragraph (b)(2)(ii)(C) of this section:

- A. The issuer's annual report to shareholders for the most recent fiscal year, if such annual report meets the requirements of Rule 14a-3 or Rule 14c-3 under the Exchange Act, the definitive proxy statement filed in connection with that annual report, and, if requested by the purchaser in writing, a copy of the issuer's most recent Form 10-K and Form 10-KSB under the Exchange Act.
- B. The information contained in an annual report on Form 10-K or 10-KSB under the Exchange Act or in a registration statement on Form S-1, SB-1, SB-2 or S-11 under the Act or on Form 10 or Form 10-SB under the Exchange Act, whichever filing is the most recent required to be filed.
- C. The information contained in any reports or documents required to be filed by the issuer under sections 13(a), 14(a), 14(c), and 15(d) of the Exchange Act since the distribution or filing of the report or registration statement specified in paragraphs

(b)2(ii) (A) or (B), and a brief description of the securities being offered, the use of the proceeds from the offering, and any material changes in the issuer's affairs that are not disclosed in the documents furnished.

- D. If the issuer is a foreign private issuer, the issuer may provide in lieu of the information specified in paragraph (b)2(ii) (A) or (B) of this section, the information contained in its most recent filing on Form 20-F or Form F-1.
- iii. Exhibits required to be filed with the Commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K and Form 10-KSB report, need not be furnished to each purchaser that is not an accredited investor if the contents of material exhibits are identified and such exhibits are made available to a purchaser, upon his written request, a reasonable time prior to his purchase.
- iv. At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under Rule 505 or Rule 506, the issuer shall furnish to the purchaser a brief description in writing of any material written information concerning the offering that has been provided by the issuer to any accredited investor but not previously delivered to such unaccredited purchaser. The issuer shall furnish any portion or all of this information to the purchaser, upon his written request a reasonable time prior to his purchase.
- v. The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under Rule 505 or Rule 506 the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under paragraph (b)2(i) or (ii) of this section.
- vi. For business combinations or exchange offers, in addition to information required by Form S-4, the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders. For purposes of this subsection, an issuer which is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act may satisfy the requirements of Part I.B. or C. of Form S-4 by compliance with paragraph (b)2(i) of this Rule 502.
- vii. At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under Rule 505 or Rule 506, the issuer shall advise the purchaser of the limitations on resale in the manner contained in paragraph (d)2 of this section. Such disclosure may be contained in other materials required to be provided by this paragraph.
- c. *Limitation on manner of offering.* Except as provided in Rule 504(b)(1), neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:
- a. Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and
- b. Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising;

Provided, however, that publication by an issuer of a notice in accordance with Rule 135c shall not be deemed to constitute general solicitation or general advertising for purposes of this section; *Provided further,* that, if the requirements of Rule 135e are satisfied, providing any journalist with access to press conferences held outside of the United States, to meeting with issuer or selling security holder representatives conducted outside of the United States, or to written press-related materials released outside the United States, at or in which a present or proposed offering of securities is discussed, will not be deemed to constitute general solicitation or general advertising for purposes of this section.

d. *Limitations on resale.* Except as provided in Rule 504(b)(1), securities acquired in a transaction under Regulation D shall have the status of securities acquired in a transaction under section 4(2) of the Act and cannot be resold without registration under the Act or an exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of section 2(a)(11) of the Act, which reasonable care may be demonstrated by the following:

- a. Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;
- b. Written disclosure to each purchaser prior to sale that the securities have not been registered under the Act and, therefore, cannot be resold unless they are registered under the Act or unless an exemption from registration is available; and
- c. Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities.

While taking these actions will establish the requisite reasonable care, it is not the exclusive method to demonstrate such care. Other actions by the issuer may satisfy this provision. In addition, Rule 502(b)2(vii) requires the delivery of written disclosure of the limitations on resale to investors in certain instances.

