



Blue Sky
Laws

GUARDD, INC.

How Can I Sell the Shares I Bought?

Navigating Blue Sky Laws when it
comes to the Secondary Transfer of
Securities

White Paper

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Prologue

State securities laws are a real thing. Particularly when it comes to citizens buying and selling unregistered securities. Each state has its own rules and laws, which makes compliance both timely and costly. Not following these rules and laws can lead to significant financial penalties, repayment of proceeds, the loss of licenses and more. Just consider [The State of Alabama Securities Commission vs LPL Financial LLC whereby LPL](#), whereby a Boston based broker-dealer failed to establish, maintain and follow reasonable policies and procedures to prevent the sale of unregistered, non-exempt securities in compliance with Alabama state securities registration requirements (aka Blue Sky laws). This lawsuit ultimately expanded to all 50 states and led to a \$26 million settlement due to LPL's offering and selling of unregistered, non-exempt securities and its failure to reasonably supervise the flow of information to ensure full and proper compliance with state securities laws. The moral of the story is: if the law exists at a state level, an issuer or holder of a security that wishes to list and sell it must be in compliance or face the consequences.

This is one of the reasons why, until now, it has been very difficult, if not impossible, for investors in private companies to exit prior to a liquidity event. There are very limited Federal or State exemptions that allow an investor to sell his or her shares to another investor. Most of these exemptions require a private sale to a sophisticated investor, no general solicitation (i.e. you cannot publicly post your interest to sell anywhere, newspapers or online

platforms), and access to ongoing company and financial information. If an investor does not have a buyer, he or she could use a broker/dealer to handle the transaction; however, the fee for the broker to diligence the transaction could cost-prohibitive. Alternative Trading Systems (ATSs) (aka regulated broker dealers or online listing platforms), are entering the market to help facilitate these transfers, but transacting via an ATS doesn't necessarily exempt a shareholder or a company from complex federal or state securities laws.

The crux of the challenge is not the technology facilitating the matching of buyers and sellers, but the lack of ongoing reporting for existing private issuers. This white paper explains the growth in exempt unregistered securities, the liquidity issue, what Alternative Trading Systems are, the laws and regulations that govern the transfer of securities and how an issuer/investor can be compliant with Federal and State securities laws.

Introduction

In the wake of the passage of the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”), a vast audience of investors was opened to original-issue exempt securities after a holding period. Many of these securities, issued more than one year ago, are now unrestricted and theoretically, freely tradable. However, there is little to no secondary market for these securities largely due to the lack of trading venues and post-offering ongoing reporting data. We believe that broader access to the type of corporate data presented in recognized securities manuals for public companies would spur the development of secondary market liquidity in the securities of issuers who do not have such information readily available. Our view echoes the remarks of SEC Commissioner Luis Aguilar in a March 2015 speech:

The lack of a fair, liquid, and transparent secondary market for [exempt unregistered] securities is a longstanding problem that needs an effective solution ... This topic is increasingly urgent in light of certain new, or anticipated, Commission rules required by the JOBS Act that would result in a far wider range of small business securities needing to find liquidity in the secondary markets. Specifically, proposed rules under Regulation A-plus and Crowdfunding, and final rules under Rule 506(c) of Regulation D, would permit wide distributions of securities and also allow such securities to be freely-traded by security holders immediately upon issuance, or after a one-year holding period.

These registration exemptions also provide– or are expected to provide– for lesser on-going reporting requirements than is required for listed securities¹.

Most experts acknowledge and agree that a cornerstone of our securities market is the full and fair disclosure and availability of information about issuers whose securities are purchased and sold in the US markets—both public and private. A robust secondary market helps both issuers and investors. With democratized, free ongoing access to structured information about a company, its management, financials, business plans and more, investors can make an informed decision to buy or sell a security of that company both at the time of its primary offering and in secondary transactions. Without this information, investors risk making poor investment decisions by being deprived of important details that would otherwise influence their choices. While the public markets provide systems and processes for key company information to be disclosed and accessed, historically, this information about private or other non-reporting companies was difficult to find in the best of cases.

