PUBLICATION UPDATE

Route to: ☐ ______ ☐ ______ ☐ ______ ☐ ______
☐ ______ ☐ ______ ☐ ______ ☐ ______

Federal Securities Act of 1933

and related publications
Federal Securities Exchange Act of 1934
Securities Primary Law Sourcebook

Publication 00627 Release 111 November 2011

HIGHLIGHTS

Federal Securities Act of 1933

- Chapter 4, Exempt Transactions under Section 4 of the Securities Act
- Chapter 10, SEC Enforcement Practice

Federal Securities Exchange Act of 1934

- Chapter 4, Exchange Act Registration and Reporting Requirements

Securities Primary Law Sourcebook

- Volumes A, B, D and E have been revised and updated.

Federal Securities Act of 1933. Chapter 4, *Exempt Transactions under Section 4 of the Securities Act*. In this Release, Chapter Four has been revised and updated, particularly in the wake of congressional mandates included in the Dodd-Frank Wall Street Reform and Consumer Protection Act which was signed into law on July 21, 2010. The Dodd-Frank Act has resulted, or will result through rulemaking in process, in important changes to Regulation D under the Securities Act. Congress mandated that the key definition of "accredited investor" as applied to determining the net worth of natural persons for qualification as accredited investors be changed, and made subject to a process of continuing revision. Accredited investor status is of primary importance in the use of Rule 506 of Regulation D to carry out private offerings since the Rule permits offers and sales of securities in unlimited amounts to an unlimited number of accredited investors, subject to other general requirements of Regulation D, such as the manner of offering limitation. Proposed rule changes mandated by the Dodd-Frank Act will now address calculation of the minimum net worth standard for accredited investor status in relation to the value of a natural person's primary residence.

The Dodd-Frank Act also mandated the addition of so-called "bad boy" disqualifications on the use of Rule 506 of Regulation D. Such disqualifying criteria have always been a part of certain other limited offerings available under the Securities Act, but have not been a part of the Rule 506 safe harbor, which is by far the most widely used exemption today in private securities offerings. The new Rule 506 "bad boy" disqualifications will track those already a part of Regulation A under the Securities Act, and will prohibit issuers and others such as underwriters, placement agents and the directors, officers and significant shareholders of the issuer from participating in a Rule 506 offering if they have been convicted of, or are subject to court or administrative sanctions for securities fraud or other violations of specified laws. All the proposed disqualifications are addressed in updated Chapter Four. Another Dodd-Frank Act change in the exemption scheme under the Securities Act entirely eliminated the exemption former Section 4(5) ("Exempt Offers and Sales of Promissory Notes Secured by Certain Real Estate"), and the former Section 4(6) accredited investor exemption has been renumbered as new Section 4(5). Exclusive reliance on the accredited investor exemption allowed by Section 4(5) of the Act is rare since, in contrast to Rule 506 of Regulation D under the Securities Act, it provides no "safe harbor." Nevertheless, the standards for accredited investor status for the independent application of the Section 4(5) exemption are presented.

Updated Chapter Four also expands consideration of Regulation D with new attention paid to a key limitation on the manner of an offering. Regulation D prohibits general advertising or solicitation, and the limitation produces perennial challenges because the terms are not defined. Updated Chapter Four offers additional authority on this point. Also as a matter of Regulation D generally, Rule 507 (Issuer Disqualification), Rule 508 (Good Faith Compliance) and Rule 701 (Compensation Plans) receive new attention.

Throughout the chapter, revisions have been made to address interpretative and case law considerations of the elements of all exemptions available in Section Four of the Securities Act. There is broader attention, for example, to the important Section 4(1) exemption for transactions not involving a issuer, underwriter or dealer, and to the so-called non-statutory "Section 4(1 ½)" exemption, which has evolved for private sales by non-issuers. Consideration of Rule 144A under the Securities Act, which permits offers and sales of securities by persons other than the issuer or a dealer to "qualified institutional buyers" without being deemed to be an underwriter within the meaning of Sections 2(a)(11) and 4(1)of the Act is expanded. Likewise, consideration of exempt offers and sales made outside the United States pursuant to Regulation S under the Securities Act is expanded to provide greater insight into requirements.

