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NAME FIVE WAYS BROKER-DEALERS BENEFIT FROM REG A+ ... GO!

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The U.S. Securities and Exchange Commission (SEC) announced the rules implementing Title IV of the JOBS Act, commonly known as Regulation A+, on March 25. These rules increase the amount a company can raise through a non-registered, public securities offering from $5 million to $50 million in a year. Reg A+ also allows securities to be sold in all 50 states without state pre-review, and permits non-accredited investors to buy in. In short, Reg A+ eliminates the barriers that have prevented smaller companies from accessing public capital and smaller investors from accessing alternative investments.

As a broker-dealer, here's how you can benefit:

1) Offer more products to more investors – For years, alternatives have been the purview of accredited investors at the retail level, and institutional investors. Regulation D limits severely investments outside of these types of investors. Lack of liquidity and long-term horizons for exit has meant that the risk/reward profile – high reward for high risk – have left these types of investments available to relatively few.
Reg A+ presents a watershed event in America's securities market – creating an "intermediate" class of public securities: between private placements under Reg D, and those registered securities typically listed on national exchanges.
Reg A+ does not have accredited investor requirements, and the liquidity of these investments means that as markets grow, a larger investor pool can choose to invest in deals with little current return, but with larger up side, and have the ability to sell the security to hedge risk.

Or perhaps a company, which could not otherwise achieve the returns traditionally sought by angels and venture capital funds, but ***can*** perhaps reliably provide solid current return with the possibility of steady growth, might provide a ready market among investors in the Reg A+ marketplace.

2) Reach new clientele through unique offerings – Reg A+'s permission of general solicitation, without the complexities of 506 (c) general solicitation, means the opportunity to market to new clients through unique investments. Regulation A+ contemplates a wide array of media being used in the solicitation of investors, and brokers are not constrained in placing clients into investments only after appropriate pre-existing relationships have been established pursuant to Regulation D.

Distinguishing yourself on the basis of product variety can be a powerful sales tool, but the ability to show product to clients at the outset can be very effective in educating investors on their options and in developing a strategy around a diversified, balanced portfolio.

3) Foster Secondary Markets for Reg A+ Securities – Developing new products and supporting them as the secondary market for Reg A+ securities grows, and actively helping clients to trade in these securities creates new lines of revenue for broker-dealers and registered reps. But, perhaps what's most important: it helps to develop a diversity of products which give investors greater options and brings more competition to the market to raise quality of investments. It insures that markets sophisticate and develop appropriate infrastructure, analytical coverage and pricing, so investors can make more informed decisions. It also allows investors to sell positions when they want to, thus mitigating investor risk.

4) Help issuers maximize capital-raising potential – Reg A+ contains important exemptions from the triggers of Section 12(g) of the Exchange Act of 1934 (the "34 Act"), which subjects issuers to registration and reporting under the 34 Act, as well as regulation under Sarbanes-Oxley and Dodd-Frank, once they reach a certain size. Specifically, any issuer with $10 million in assets and a class of equity securities with 2,000 shareholders of record, or more than 500 non-accredited investors within that class, must register under the '34 Act.

With the exemptions available through Regulation A+, as well as other tactics like holding securities in "street name," brokers can help issuers raise required funds from a larger audience at lower investment amounts. Now issuers and brokers have an option to the comparatively long sales cycles and high investment minimums you may see under a typical Regulation D deal, thus making the process to an investment decision less arduous.

For investors, it means they can explore a variety of alternative investment types without resorting to significant exposure to their portfolio, thus allowing investors to diversify, learn, and expand holdings once they find where they are comfortable.

5) Mitigate risk through regulatory oversight and liquidity – Reg A+ securities are liquid and will enjoy a transparency not typically seen in alternative investments as a result of mandated reporting. Marketplace information and investors' ability to maintain timely knowledge about their investments is something many investors crave from alternative investments, and can't typically get to their satisfaction in private investments. The ability to sell and get out is also a powerful risk mitigant, which those investors did not have when they rode investments into the ground during the "Great Recession."

For broker-dealers, regulatory inquiries, arbitrations, and the like, which were spawned by failed private investments in recent history, would not necessarily be the case in a Reg A+ world. With the new rules, regulatory oversight of the disclosure process, the ability to monitor closely through reporting and market coverage, as well as the ability to mitigate loss through simply selling the position, could significantly reduce risk to brokers.

Many broker-dealers are not finding liability coverage for their private placement activities. With Reg A+ securities being public, are Reg A+ securities where many broker-dealers will have to go for at least retail-related alternative investment activities?

Finally, many broker-dealers have expressed concern about the regulatory pitfalls of Rule 506(c) general solicitation under Regulation D that are prevalent throughout the offering process. Reg A+ obviates this because of the finality and clarity brought to the compliance process by virtue of SEC oversight and interaction in the process of qualifying the securities for sale.

*Richmond-based **Kaplan Voekler Cunningham & Frank (KVCF)** is one of the few law firms regularly providing counsel on Regulation A deals. Partner Robert R. Kaplan Jr. has been involved in Reg A+ since its inception, working on enactment of the JOBS Act in Congress and the A+ rules of implementation with the SEC. For more information, contact Robert R. Kaplan Jr. at rkaplan@kv-legal.com or (804) 823-4055.*