

**NOTICE OF REQUEST FOR PUBLIC COMMENTS REGARDING A PROPOSED
NASAA MODEL RULE AND
UNIFORM NOTICE FILING FORM FOR
REGULATION A – TIER 2 OFFERINGS**

January 27, 2016

The Corporation Finance Section of the North American Securities Administrators Association (“NASAA”) is requesting public comments on a proposed model rule and uniform notice filing form. The model rule requires a notice filing for issuers utilizing the Regulation A – Tier 2 exemption in those states in which sales are made. The uniform notice filing form simplifies the filing process for issuers by incorporating documents filed on EDGAR and including consent to service of process language within the form.

Comments are due by February 26, 2016. To facilitate consideration of comments, please send comments to Michael Pieciak (Michael.Pieciak@vermont.gov), Chair of the Corporation Finance Section; Faith Anderson (Faith.Anderson@dfi.wa.gov), Chair of the Small Business/Limited Offerings Project Group; and Mark Stewart (nasaacomment@nasaa.org) at the NASAA Corporate Office. We encourage, but do not require, comments to be submitted by e-mail. Hard copy comments may be submitted at the address below.

NASAA Legal Department
Mark Stewart, Counsel
NASAA
750 First Street, NE, Suite 1140
Washington, DC 20002

Note: After the comment period has closed, NASAA will post to its website the comments it receives as submitted by the authors. Parties should therefore only submit information that they wish to make publicly available. Further, the following notice will appear on NASAA’s website where comments are posted: NASAA, its agents, and employees accept no responsibility for the content of the comments posted on this Web page. The views, expressions, and opinions expressed in the comments are solely those of the author(s).

Background

Title IV of the JOBS Act of 2012 directed the Securities and Exchange Commission (“SEC”) to create a new exemption from registration under Section 3(b) of the Securities Act of 1933 for offerings of up to \$50 million in a 12-month period. Further, the Act provided for preemption of state registration requirements where the securities are (1) offered or sold on a national securities exchange; or (2) offered or sold to “qualified purchasers.”

The SEC adopted final amendments to existing federal Regulation A on March 25, 2015.¹ The new rules provide for two tiers of offerings under Regulation A. Offerings of up to \$20 million may be made under the rules applicable to Tier 1 offerings. Offerings of up to \$50 million may be made under Tier 2, which, among other things, triggers ongoing reporting requirements. There is no minimum offering amount for Tier 2 offerings, thus an offering that might otherwise qualify under Tier 1 may instead be made under Tier 2.

¹ Amendments to Regulation A, SEC Release No. 33-9741 (Mar. 25, 2015), available at <http://www.sec.gov/rules/final/2015/33-9741.pdf>.

Pursuant to the SEC's final rules, offerings under Tier 2 are made to "qualified purchasers" and therefore the states are preempted from requiring registration of these offerings. The states may, however, require the filing of copies of documents filed with the SEC, together with a consent to service of process and any fee that would have otherwise been required in the absence of preemption, solely for notice purposes. States may wish to require notice filings in connection with Tier 2 offerings so that they may monitor these offerings in their jurisdictions. The offering documents will be available on the SEC's website through the agency's EDGAR filing system at least 21 days prior to the qualification by the SEC staff.

Proposed Model Rule

The attached proposed model rule would facilitate the implementation of a notice filing requirement, for Regulation A – Tier 2 offerings. The proposed model rule draws in large part upon a rule recently implemented in the state of Washington. In summary, the rule would require the filing of a short form with basic information about the issuer and the offering along with the payment of a filing fee. A consent to service of process is embedded in the form. The rule also sets forth renewal and amendment requirements for offerings.

Proposed Model Notice filing form

As noted above, the Corporation Finance Section Committee has taken steps to prepare a uniform state notice filing form for Tier 2 offerings. Accompanying this notice is the proposed uniform notice filing form that states may use to require filings in connection with Tier 2 offerings. In drafting this form, an attempt was made to simplify the filing process for issuers by:

- Drafting the form in such a way that the same form could be filed in multiple jurisdictions with checkboxes for each jurisdiction to which the filing is directed;
- Incorporating documents filed on EDGAR by reference; and
- Including consent to service of process language in the signature block of the form so that a separate Form U-2 will not be necessary.