Chapter 10, *SEC Enforcement Practice*. Chapter Ten was updated with the SEC whistleblower bounty program. The Securities and Exchange Commission adopted Rule 21F pursuant to Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Securities and Exchange Commission also established an Office of Whistleblower which started up in August 2011, headed by Sean McKessy to sift through whistleblower tips to recommend to the investigative unit.

Federal Securities Exchange Act of 1934, Chapter 4, *Exchange Act Registration and Reporting Requirements* has been updated to discuss the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") that apply to the reporting provisions under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). On July 21, 2010, President Obama signed into law the Dodd-Frank Act, which implements changes that, among other things, affect the oversight and supervision of financial institutions, provide for a new resolution procedure for large financial companies, create a new agency responsible for implementing and enforcing compliance with consumer financial laws, introduce more stringent regulatory capital requirements, effect significant changes in the regulation of over-the-counter derivatives, reform the regulation of credit rating agencies, implement changes to corporate governance and executive compensation practices, incorporate the Volcker Rule, require registration of advisers to certain private funds, and effect significant changes in the securitization market. The Dodd-Frank Act, in a manner similar to that of the Sarbanes-Oxley Act, significantly impacts public company reporting under the Exchange Act. Sections 1502, 1503 and 1504 of the Dodd-Frank Act require disclosure regarding conflict minerals, mine safety and resource extraction payments. Section 1502 of the Dodd-Frank Act mandates the SEC to implement rules requiring public companies to annually disclose whether conflict minerals originating from the Democratic Republic of the Congo and its adjoining countries are necessary to the functionality or production of a product manufactured by that public company. Section 1503 of the Dodd-Frank Act requires any reporting issuer that is an operator, or has a subsidiary that is an operator, of a coal or other mine, to disclose in each periodic report filed with the SEC information related to health and safety violations, including the number of certain violations, orders, and citations received from the Mine Safety and Health Administration. Section 1504 of the Dodd-Frank Act requires reporting issuers engaged in the commercial development of oil, natural gas, or minerals to disclose, in an annual report, certain payments made to the United States or a foreign government.

Securities Primary Law Sourcebook has been updated as of April 4, 2011. The affected volumes are Volume A, Volume B, Volume D and Volume E.

Matthew Bender provides continuing customer support for all its products:

- Editorial assistance—please consult the "Questions About This Publication" directory printed on the copyright page;
- Customer Service—missing pages, shipments, billing or other customer service matters (1-800-833-9844).
- Outside the United States and Canada, (518) 487-3000, or fax (518) 487-3584;
- Toll-free ordering (1-800-223-1940).

LexisNexis®

www.lexis.com

Publication 00627, Release 111, November 2011

FILING INSTRUCTIONS

Federal Securities Act of 1933

Publication 627 Release 111 November 2011

Check As Done

☐ 1. Check the Title page in the front of your present Volume 1. It should indicate that your set is filed through Release Number 110. If the set is current, proceed with the filing of this release. If your set is not filed through Release Number 110, DO NOT file this release. Please call Customer Services at 1-800-833-9844 for assistance in bringing your set up to date.

☐ 2. This Release Number 111 contains only White Revision pages.

☐ 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

Check As Done	*Remove Old Pages Numbered*	*Insert New Pages Numbered*

For faster and easier filing, all references are to right-hand pages only.

VOLUME 1

Revision

☐	Title page thru xiii	Title page thru xiii
☐	4-1 thru 4-83	4-1 thru 4-89

VOLUME 2

Revision

☐	Title page.	Title page
☐	10-1 thru 10-51	10-1 thru 10-53
☐	I-1 thru I-73	I-1 thru I-73

FILE IN THE FRONT OF THE FIRST VOLUME
OF YOUR SET

To order missing pages log on to our self service center, www.lexisnexis.com/printcdsc or call Customer Services at 1 (800) 833-9844 and have the following information ready:

(1) the publication title;
(2) specific volume, chapter and page numbers; and
(3) your name, phone number, and Matthew Bender account number.

Please recycle removed pages.

MISSING FILING INSTRUCTIONS?
FIND THEM AT www.lexisnexis.com/printcdsc

Use the search tool provided to find and download missing filing instructions, or sign on to the Print & CD Service Center to order missing pages or replacement materials. Visit us soon to see what else the Print & CD Service Center can do for you!

LexisNexis®

www.lexis.com

Publication 627, Release 111, November 2011