

SPEECH

Statement at Open Meeting Regarding Regulation A+

Commissioner Michael S. Piwowar

U.S. Securities and Exchange Commission

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Thank you, Chair White.

I am pleased that the Commission is moving forward today with another action to help Main Street businesses raise capital.

When one thinks of Main Street – especially at this time of year – he or she might conjure an image of a small town like the fictional Bedford Falls, featured in Frank Capra’s classic 1946 film, *It’s A Wonderful Life*. Looking down the main thoroughfare, there is a drug store, a butcher shop, a hardware store, and many other small businesses, all of which required capital to get started. In Bedford Falls, there was only one accredited investor, named Mr. Potter. And when Clarence the guardian angel shows George Bailey what life would have looked like had he never been born, vibrant Bedford Falls morphs into stagnant Potterville, where one man controls the capital and the local economy.

Of course, Hollywood movies are not proper influences for Commission rulemaking, but empirical evidence, economic analysis, and Congressional intent are. According to the Small Business Administration, small businesses represent about half of the private sector economy in the U.S. and more than 99% of all businesses.^[1] According to a 2010 study by the Kauffman Foundation, startup firms are responsible for all net job growth in the U.S. economy. Moreover, the study found that during recessionary years, job creation at startups remains stable, while net job losses at existing firms are highly sensitive to the business cycle.^[2]

Regulation A was intended to provide a simple and relatively inexpensive procedure for small businesses to raise limited amounts of capital. The fact that only one qualified Regulation A offering occurred in 2011 is a clear sign that the current provisions are not serving their desired purpose. Title IV (The Small Company Capital Formation Act) of the JOBS Act and today’s proposal seek to rectify this situation.

Upon introduction of the bipartisan bill, Senator Pat Toomey (R-PA) said “The Small Company Capital Formation Act will ease the regulatory burden on small businesses ... allow smaller companies to access capital at an earlier stage in their growth ... [and] allow these companies to be competitive, hire new workers and create badly needed jobs.”^[3] Likewise, Senator Jon Tester (D-MT) said “We need to be doing everything we can to spur innovation, entrepreneurship, and job creation, and this legislation does all of that by streamlining the ability for new companies to prosper with the capital they need to grow.”^[4] I wholeheartedly agree that we need to allow – and encourage – Main Street businesses to thrive, and that we can do so by enhancing mechanisms for them to raise capital.

Today’s Regulation A+ proposal should be viewed in the context of previous and ongoing Congressional and Commission actions to help Main Street businesses access the private and public capital markets. I am pleased with the informative discussion included in the release that compares the attributes of Regulation A, Regulation D, and registered offerings.

I believe that the proposal is consistent with Congressional intent to make it easier for small businesses to raise capital, while providing appropriate investor protections. I look forward to the public comments on the proposal. In particular, I hope that commenters address a couple of issues described in the release.

First, "Tier 1" offerings would essentially retain existing Regulation A and require any approvals needed under state blue sky laws. "Tier 2" offerings of up to \$50 million would preempt state blue sky laws, but would subject issuers to a continuing disclosure regime. Given the lack of current Tier 1 offerings, I hope commenters address whether we should include an intermediate tier – one for offerings of a more limited size of \$10 to \$15 million, which would preempt state blue sky laws but have less extensive continuing disclosure obligations than Tier 2 offerings.

Second, I believe that there remains an important role for state securities regulators with respect to small offerings. A report by the Government Accountability Office noted that multiple reviews by federal and state securities regulators lead to increased costs and reasons to avoid using Regulation A.^[5] Therefore, I have asked that the release include questions regarding whether a new regulatory model is appropriate, such as a single approval process in which an issuer can seek qualification from **either** the Commission or a state securities regulator for a Regulation A offering.

I would like to extend my grateful appreciation to the Division of Corporation Finance, the Division of Economic and Risk Analysis, the Office of General Counsel, and the other members of the staff who contributed to this release. I also appreciate the efforts of my colleagues, especially Commissioner Stein, for their contributions to this effort.

I hope we can move quickly to adoption, so soon we might say – to paraphrase Zuzu Bailey, the precocious little daughter of George Bailey – "Every time a bell rings, a small business gets its funding."

Thank you.

[1] See U.S. Small Business Administration Office of Advocacy, *Small Business Economy 2012*, available at <http://www.sba.gov/advocacy/849/6282>.

[2] Tim Kane, *The Importance of Startups in Job Creation and Job Destruction* (July 2010), available at http://www.kauffman.org/~media/kauffman_org/research%20reports%20and%20covers/2010/07/firm_formation_importance_of_startups.pdf

[3] Press Release: Sens. Toomey, Tester Introduce Bill To Help Business Raise Capital, Cut Red Tape And Create Jobs (Sept. 12, 2011), available at http://www.toomey.senate.gov/?p=press_release&id=276.

[4] *Ibid.*

[5] U.S. Government Accountability Office, *Securities Regulation: Factors That May Affect Trends in Regulation A Offerings* (July 2012).

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