

Reminder: Private Fund Due Diligence Required to Comply with “Bad Actor” Provisions Under Rule 506 Which Take Effect Monday, September 23, 2013

Written by Tiffany Ann Ford

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As a reminder, under amendments to Rule 506 adopted by the Securities and Exchange Commission on July 10, 2013, any private fund conducting an ongoing offering of its securities is required to undertake due diligence to confirm that no “Covered Person” has engaged in a “Disqualifying Event” that would prevent the private fund from relying on Rule 506.

For a summary of the new “Bad Actor” provisions under Rule 506, please refer to our July 23, 2013 Securities Alert.

To assist private fund clients in complying with their due diligence responsibilities under the “Bad Actor” provisions of Rule 506, we have prepared a form of Private Fund Rule 506 Covered Person Questionnaire that should be completed by all “Covered Persons” of each private fund. “Covered Persons” include the following:

- The private fund, including any predecessor of the private fund and any affiliated issuer of the private fund;
- Any director of the private fund, executive officer of the private fund, or other officer of the private fund *participating in the offering*;
- Any general partner or managing member of the private fund;
- Any beneficial owner of 20% or more of the private fund’s outstanding voting equity securities, calculated on the basis of voting power, *even if not a control person of the private fund*;
- Any promoter connected with the private fund in any capacity at the time of such sale;
- Any investment manager of the private fund;
- Any person that has been or will be *paid, directly or indirectly, to solicit purchasers* in connection with the offering in question;
- Any general partner or managing member of such investment manager or solicitor; and
- Any director, executive officer or other officer *participating in the offering* of any such investment manager or solicitor or general partner or managing member of such investment manager or solicitor.

A copy of the Questionnaire can be found at this [link](#).

Each private fund should obtain initial completed Questionnaires from its Covered Persons as soon as possible and we are recommending that updated Questionnaires be obtained from Covered Persons on an annual basis thereafter.

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