Rule 503 -- Filing of Notice of Sales

- a. An issuer offering or selling securities in reliance on Rule 504, Rule 505 or Rule 506 shall file with the Commission five copies of a notice on Form D no later than 15 days after the first sale of securities.
- b. One copy of every notice on Form D shall be manually signed by a person duly authorized by the issuer.
- c. If sales are made under Rule 505, the notice shall contain an undertaking by the issuer to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer under Rule 502(b) to any purchaser that is not an accredited investor.
- d. Amendments to notices filed under paragraph (a) of this Rule 503 need only report the issuer's name and the information required by Part C and any material change in the facts from those set forth in Parts A and B.
- e. A notice on Form D shall be considered filed with the Commission under paragraph (a) of this Rule 503:

1. As of the date on which it is received at the Commission's principal office in Washington, DC; or
2. As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's principal office in Washington, DC, if the notice is delivered to such office after the date on which it is required to be filed.

Rule 504 -- Exemption for Limited Offerings and Sales of Securities Not Exceeding \$1,000,000

a. Exemption. Offers and sales of securities that satisfy the conditions in paragraph (b) of this Rule 504 by an issuer that is not:

1. subject to the reporting requirements of section 13 or 15(d) of the Exchange Act,;
2. an investment company; or
3. a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person, shall be exempt from the provision of section 5 of the Act under section 3(b) of the Act.

. Conditions to be met.

1. *General conditions.* To qualify for exemption under this Rule 504, offers and sales must satisfy the terms and conditions of Rule 501 and Rule 502 (a), (c) and (d), except that the provisions of Rule 502 (c) and (d) will not apply to offers and sales of securities under this Rule 504 that are made:
 - i. Exclusively in one or more states that provide for the registration of the securities, and require the public filing and delivery to investors of a substantive disclosure document before sale, and are made in accordance with those state provisions;
 - ii. In one or more states that have no provision for the registration of the securities or the public filing or delivery of a disclosure document before sale, if the securities have been registered in at least one state that provides for such registration, public filing and delivery before sale, offers and sales are made in that state in accordance with such provisions, and the disclosure document is delivered before sale to all purchasers (including those in the states that have no such procedure); or
 - iii. Exclusively according to state law exemptions from registration that permit general solicitation and general advertising so long as sales are made only to "accredited investors" as defined in Rule 501(a).
2. The aggregate offering price for an offering of securities under this Rule 504, as defined in Rule 501(c), shall not exceed \$1,000,000, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this Rule 504, in reliance on any exemption under section 3(b), or in violation of section 5(a) of the Securities Act.

Note 1: The calculation of the aggregate offering price is illustrated as follows:

If an issuer sold \$900,000 on June 1, 1987 under this Rule 504 and an additional

\$4,100,000 on December 1, 1987 under Rule 505, the issuer could not sell any of its securities under this Rule 504 until December 1, 1988. Until then the issuer must count the December 1, 1987 sale towards the \$1,000,000 limit within the preceding twelve months.

Note 2: If a transaction under Rule 504 fails to meet the limitation on the aggregate offering price, it does not affect the availability of this Rule 504 for the other transactions considered in applying such limitation. For example, if an issuer sold \$1,000,000 worth of its securities on January 1, 1988 under this Rule 504 and an additional \$500,000 worth on July 1, 1988, this Rule 504 would not be available for the later sale, but would still be applicable to the January 1, 1988 sale.

Rule 505 -- Exemption for Limited Offers and Sales of Securities Not Exceeding \$5,000,000

- a. *Exemption.* Offers and sales of securities that satisfy the conditions in paragraph (b) of this section by an issuer that is not an investment company shall be exempt from the provisions of section 5 of the Act under section 3(b) of the Act.
- b. *Conditions to be met*
 1. *General conditions.* To qualify for exemption under this section, offers and sales must satisfy the terms and conditions of Rule 501 and Rule 502.
 2. *Specific conditions*
 - i. *Limitation on aggregate offering price.* The aggregate offering price for an offering of securities under this Rule 505, as defined in Rule 501(c), shall not exceed \$5,000,000, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this Rule 505 in reliance on any exemption under section 3(b) of the Act or in violation of section 5(a) of the Act.