Proposed Model Rule for Regulation A Tier 2 Offerings

Note: The text of the model rule set forth below is intended to provide model language that states may adopt to require notice filings in Tier 2 offerings under federal Regulation A. While states are preempted from requiring the registration of such offerings, states may require the filing of all documents filed with the SEC, together with a consent to service of process and the fee that would otherwise be required in the absence of preemption, solely for notice purposes. State authority to adopt such a rule may derive from statutory provisions under state law that authorize notice filings in connection with offerings of covered securities, offerings under Section 18(b)(3), and/or offerings under Section 18(b)(4).

Rule ____ . Notice Filing Requirement for Regulation A – Tier 2 Offering

The following provisions apply to offerings made under Tier 2 of federal Regulation A and Section 18(b)(3) [or Section 18(b)(4)] of the Securities Act of 1933:

- (1) **Initial filing.** An issuer planning to offer and sell securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit the following at least 21 calendar days prior to the initial sale in this state:
 - (a) A completed Regulation A – Tier 2 notice filing form or copies of all documents filed with the Securities and Exchange Commission
 - (b) A consent to service of process on Form U-2 if not filing on the Regulation A – Tier 2 notice filing form; and
 - (c) The filing fee prescribed by [code section].

The initial notice filing is effective for twelve months from the date of the filing with this state.

- (2) **Renewal.** For each additional twelve-month period in which the same offering is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew [the unsold portion of] its notice filing by filing the following on or before the expiration of the notice filing:
 - (a) The Regulation A – Tier 2 notice filing form marked “renewal” and/or a cover letter or other document requesting renewal; and
 - (b) The renewal fee prescribed by [code section] [to renew the unsold portion of securities for which a filing fee has previously been paid].

[(c) If the amount of securities subject to the notice filing is being increased, the fee prescribed by [code section] to cover the increase in the amount of securities to be offered.]

[(3) **Amendment.** An issuer may increase the amount of securities offered in this state by submitting a Regulation A – Tier 2 notice filing form marked “amendment” or other document describing the transaction and a fee calculated pursuant to [code section] to cover the increase in the amount of securities being offered prior to selling additional securities in this state.]

Note: The bracketed language may be used by those states that require a notice filing fee that is scaled based on the amount offered in that state.

UNIFORM NOTICE OF REGULATION A – TIER 2 OFFERING

Pursuant to Section 18(b)(3), (b)(4), and/or (c)(2) of the Securities Act of 1933

Item 1. Issuer's Identity

Name of Issuer <input type="text"/>	Previous Name(s) <input type="checkbox"/> None <input type="text"/> <input type="text"/> <input type="text"/>	Entity Type (Select one) <input checked="" type="radio"/> Corporation <input type="radio"/> Limited Partnership <input type="radio"/> Limited Liability Company <input type="radio"/> General Partnership <input type="radio"/> Business Trust <input type="radio"/> Other (Specify) <input type="text"/>
Jurisdiction of Incorporation/Organization <input type="text"/>		
Year of Incorporation/Organization: <input type="text"/>		
CIK Number for Issuer: <input type="text"/>		

Item 2. Principal Place of Business

Street Address Line 1 <input type="text"/>	Street Address Line 2 <input type="text"/>		
City <input type="text"/>	State/Province/Country <input type="text"/>	ZIP/Postal Code <input type="text"/>	Phone No. <input type="text"/>

Item 3. Contact Person

Directions: Provide the name and contact information for the person to contact with questions about the filing of this notice.

Last Name <input type="text"/>	First Name <input type="text"/>	Firm Name <input type="text"/>
Street Address Line 1 <input type="text"/>	Street Address Line 2 <input type="text"/>	
City <input type="text"/>	State/Province/Country <input type="text"/>	ZIP/Postal Code <input type="text"/>
Phone <input type="text"/>	Fax <input type="text"/>	E-mail <input type="text"/>

Item 4. Identification of Offering

Type of filing: New Notice Amendment Renewal

SEC File Number for this offering:

Date of SEC qualification of this offering: OR Not yet qualified by SEC

Item 5. Information about the Offering

Does the issuer intend this offering to last more than one year? Yes No

Total offering amount \$

Item 6. Related Persons

Directions: Provide contact information for all executive officers, directors, and promoters.