The vast majority of issuers in qualified Regulation A+ offerings are not quoted on a national stock exchange or

¹ <https://www.sec.gov/news/statement/need-for-greater-secondary-market-liquidity-for-small-businesses.html>

the over-the-counter market². As noted in a recent SEC internal report:

Small investors may be less well equipped to overcome informational asymmetries associated with small issuers. However, due to the presence of more extensive disclosure requirements in Regulation A+ (particularly, for Tier 2 issuers), Regulation A+ issuers may pose less information asymmetry than other small issuers that are not reporting companies and that have raised financing in reliance on other exemptions³. [emphasis added]

The general goal related to investor protection is to address the “information asymmetry” of issuers that are not reporting companies by establishing a baseline set of required data for market participants. This concept is central to the Manual Exemption and Proposed Model Rules, but it is not one that is key to Alternative Trading Systems, which are arising to facilitate the transfer of secondary shares.

² *Regulation A+: What Do We Know So Far* at p.26. See also, *Outcomes of Investing in OTC Stocks*, prepared by Joshua White for Mark Flannery, Director and Chief Economist of the SEC Division of Economic and Risk Analysis (December 2016), discussion of OTC markets and how retail investor “outcomes might suffer disproportionately from growing informational disadvantages” at pp. 2, 15, 26.

³ *Id.* at p. 30.

What is an Alternative Trading System?

According to the Securities and Exchange Commission's Investor.gov website, "Alternative Trading Systems are SEC and FINRA-regulated electronic trading systems that match orders for buyers and sellers of securities." **An ATS is not a national securities exchange** [like the New York Stock Exchange or The Nasdaq Stock Market], but an online marketplace that allows investors to list their securities for sale and allows buyers to purchase those securities. ATSS have historically been used to match large buy and sell transactions without publicly displaying the size and price of their orders to other participants on the trading systems. Now ATSS are starting to become a popular place for smaller investors to seek liquidity for the shares they own in private companies with hopes for liquidity. Think Facebook or Uber before their IPOs.

But just finding an ATS to list your securities isn't enough. Because the secondary transfer of securities is regulated at the both the federal and state level, both an investor and a reseller of those securities must navigate federal securities laws as well as 50 different state securities laws. What all of these laws have in common is if you are reselling securities to an investor, those securities must be listed on a national exchange, registered for sale in each state they are offered and sold or eligible for a federal or state level exemption.

Assuming a company doesn't want to go through the lengthy and costly process of listing its securities on a national exchange or navigating the varying, complex and costly state registration process, the company would have to qualify for one or more exemptions. Let's address the federal exemptions that exist and why they might not provide coverage.

Federal Exemption - Section 4(a)(1) and 4(a)(2) of the Securities Act

According to [a post by Pillsbury Law](#), Section 4(a)(2) of the Securities Act of 1933 (the "Act") exempts from registration "transactions by an issuer not involving any public offering." It is section 4(a)(2) that permits an issuer to sell securities in a "private placement" without registration under the Act. Section 4(a)(2), however, is only available to the issuer, and not to persons who have acquired securities from the issuer and who want to resell the securities.

Section 4(a)(1) of the Act exempts from registration "transactions by any person other than an issuer, underwriter, or dealer." A holder of securities who is not an issuer or a dealer can therefore sell his securities in a private sale without registration if the holder is not an underwriter as "underwriter" as defined in section 2(a)(11). Generally, a person is an "underwriter" if he acquires securities with a view to "distribution" or is participating in a "distribution," which generally means an offering that is not a private offering.

A holder of securities that were issued in a private placement may resell the securities on a public trading market, after a holding period, pursuant to the SEC's Rule 144 (discussed below). Specifically, the seller who complies with Rule 144 is deemed not to be an "underwriter" under the Securities Act of 1933 and therefore may sell the restricted shares without registration. There is not, however, a similar rule for private resales of restricted securities. A holder of securities who wishes to resell them privately under section 4(a)(1) therefore must sell in a transaction that is sufficiently "private" to avoid his being considered an underwriter.

