Press Release

SEC Adopts Final Rules and Solicits Public Comment on Ways to Modernize Offerings Pursuant to Compensatory Arrangements

FOR IMMEDIATE RELEASE
2018-135

Washington D.C., July 18, 2018 — The Securities and Exchange Commission today issued final rules to amend Securities Act Rule 701, which provides an exemption from registration for securities issued by non-reporting companies pursuant to compensatory arrangements. As mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act, the amendment increases from $5 million to $10 million the threshold in excess of which the issuer is required to deliver additional disclosures to investors.

In addition, the Commission is soliciting comment on possible ways to modernize rules related to compensatory arrangements in light of the significant evolution in both the types of compensatory offerings and the composition of the workforce since the Commission last substantively amended these rules in 1999.

"The rule as amended, and the concept release, are responsive to the fact that the American economy is rapidly evolving, including through the development of both new compensatory instruments and novel worker relationships – often referred to as the 'gig economy.' We must do all we can to ensure our regulatory framework reflects changes in our marketplace, including our labor markets," said SEC Chairman Jay Clayton.

The public comment period will remain open for 60 days following publication of the concept release in the Federal Register.

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FACT SHEET

SEC Open Meeting
July 18, 2018

Action

Adopting Release

As mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act, the Commission adopted final rules to revise Rule 701(e) to increase from $5 million to $10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors.

Concept Release

In addition, the Commission issued a Concept Release seeking public comment on ways to modernize compensatory securities offerings and sales.

Equity compensation can be an important component of the employment relationship. In addition to preserving cash for the company's operations, equity compensation can align the incentives of employees with the success of the enterprise and facilitate recruitment and retention. Securities Act Rule 701 allows non-reporting companies to sell securities to their employees without the need to register the offer and sale of such securities. Securities Act Form S-8 provides a simplified registration form for companies to use to issue securities pursuant to employee stock purchase plans. The Commission is soliciting comment on possible ways to update the requirements of Rule 701 and Form S-8, consistent with investor protection. The Concept Release solicits comment on:

- "Gig economy" relationships, in light of issuers using internet platforms to provide workers the opportunity to sell goods and services, to better understand how they work and determine what attributes of these relationships potentially may provide a basis for extending eligibility for the Rule 701 exemption;

- Whether the Commission should further revise the disclosure content and timing requirements of Rule 701(e); and

- Whether the use of Form S-8 to register the offering of securities pursuant to employee benefit plans should be further streamlined.

What's Next?

The revision to Rule 701(e) will become effective on the date the Adopting Release is published in the Federal Register.

The Concept Release will be posted on the Commission's website and published in the Federal Register. The comment period will remain open for 60 days after publication in the Federal Register.

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