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Sifting Through the JOBS Act: Who Benefits, How, and When?

Key Takeaways

1. The JOBS Act includes new and revised exemptions from securities registration for issuers that should prove to be beneficial in raising capital from the public;

2. Certain provisions under the JOBS Act are unavailable until the SEC completes certain mandated rulemaking;

3. Issuers will be able to reach a broader audience to attract capital through the elimination of the general solicitation and general advertising restrictions for Rule 506 and Rule 144A offerings;

4. The new "crowdfunding" exemption contains many mine fields and may not be worth the trouble unless the SEC, through its rulemaking, can address at least some of the concerns;

5. Issuers who qualify as an "emerging growth company" should realize some reduced costs and easement of restrictions while conducting an IPO and for up to five years thereafter;

6. Issuers who fall under the new increased shareholder number for being a public reporting company should be able to withdraw from reporting company status and realize some significant cost savings as a result;

7. Shareholders in companies that "go-dark" due to no longer being a public reporting company, may experience a reduction in public information about such companies as a result;

8. Issuers will need to especially consider "integration" issues in connection with their use of the new and revised exemptions. The application of integration among successive offerings by an issuer could violate one or more of the exemptions resulting in regulatory and civil liability for the issuer.