Over time, the various restrictions on sale considered by the SEC and securities lawyers to permit a resale under 4(a)(1) has been historically referred to as "section 4(1-1/2)". It is generally considered that for a resale to be private for purposes of section 4(1-1/2),

- it should be to a limited number of purchasers, certainly less than 25 purchasers;
- the securities should be offered without public advertising or general solicitation;
- the seller should provide the purchaser with such information about the issuer as is available to the seller, although a seller that is not affiliated with the issuer may not be able to provide anything like the disclosures that would be made in a private placement by the issuer;
- if the seller is affiliated with the issuer, purchasers generally should be limited to those who are sophisticated enough to be able to evaluate the risks of the investment;

- although no specific holding period is required before the resale of the securities, the seller must not have purchased the securities with a view to resale, and it generally is considered that a holding period of six months or more will evidence the seller's original investment intent; and
- the purchaser should represent that it is acquiring the securities for investment, and not for resale.

For individual investors wishing to list their securities on an ATS, Section 4(A)(1) & (2) wouldn't provide coverage because 4(A)(1) only applies to issuers and not to resellers and 4(A)(2) requires that the transaction be limited and private. Arguably, and we believe correctly, ATSS are public domain, anyone can access, they don't have to be sophisticated or accredited and there doesn't need to be a pre-existing relationship between buyer and seller. In addition, 4(A)(2) presupposes that a seller has current information about a company and their financial performance. If a year went by since a seller acquired those securities, the information provided in an offering memorandum would be stale and investors that are making buy decisions on that information and could be fooled into thinking the company is doing better than it otherwise is. Regardless they wouldn't have access to current and updated information.

Federal Exemption - Rule 144

According to the SEC's website, when you acquire restricted securities or hold control securities, you must find an exemption from the SEC's registration requirements

to sell them in a public marketplace. Restricted securities are securities acquired in unregistered, private sales from the issuing company or from an affiliate of the issuer. Investors typically receive restricted securities through private placement offerings, Regulation D offerings (506b and 506c), employee stock benefit plans, as compensation for professional services, or in exchange for providing "seed money" or start-up capital to the company. Control securities are those held by an affiliate of the issuing company. An affiliate is a person, such as an executive officer, a director or large shareholder, in a relationship of control with the issuer. Control means the power to direct the management and policies of the company in question, whether through the ownership of voting securities, by contract, or otherwise. If you buy securities from a controlling person or "affiliate," you take restricted securities, even if they were not restricted in the affiliate's hands.

Rule 144 allows public resale of restricted and control securities if a number of conditions are met. The rule is not the exclusive means for selling restricted or control securities but provides a "safe harbor" exemption to sellers. The rule's five conditions are summarized below:

1. **Holding Period.** Before you may sell any restricted securities in the marketplace, you must hold them for a certain period of time. If the company that issued the securities is a "reporting company" in that it is subject to the reporting requirements of the Securities Exchange Act of 1934, then you must hold the securities for at least six months. If the issuer of the securities is not subject to the reporting requirements, then you

must hold the securities for at least one year. The relevant holding period begins when the securities were bought and fully paid for. The holding period only applies to restricted securities. Because securities acquired in the public market are not restricted, there is no holding period for an affiliate who purchases securities of the issuer in the marketplace. But the resale of an affiliate's shares as control securities is subject to the other conditions of the rule.

2. Current Public Information. There must be adequate current information about the issuing company publicly available before the sale can be made. For reporting companies, this generally means that the companies have complied with the periodic reporting requirements of the Securities Exchange Act of 1934. For non-reporting companies, this means that certain company information, including information regarding the nature of its business, the identity of its officers and directors, and its financial statements, is publicly available.

