

**NEW ENGLAND ANGEL GROUPS SUPPORTING SMALL BUSINESS AND
INNOVATION JOIN TOGETHER ON CONCERNS ABOUT NEW AND PROPOSED SEC
RULES RELATING TO GENERAL SOLICITATION OF 506 OFFERINGS**

November 7, 2013

The Honorable Mary Jo White
Chairman
US Securities and Exchange Commission
100 F St NE
Washington, DC 20549

Dear Chairman White:

We, the undersigned, write to you with significant concerns regarding the implementation of Rule 506 relating to General Solicitation and the proposed rules to expand the scope of Regulation D and Form D. We each represent sizable angel investor groups that provide vital early stage capital to job-creating startups in the six New England states, and we believe that the rules as implemented and proposed will have a significant and detrimental effect on capital formation for entrepreneurs – and therefore ultimately on our nation’s economic health, growth and competitiveness.

Each year, angels invest more than \$22 billion of their own money directly into startups – companies which represent the lifeblood of innovation and job creation in our economy. The New England states boast the largest concentration of angel groups in one region, and several of our groups are the most active investors in the country. We do not work through brokers, accountants, wealth advisors or other third parties. We manage ourselves with a high level of professionalism and sophistication, bringing much-needed order and efficiency to the world of financing start-ups. We provide mentorship, governance, advice and other value added services above and beyond our capital that are tremendously beneficial to launching companies, and helping them grow.

Our specific concerns are as follows:

- Under the new 506(c) general solicitation rules, the onus on entrepreneurs to verify the accredited status of investors is burdensome and unworkable. Investors will not be willing to share their financial information with entrepreneurs, and third-party verification will be avoided due to costs, concerns over privacy and data security, and potential liabilities for the third parties.
- Without guidance from the SEC on what defines general solicitation, many entrepreneurs may unwittingly fall under 506(c) in the normal course of their entrepreneurial activities and events, and therefore become subject to the onerous one-year penalty box, which is tantamount to a death blow for startups – investors will not invest in companies where there is a chance their money may become stranded without access to follow-on rounds of investment.
- Experience teaches us that the proposed rules related to the Form D filings are also impractical and unworkable. Unlike traditional private equity deals in which companies are more mature and information is relatively stable over days and weeks, entrepreneurs operate in a dynamic environment that changes by the day and the hour. Therefore, requiring entrepreneurs to

provide 15 day advance filings of Form D and at least same day filing of general solicitation materials is tremendously burdensome and impractical.

The cumulative result of these unnecessary regulatory burdens is likely to be directly counterproductive to the intent of the JOBS Act which was the impetus for these changes. Rather than increasing access to capital for entrepreneurs who create new jobs and industries, the unintended consequence of these rules will be to severely dampen capital formation activities and reduce capital flows to startups.

In light of these problems with the new and proposed rules, we respectfully request the Commission make the following changes:

- Narrow the definition of general solicitation, such that business plan contests, pitch events, and accelerator and incubator events are considered invitation-only events not subject to general solicitation.
- Reinstate self-accreditation as an acceptable verification of accredited investor status. If the Commission is unwilling to do so, we ask that the following safe harbor be added:
 - o If an issuer verifies that a purchaser is a member of an established angel group or the investor is generally known or can easily be shown to be actively engaged in the startup funding community and also provides written representation that he or she is an accredited investor, the issuer will have met the verification requirement of Rule 506(c).
- Rescind and reconsider the proposed rules regarding changes to the timing and information requirements of Form D and Regulation D. Entrepreneurs should not be required to file in advance, they should not be required to file all general solicitation materials prior to use, and they should not be driven out of business by a one year ban for accidental non-compliance.

Thank you for your consideration of these issues and your support of innovative small businesses. We want to ensure that the entrepreneurial startups that create important innovations and high quality jobs not only continue to have this important type of capital so they can grow, but that they are not subjected to regulations that make new and existing companies die for lack of capital and/or large legal costs and penalties involved in filing Form Ds and general solicitation materials that are included in the proposed rules.

We would welcome further discussion about our concerns and potential solutions regarding this very important matter. Please contact any of the angel group leaders listed below with any questions. Thank you for your consideration of our request.

Sincerely,

*Established Angel Group definition is available at
www.angelcapitalassociation.org/data/Documents/Public%20Policy/GuidanceonEAG09_03_13.pdf.

William

[Signature]

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