Last Name	First Name	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Street Address Line 1	Street Address Line 2	
<input type="text"/>	<input type="text"/>	
City	State/Province/Country	ZIP/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Relationship(s):	<input type="checkbox"/> Executive Officer <input type="checkbox"/> Director <input type="checkbox"/> Promoter	

Last Name	First Name	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Street Address Line 1	Street Address Line 2	
<input type="text"/>	<input type="text"/>	
City	State/Province/Country	ZIP/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Relationship(s):	<input type="checkbox"/> Executive Officer <input type="checkbox"/> Director <input type="checkbox"/> Promoter	

Last Name	First Name	Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Street Address Line 1	Street Address Line 2	
<input type="text"/>	<input type="text"/>	
City	State/Province/Country	ZIP/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Relationship(s):	<input type="checkbox"/> Executive Officer <input type="checkbox"/> Director <input type="checkbox"/> Promoter	

Identify additional related persons by checking this box and attaching Item 6 Continuation Page(s).

Item 7. Sales Compensation

Directions: Enter the requested information for each person that has been or will be paid directly or indirectly any commission or other similar compensation in cash or other consideration in connection with sales of securities in the offering, including finders. If more than five persons to be listed are associated persons of the same broker or dealer, enter only the name of the broker or dealer, its CRD number and street address, and the jurisdictions in which the named person has solicited or intends to solicit investors.

Recipient	Recipient CRD Number	<input type="checkbox"/> No CRD Number										
<input type="text"/>	<input type="text"/>											
(Associated) Broker or Dealer (if applicable)	(Associated) Broker or Dealer CRD Number	<input type="checkbox"/> No CRD Number										
<input type="text"/>	<input type="text"/>											
Street Address Line 1	Street Address Line 2											
<input type="text"/>	<input type="text"/>											
City	State/Province/Country	ZIP/Postal Code										
<input type="text"/>	<input type="text"/>	<input type="text"/>										
Jurisdictions of Solicitation:	<input type="checkbox"/> All States											
<input type="checkbox"/> AL	<input type="checkbox"/> AK	<input type="checkbox"/> AZ	<input type="checkbox"/> AR	<input type="checkbox"/> CA	<input type="checkbox"/> CO	<input type="checkbox"/> CT	<input type="checkbox"/> DE	<input type="checkbox"/> DC	<input type="checkbox"/> FL	<input type="checkbox"/> GA	<input type="checkbox"/> HI	<input type="checkbox"/> ID

- IL IN IA KS KY LA ME MD MA MI MN MS MO
 MT NE NV NH NJ NM NY NC ND OH OK OR PA
 RI SC SD TN TX UT VT VA WA WV WI WY
 Puerto Rico U.S. Virgin Islands

Identify additional person(s) being paid compensation by checking this box and attaching Item 7 Continuation Page(s).

Item 8. Jurisdictions where securities will be sold

Mark the jurisdictions below where securities will be sold and to which this notice filing is directed:

- AL AK AZ AR CA CO CT DE DC FL GA HI ID
 IL IN IA KS KY LA ME MD MA MI MN MS MO
 MT NE NV NH NJ NM NY NC ND OH OK OR PA
 RI SC SD TN TX UT VT VA WA WV WI WY
 Puerto Rico U.S. Virgin Islands

Item 9. Signature and Submission

By filing this notice, the issuer hereby represents that:

- All documents previously or subsequently filed with the Securities and Exchange Commission under the file number for this offering indicated above are hereby incorporated by reference with this notice.
- The issuer hereby irrevocably appoints the Securities Administrator or other legally designated officer of the jurisdiction(s) in which this notice is filed, as its agents for service of process upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of, or in connection with, the sale of securities and the undersigned does hereby consent that any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within the jurisdiction in which this notice is filed by service of process upon the officers so designated with the same effect as if the undersigned was organized or created under the laws of that jurisdiction and have been served lawfully with process in that jurisdiction. It is requested that a copy of any notice, process, or pleading served hereunder be mailed to:

Name

Address

- The issuer has ensured that any broker-dealer, issuer-dealer, or securities salesperson licensing requirements have been satisfied in those jurisdictions that require such licensing.
- The issuer has included the required filing fees (if any) with the submission of this notice to each jurisdiction indicated.