3. Trading Volume Formula. If you are an affiliate, the number of equity securities you may sell during any three-month period cannot exceed the greater of 1% of the outstanding shares of the same class being sold, or if the class is listed on a stock exchange, the greater of 1% or the average reported weekly trading volume during the four weeks preceding the filing of a notice of sale on Form 144. Over-the-counter stocks, including those quoted on the OTC Bulletin Board and the Pink Sheets, can only be sold using the 1% measurement.

4. Ordinary Brokerage Transactions. If you are an affiliate, the sales must be handled in all respects as routine trading transactions, and brokers may not receive more than a normal commission. Neither the seller nor the broker can solicit orders to buy the securities.

5. Filing a Notice of Proposed Sale with the SEC. If you are an affiliate, you must file a notice with the SEC on [Form 144](#) if the sale involves more than 5,000 shares or the aggregate dollar amount is greater than \$50,000 in any three-month period.

Rule 144 wouldn't work for many investors wishing to list their securities on an ATS because (like above) private company information is typically private and unavailable. It is rare that companies publish ongoing information about their business and financial wellbeing. And if they do, they rarely post it for public consumption. Without this information (and constant updates to it) investors may be left in the dark about the health of an investment.

Arguably, and we believe it is, an ATS is a public marketplace where sellers are soliciting buyers for their securities and buyers are soliciting sellers, general solicitation is taking place. Because it is happening on a trading system the pre-existing relationship isn't a realistic argument. And because trading systems include both retail and accredited investors there's no guarantee that the buyer is accredited. Given all this, states might argue that unless these securities are registered in their state you are violating their sovereign rights and putting investors in their state at risk for fraud. Net-net, you are breaking the

law and can be held accountable. If you've been to any North American State Securities Association meetings you know very well state regulators are serious and very protective of their investors.

If an investor is looking for liquidity or a company wants to make its securities available for sale on a secondary market, it doesn't make sense for a company to spend the time, resources and capital to navigate the bureaucracy, forms and filing fees for all 50 states. There is a solution. It involves using a Manual Exemption that preempts state Blue Sky Laws in 43 states (and territories).

Unsolicited Orders Exemption

An unsolicited order exemption is an exemption for any non-issuer transaction effected pursuant to an unsolicited order for the purchase of securities. These transactions must be affected by or through a registered broker-dealer. Such an order may be executed by two parties that have a pre-existing relationship and no general solicitation may have taken place. Unless the order is affected by the broker-deal and neither the broker-dealer nor the holder of that security nor the issuer this exemption arguably would not apply.

State Exemption - The Manual Exemption

A Manual Exemption is an exemption for offers or sales through a registered broker-dealer of outstanding securities

of an issuer that is listed in a nationally recognized securities manual or that files certain reports on EDGAR. There are currently only two nationally-recognized securities manuals, Mergent Manuals and the OTC Markets Manual. If the issuer is not listed in one of these securities manuals, the issuer must file documents through EDGAR which include a description of the business, names of the officers and directors, an audited balance sheet of the issuer dated within 18 months, and audited income statements for each of the two preceding fiscal years.

The Manual Exemption is predicated on ensuring that a core data set of current information about issuers is available to secondary market buyers and sellers of securities of those issuers. Issuers pay a fee to have their current and ongoing financial information published. This data is available both online and in hard copy manuals that is available (for a fee) to users. By having this data available, investors can make a more informed investment decision for issuers that are not reporting companies. By having the information ongoing, investors that are buying securities on a secondary market can rest assured that they have the most recent snapshot of a company's financial wellbeing. Also, having the information in the public domain provides regulators a pathway to perform diligence on issuers that provide misleading information or material misstatements. Just as companies are less inclined to deceive using the Securities and Exchange Commission Edgar database, issuers are less inclined to create a footprint of their deceit through public disclosures in a securities manual. This transparency creates a degree of comfort for investors in unlisted securities, since public disclosure and

dissemination of information via securities manuals is a deterrent to fraud.

