STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

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THE SMALL CORPORATE OFFERING REGISTRATION (SCOR) APPLICATION PROCESS AND OFFERINGS OF SECURITIES UNDER SEC REGULATION A

This release provides an overview of the Small Corporate Offering Registration ("SCOR") application process and the exemption from qualification for an offer of securities pursuant to a preliminary offering circular under SEC Regulation A. These procedures and legislation are designed to facilitate the raising of capital by small businesses under the Corporate Securities Law of 1968.

THE SMALL CORPORATE OFFERING REGISTRATION (SCOR) APPLICATION PROCESS

Assembly Bill 3763 (Chapter 884, Statutes of 1992) authorizes the use of a small company application for qualification by permit under Corporations Code Section 25113(b)(2).

A small company application may be filed by a California corporation or a foreign corporation subject to Corporations Code Section 2115, provided the corporation is a small business concern as defined in 15 U.S.C. Section 632(a) and 13 C.F.R. Part 121. Under current law, the applicant cannot be: (1) a blind pool company as defined by rule of the Commissioner; (2) engaged in oil and gas exploration or production, or mining or other extractive industries; (3) an investment company subject to the Investment Company Act of 1940; or (4) subject to the reporting requirements of Sections 13 or 15(d) of he Securities Exchange Act of 1934.

Not only must the securities involved in the offering be limited to one-class of voting common stock, but there must be only one class of voting common stock immediately after the proposed sale and issuance. A minimum offering price of $5 per share is required. Also, the net proceeds from the offering must be expended in the operations of the business, as defined.

It is noteworthy that the total offering of voting common stock by the applicant to be sold in a 12-month period, within or outside of this state, must be limited to not more than one million dollars ($1,000,000), less the aggregate offering price for all securities sold (within the 12 months before the start, and during the offering, of the voting common stock) under Rule 504 of SEC Regulation D, in reliance on any exemption under subdivision (b) of Section 3 of the Securities Act of 1933, or in violation of subdivision (a) of Section 5 of that act.

The securities offering must be made pursuant to a disclosure document, the Form U-7, as adopted by the North American Securities Administrators Association, and pursuant to additional requirements of the Commissioner. In this regard, potential applicants should review Title 10, California Code of Regulations, Section 260.113.1. As with other applications for qualification by permit, the Commissioner currently applies the qualification standards contained in Title 10, California Code of Regulations, commencing with Section 260.140, when reviewing a small company application.

A small company application must be accompanied by the requisite fee specified in Corporations Code Section 25608(e). Under Section 25608(e), the filing fee is $2,500. An additional fee of up to $1,000 may be charged where the costs of processing the application exceed the initial $2,500 fee.

Both the small company application and the Form U-7 disclosure document must be reviewed and signed by each member of the board of directors of the applicant. Accordingly, the applicant may wish to seek the assistance of appropriate professionals experienced in securities matters when preparing these documents.

Finally, small company applicants may obtain a SCOR application packet at the front counter of any office of the Department of Corporations. That packet contains essential application materials, including copies of the application form and instructions, the Form U-7 disclosure document, and relevant laws and regulations.

OFFERINGS OF SECURITIES UNDER SEC REGULATION A

Effective July 26, 1993, Senate Bill 115 (Chapter 193, Statutes of 1993) amends the Corporate Securities Law of 1968 to provide an exemption from qualification for offers of securities under SEC Regulation A.

The new exemption applies to issuer and nonissuer transactions under Corporations Code Section 25110 and 25130, respectively. Specifically, Sections 25102(b) and 25104(g) now provide an exemption for the following:

> Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law/division.

The foregoing exemption enables a small business issuer to solicit offers (but not consummate sales) with a preliminary offering circular in accordance with the requirements of SEC Regulation A. That preliminary offering circular can be utilized only after filing an application for qualification by permit with the Commissioner of Corporations pursuant to Section 25113(b)(1). Once the Commissioner has completed the review of the permit application, an applicant will be required to furnish a final offering circular to prospective investors.

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