The issuer has read this notice, knows the contents to be true, and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

Signature

Name of Signer (Print)

Title

Date

Item 6. Related Persons, Continuation Page

Directions: Provide contact information for all executive officers, directors, and promoters. Attach additional continuation pages if necessary.

Last Name	First Name	Middle Name	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Street Address Line 1	Street Address Line 2		
<input type="text"/>	<input type="text"/>		
City	State/Province/Country	ZIP/Postal Code	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Relationship(s):	<input type="checkbox"/> Executive Officer	<input type="checkbox"/> Director	<input type="checkbox"/> Promoter

Last Name	First Name	Middle Name	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Street Address Line 1	Street Address Line 2		
<input type="text"/>	<input type="text"/>		
City	State/Province/Country	ZIP/Postal Code	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Relationship(s):	<input type="checkbox"/> Executive Officer	<input type="checkbox"/> Director	<input type="checkbox"/> Promoter

Last Name	First Name	Middle Name	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Street Address Line 1	Street Address Line 2		
<input type="text"/>	<input type="text"/>		
City	State/Province/Country	ZIP/Postal Code	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Relationship(s):	<input type="checkbox"/> Executive Officer	<input type="checkbox"/> Director	<input type="checkbox"/> Promoter

Last Name	First Name	Middle Name	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Street Address Line 1	Street Address Line 2		
<input type="text"/>	<input type="text"/>		
City	State/Province/Country	ZIP/Postal Code	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Relationship(s):	<input type="checkbox"/> Executive Officer	<input type="checkbox"/> Director	<input type="checkbox"/> Promoter

Last Name	First Name	Middle Name	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Street Address Line 1	Street Address Line 2		
<input type="text"/>	<input type="text"/>		
City	State/Province/Country	ZIP/Postal Code	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Relationship(s):	<input type="checkbox"/> Executive Officer	<input type="checkbox"/> Director	<input type="checkbox"/> Promoter

Item 7. Sales Compensation, Continuation Page

Directions: Enter the requested information for each person that has been or will be paid directly or indirectly any commission or other similar compensation in cash or other consideration in connection with sales of securities in the offering, including finders. If more than five persons to be listed are associated persons of the same broker or dealer, enter only the name of the broker or dealer, its CRD number and street address, and the jurisdictions in which the named person has solicited or intends to solicit investors. Attach additional continuation pages if necessary.

Recipient Recipient CRD Number No CRD Number

(Associated) Broker or Dealer (if applicable) (Associated) Broker or Dealer CRD Number No CRD Number

Street Address Line 1 Street Address Line 2
City State/Province/Country ZIP/Postal Code

Jurisdictions of Solicitation: All States
 AL AK AZ AR CA CO CT DE DC FL GA HI ID
 IL IN IA KS KY LA ME MD MA MI MN MS MO
 MT NE NV NH NJ NM NY NC ND OH OK OR PA
 RI SC SD TN TX UT VT VA WA WV WI WY
 Puerto Rico U.S. Virgin Islands

Recipient Recipient CRD Number No CRD Number

(Associated) Broker or Dealer (if applicable) (Associated) Broker or Dealer CRD Number No CRD Number

Street Address Line 1 Street Address Line 2
City State/Province/Country ZIP/Postal Code

Jurisdictions of Solicitation: All States
 AL AK AZ AR CA CO CT DE DC FL GA HI ID
 IL IN IA KS KY LA ME MD MA MI MN MS MO
 MT NE NV NH NJ NM NY NC ND OH OK OR PA
 RI SC SD TN TX UT VT VA WA WV WI WY
 Puerto Rico U.S. Virgin Islands

Attach additional Item 7 continuation pages if necessary.