43 states (and territories) have laws that provide for a Manual Exemption. The others do not allow for a manual exemption, so if you are an investor that wishes to sell his or her securities to anyone in those other 9 states, you must contact the issuer of the securities, have them contact each state securities administrator, and register those securities for sale (or find another exemption). This may include detailed reporting, financial disclosures, a filing fees and an approval. The states that do not allow for a manual exemption are Alabama, California, Illinois, Kentucky, Louisiana, New York, Pennsylvania and Virginia.

Why don't small, private issuers and their investors not utilize the Manual Exemption by submitting their information to Mergent or OTC markets? Because historically, the Mergent and OTC manuals have not been available to private issuers. The OTC manual exists primarily to serve public companies who list their shares on one of the OTC markets. Similarly, Mergent has traditionally been closed or cost prohibitive for private issuers.

Introducing GUARDD

To assist those small issuers that do not meet the requirements of Mergent or OTC markets but still want to make their securities available for secondary trading through reporting to a national securities manual we have created GUARDD - a Global Utility Archival Retrieval

Disclosure Database. GUARDD addresses the “information asymmetry” problem that exists between a company’s offering documents and the need for ongoing financial disclosures for investors. GUARDD was developed to support the development of transparent secondary markets in unregistered securities by facilitating the disclosure and dissemination of private company information for investors, regulators, and market participants.

GUARDD is an online securities data platform that provides free access to investors, the public at large and regulators; issuers of securities pay an annual subscription fee to list their offering information and obtain progressive levels of certification of the data provided. GUARDD is designed as a resource for core corporate information on private companies that are not required to comply with an alternate and equivalent disclosure regime. This includes the resale of unregistered securities sold pursuant to offerings exempt from registration under: Regulation A+, Regulation Crowdfunding and Regulation D Rule 506.

We note that GUARDD subscribers will not be reporting through the SEC EDGAR database (even on a voluntary basis). Instead, they will be disclosing corporate information for the benefit of the investing public outside the EDGAR database. As such, they are not expected to trigger (but could) registration requirements under Section 12(g) of the Securities Exchange Act of 1934 (“Exchange Act”). However, all issuer information will be subject to other applicable federal and state securities laws, including, in particular, making false, misleading or incomplete disclosures in Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act.

The GUARDD platform collects, stores and reports over 100 unique data fields on each issuer (including company, industry, operations, officers, directors, advisors, auditors, legal counsel, contact information, profit and loss statement, balance sheet, capital stock report, auditor's report, listing agent, offering information (amount raised, use of proceeds, fees, etc.), along with uploaded/supporting documents). This data is published online and available as a downloadable report on the GUARDD network or ATS websites. Supporting documents that corroborate the data are also available for download.

GUARDD and RIVIO - Ensuring Data Integrity and Authenticity

GUARDD has an exclusive agreement with RIVIO Clearinghouse, which is a service of CPA.com, a subsidiary of the American Institute of Certified Public Accountants (AICPA), and Confirmation.com, the world's leading provider of secure, online audit confirmations. RIVIO was developed to address increasing marketplace demand for source-driven financial information and facilitates a more secure exchange of authentic audit reports, financial statements and other key documents. It is a financial clearinghouse that maintains the integrity of documents that are prepared by CPAs and uploaded to secure servers for use by third parties.

The agreement between GUARDD and RIVIO allows for compiled, reviewed, and audited data provided by licensed CPAs, together with supporting documents, to be securely

transmitted to GUARDD. These documents are protected from alteration and the source is confirmed as a validly licensed CPA firm.

This unique relationship brings authentic private company data online, creating increased transparency into this traditionally opaque market. By making the data publicly available, the GUARDD platform allows for immediate distribution of information about private companies to investors and regulators throughout the United States. The agreement with RIVIO will provide integrity and credibility to the underlying company financials.

GUARDD Mergent Relationship - Private Issuers' Link to the Mergent Manuals

GUARDD has also entered into an agreement with Mergent Manuals which allows for issuers that complete a GUARDD report to automatically transmit their data in a pre-approved format to Mergent Manuals. Upon approval, the GUARDD report will be published in Mergent's national securities manual giving Blue Sky approval in 43 states (and territories). Issuers can file in the remaining 9 states such that they have clearance for secondary trading in all 50 states. Our unique relationship with Mergent demonstrates clear disclosure in one of the industry's most well respected and widely consulted reference tools .