Note: The calculation of the aggregate offering price is illustrated as follows:

Example 1. If an issuer sold \$2,000,000 of its securities on June 1, 1982 under this Rule 505 and an additional \$1,000,000 on September 1, 1982, the issuer would be permitted to sell only \$2,000,000 more under this Rule 505 until June 1, 1983. Until that date the issuer must count both prior sales towards the \$5,000,000 limit. However, if the issuer made its third sale on June 1, 1983, the issuer could then sell \$4,000,000 of its securities because the June 1, 1982 sale would not be within the preceding twelve months.

Example 2. If an issuer sold \$500,000 of its securities on June 1, 1982 under Rule 504 and an additional \$4,500,000 on December 1, 1982 under this Rule 505, then the issuer could not sell any of its securities under this Rule 505 until June 1, 1983. At that time it could sell an additional \$500,000 of its securities.

- ii. *Limitation on number of purchasers.* There are no more than or the issuer reasonably believes that there are no more than 35 purchasers of securities from the issuer in any offering under this section.

Note: See Rule 501(e) for the calculation of the number of purchasers and Rule 502 (a) for what may or may not constitute an offering under this section.

- iii. *Disqualifications.* No exemption under this section shall be available for the securities of any issuer described in Rule 262 of Regulation A, except that for purposes of this section only:

- A. The term "filing of the offering statement required by Rule 252" as used in Rule 262(a), (b) and (c) shall mean the first sale of securities under this section;
- B. The term "underwriter" as used in Rule 262 (b) and (c) shall mean a person that has been or will be paid directly or indirectly remuneration for solicitation of purchasers in connection with sales of securities under this section;
- C. and Paragraph (b) (2) (iii) of this Rule 505 shall not apply to any issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Any such determination shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

Rule 506 -- Exemption for Limited Offers and Sales without Regard to Dollar Amount of Offering

- a. *Exemption.* Offers and sales of securities by an issuer that satisfy the conditions in paragraph (b) of this Rule 506 shall be deemed to be transactions not involving any public offering within the meaning of section 4 (2) of the Act.
- b. *Conditions to be met-*
 - 1. *General conditions.* To qualify for an exemption under this section, offers and sales must satisfy all the terms and conditions of Rule 501 and Rule 502.
 - 2. *Specific Conditions-*
 - i. *Limitation on number of purchasers.* There are no more than or the issuer reasonably believes that there are no more than 35 purchasers of securities from the issuer in any offering under this section.

Note: See Rule 501(e) for the calculation of the number of purchasers and Rule 502(a) for what may or may not constitute an offering under this Rule 506.

- ii. *Nature of purchasers.* Each purchaser who is not an accredited investor either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or the issuer reasonably believes immediately prior to making any sale that such purchaser comes within this description.

Rule 507 -- Disqualifying Provision Relating to Exemptions Under Rule 504, Rule 505 and Rule 506

- a. No exemption under Rule 504, Rule 505 or Rule 506 shall be available for an issuer if such issuer, any of its predecessors or affiliates have been subject to any order, judgment, or decree of any court of competent jurisdiction temporarily, preliminary or permanently enjoining such person for failure to comply with Rule 503.
- b. Paragraph (a) of this section shall not apply if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.

Rule 508 -- Insignificant Deviations from a Term, Condition or Requirement of Regulation D

- a. A failure to comply with a term, condition or requirement of Rule 504, Rule 505 or Rule 506 will not result in the loss of the exemption from the requirements of section 5 of the Act for any offer or sale to a particular individual or entity, if the person relying on the exemption shows:
 - 1. The failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and
 - 2. The failure to comply was insignificant with respect to the offering as a whole, provided that any failure to comply with paragraph (c) of Rule 502, paragraph (b)(2) of Rule 504, paragraph (b)(2)(i) and paragraph(b)(2)(ii) of Rule 505 and paragraph (b)(2)(i) of Rule 506 shall be deemed to be significant to the offering as a whole; and
 - 3. A good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of Rule 504, Rule 505 or Rule 506.
- b. A transaction made in reliance on Rule 504, Rule 505 or Rule 506 shall comply with all applicable terms, conditions and requirements of Regulation D. Where an exemption is established only through reliance upon paragraph (a) of this section, the failure to comply shall nonetheless be actionable by the Commission under section 20 of the Act.