How Does GUARDD Work?

Issuers that wish to qualify for Blue Sky exemption via GUARDD create an account at www.guardd.com. A valid email address is required. One of the issuer's managers can complete the data fields required. There are 8 sections that need to be completed. These are:

1. Corporate information - That includes information about the company, its operations, officers, directors, counsel, auditors, business history and other key identifying information.
2. Financial statements - All information from the company's audited financials for the prior two years is disclosed here.
3. Auditor's report - A capture of the auditor's findings including any emphasis of matter.
4. Capital stock - A breakdown of the company's capital table including all securities issued and outstanding.
5. Beneficial owners - A breakdown of owners of more than 10% of the company's outstanding securities.
6. Listing information - A hyperlink to the ATS where the company's securities will be available to trade
7. Offering information - If the company has completed any prior offerings, we ask that they disclose information on the prior two rounds of financing includes a high level breakdown of use of proceeds.
8. Token information - If the company has issued tokens and these tokens are available for trade on a secondary market, this section will ask for a description and breakdown of the token's characteristics.

Once a GUARDD report has been published via Mergent, all states will be notified. Following the initial report, issuers will be asked quarterly for any material changes to their company operations or financials. If there are any material changes, these will be submitted via an “updated” GUARDD report. States and investors will be notified of any updated GUARDD reports. Issuers are required to complete an updated GUARDD report within 90 days of the close of their fiscal year, each year. If they fail to file with us, the GUARDD report will be withdrawn, the issuer will lose their Blue Sky exemption and the states where securities have been sold will be notified that the GUARDD report has been withdrawn.

Benefits of GUARDD as a Securities Manual

There are many benefits to using GUARDD for your security manual/Blue Sky needs. These include:

1. Access, standardization & transparency. Companies that file with GUARDD will be providing over 100 standard data points about their organization, management, operations, financial well-being and more. This will shed light on these private companies as well as provide (for the first time) a pathway for private companies to report key financial information about themselves, which will benefit investors, regulators and the general public. The information will be available to investors, regulators and the public at no cost.
2. Market efficiency. By creating a standard process for companies to upload their information and transmit it

to the states, the GUARDD system will compel more issuers to report their information online, to meet the information and liquidity desires of current investors and attract new investors. GUARDD will allow issuers to file once and be compliant in all states that adopt the proposed exemption. The availability of the Manual Exemption from Blue Sky registration offers a powerful incentive for issuers to report to an approved resource like GUARDD, since investors could sell their securities in a secondary market transaction without unwittingly violating Blue Sky laws.

3. Liquidity. As previously noted, secondary trading of unregistered securities has been severely restricted by a lack of information and disclosure about issuers, the absence of secondary marketplaces, and the cost and complexity of compliance. Reducing these barriers will increase investor interest in secondary markets, which in turn will expand interest in primary markets for exempt securities. Access, liquidity, and transparency are inter-connected elements that facilitate the flow of investment capital in both primary and secondary market transactions.
4. Data integrity & market confidence. The connectivity between GUARDD and RIVIO will provide many tangible benefits to users of the platform: CPA firm validation, source confirmation and authentication that documents are legitimate, reduced risk and liability exposure, control over document distribution and user notification and the ability to request documents and track their distribution.
5. Transparency for regulators. Companies that subscribe to GUARDD will complete disclosures about their businesses, their operations and their financial

status. All of this information will be digitally recorded and can be analyzed by and reported to the SEC and state regulators. For the first time in 85 years, regulators can have access to an online tool to visualize where capital is flowing in the private capital markets, which can help them to further protect investors. Regulators AND investors will have real-time, actionable data for insight into a large part of the private capital markets.

6. Investor protection. Disclosure protects investors. Allowing issuers to report to GUARDD and have that information relayed to each state and available online will improve investors' access to information required to make more informed investment choices to buy or sell securities of the reporting issuers.
7. More Data analytics. More data online means more opportunity to analyze it and present it to investors and other consumers. Data analytics can educate new issuers, give investors more opportunities to compare companies in similar industries and show regulators and policy makers where the greatest economic impact is taking place.
8. Enable brokers to proactively recommend and solicit your company's stock by utilizing the "manual exemption." The manual exemption is a feature of Blue Sky laws in US states. Companies are exempt from costly filing requirements in various jurisdictions provided that an up-to-date company description is published in a "recognized securities manual" such as Mergent or OTC markets. U.S. brokers and advisors widely rely on the manual exemption to facilitate secondary trading of equities on the OTCBB, OTCQX, TSX & TSXV, Pink Sheet and Level-I ADRs.

Frequently Asked Questions:

Q) Can I just publish information on our own website, keep it current and be in compliance?

A) We don't think so. The reason these laws exist is to ensure that the information that is being disclosed is ongoing, accurate and truthful. There is no way to confirm information disclosed on a website is current, accurate or truthful which is why public companies have to publish via Edgar which is under the scrutiny of the Securities and Exchange Commission. National securities manuals are a close second to Edgar and anything issuers report in them is presumed to be truthful and accurate. At GUARDD we expect reliable information from our clients as well. When an issuer publishes through GUARDD, we perform a background check on the officers and directors. This is to keep bad actors out. In addition, audited financials are provided by an independent 3rd party, not the issuer directly. Both the GUARDD report and audit report go through our Blue Sky compliance team via Mergent to verify the information being disclosed in the report. When reports are company-produced, they don't have the same

level of independence. When you go through GUARDD, we produce a report that has a measure of baseline integrity, confirmed by independent sources.

Q) Can I use GUARDD if I just want to disclose information for my current investors in a standardized format?

A) Most definitely. As a matter of fact, our basic product is free and would allow you to create a GUARDD report and enter all your company and financial information. This report however would not give you Blue Sky clearance and could not be used to facilitate secondary trading.

Q) What types of issuers/securities does GUARDD target?

A) GUARDD addresses the vast market of unregistered private company securities and Regulation A+ securities. GUARDD comes in to address the gap in the public reporting by private companies that wish to allow their securities to trade in secondary markets.

Q) If I am a series LLC issuer do I need a GUARDD report for each series or for the entire entity?

A) You would file one GUARDD report for the entire entity, provide audited financials for the entire entity and list each series in the Capital Stock section.

Q) If I am conducting a Regulation A+ offering, do I need a GUARDD report?

A) Under federal law, when a Regulation A+ issuer wants to allow the resale of its securities there is a non-issuer exemption that can be relied upon for secondary

transfer. However, on the state level there is no such exemption, which is why we created the GUARDD platform.

Q) If I have securities that are unrestricted and freely transferable why do I even need GUARDD?

A) If the securities are unrestricted then you have one side of the equation that allows for the secondary transfer of these securities. The other is, there must be sufficient information available for investors. Arguably any information that is greater than 12 months old is outdated and issuers need to make sure investors have access to reliable company and financial information in order to make an informed decision.

Q) If I am listing secondary securities on a secure website, doesn't the fact that it requires a log in with a password mean that a website is private and hence general solicitation is not taking place?

A) Not necessarily, especially if anyone can easily create an account and have access. But it isn't about who can access a website as much as it is about "posting" securities for sale. If you are posting your shares on the internet, arguably since the internet is public domain, it could be viewed as general solicitation.

Q) If I'm an investor and I want to sell to another investor, can't I just do that?

A) It depends. On the federal level if you are not an issuer, underwriter or dealer you pretty much can sell your securities if an exemption is available. On the state level there are limited allowances for isolated sales of an unsolicited transaction.

Q) Why can't I just work with Mergent or OTC Markets?

A) Mergent only works with public companies, but GUARDD is currently the only pathway for private companies to facilitate for publication in the Mergent Manuals. In addition, our exclusive relationship with RIVIO and wholesale pricing terms make it more cost-effective to work through GUARDD. OTC markets may offer an option for you if you are a 34 Act reporting company or a Regulation A company that wants to trade one of their markets. If you want to trade on another ATS however, and you do not qualify for a state level exemption, you would need to have a GUARDD report or manually file in each state.

Q) What is the big deal about Reg D, 506c issuers?

A) GUARDD facilitates the ongoing information disclosure to allow eligible investors to resell securities under Rule 144 that were originally issued under Reg D, 506c.

Q) What is the definition of "offer"

A) Securities regulators interpret broadly the meaning of the term "offer." For example, advertising a business opportunity could be considered an offer; therefore, it is prudent to assume that efforts to attract investors to an investment are offers of a security and subject to federal and state securities laws. Offerings of securities may not need to be registered with the SEC or state securities regulators if an exemption from registration is available. Federal and state securities laws contain several exemptions from registration. For example, some

frequently used exemptions from registration that may be available include:

Rule 506(b) of Regulation D, which provides an exemption from registration for a private offering to accredited investors and up to 35 sophisticated investors; and

Rule 506(c) of Regulation D, which provides an exemption from registration for an offering that may be conducted publicly so long as the issuer takes reasonable steps to verify the accredited investor status of each purchaser.

Q) When is an Issuer Eligible to Use the Exemptions under Rule 506?

A) Rule 506 is a commonly used exemption from registration under federal securities laws that allows any issuer to raise an unlimited amount of money and to sell securities to an unlimited number of accredited investors. Rule 506 includes certain additional requirements, including “bad actor” disqualification provisions and certain restrictions on transfers of the securities. In addition, the issuer is required to file a notice with the SEC on Form D within 15 days after the first sale of securities in the offering. The principal exemptions in Rule 506 are in subparagraphs (b) and (c).

In an offering under Rule 506(b), the issuer is not permitted to use general solicitation or advertising to offer the securities and offers and sales are limited to “accredited investors” and up to 35 sophisticated, nonaccredited investors. If non-accredited investors are participating in the offering, the issuer must give any nonaccredited investors a disclosure document that generally contains the

same type of information as provided in registered offerings. The issuer must also give any non-accredited investors financial statement information and should be available to answer questions from prospective purchasers who are non-accredited investors.

In an offering under Rule 506(c), the issuer is permitted to use general solicitation or advertising, but all the investors must be accredited investors and the issuer must take reasonable steps to verify the accredited investor status of all purchasers. Rule 506(c) sets forth a principles-based method of verification which requires an objective determination by the issuer (or those acting on its behalf) as to whether the steps taken are “reasonable” in the context of the particular facts and circumstances of each purchaser and transaction. In addition to this flexible method of verification, Rule 506(c) includes as an alternative a nonexclusive list of verification methods that issuers may use to satisfy the verification requirement with respect to natural person purchasers.

Q) Are There Any Restrictions Under State Law Applicable to Rule 506 Offerings?

A) Although federal law preempts state registration and qualification under Rule 506, the states have authority to require notice filings and collect state fees. In almost every state, an issuer making a Rule 506(b) or Rule 506(c) offering is required to submit a notice to state regulators within 15 days of the first sale to an in-state investor. Issuers should contact state securities regulators in the states in which they intend to offer or sell securities.

Q) Any Other Exemptions Available?

A) Other exemptions from registration may be available for an issuer, including Rule 504 of Regulation D, the intrastate offering exemption in Rules 147 and 147A, Regulation A or Regulation Crowdfunding, if the issuer meets the eligibility and other requirements of the relevant exemption. However, these exemptions are generally not available to an issuer that is an investment company as defined in the Investment Company Act of 1940 (Investment Company Act).

State securities laws and rules complement this federal regulatory regime, but in some cases, their authority has been limited through preemptive federal action. For example, when a company makes a private offering of securities pursuant to certain federal exemptions from registration, the states may have limited authority to collect essential information about the offering, the investors, and subsequent activities and events related to the company.