



LEGAL ALERT

April 5, 2012

President Signs JOBS Act into Law

On April 5, 2012, President Obama signed the Jumpstart Our Business Startups Act (the "JOBS Act") into law. Generally, the legislation addresses the following matters which might impact community banks and their bank holding companies:

Changes in Shareholder Thresholds for Reporting Companies

The JOBS Act will make significant changes to the shareholder thresholds at which banks and bank holding companies will be subject to the reporting requirements of the Securities Exchange Act of 1934 ("1934 Act").

However, the JOBS Act gives the SEC twelve months to develop rules to implement these new thresholds so it is uncertain how quickly they will be applied by the SEC. The JOBS Act also did not change how the SEC determines "shareholders of record."

Current Non-Reporting Companies. Banks and bank holding companies that currently are not subject to the reporting requirements of the 1934 Act will not become subject to the 1934 Act requirements until they have a class of equity securities held by 2,000 or more shareholders of record.

Current Reporting Companies. Banks and bank holding companies that currently are subject to the reporting requirements of the 1934 Act may be able to "exit" these requirements if a class of equity securities is held by less than 1,200 shareholders of record.

Changes in Regulation of Capital Formation

Small Public Offerings. The JOBS Act created a new exemption for public offerings of equity or debt securities of less than \$50 million. It is modeled on the current SEC Regulation A exemption and retains the requirement of preparing and filing an offering circular

with the SEC. Securities sold in such offerings are not subject to any resale restriction and issuers may solicit indications of interest to determine the feasibility of undertaking a small public offering. Certain types of advertising also are allowed. Since issuers need not comply with all the requirements of a full registration with the SEC, this exemption may offer an issuer lower transaction costs. The exemption also permits the offering to be made on an interstate basis. However, the issuer must comply with the registration requirements of any applicable state securities law, including solicitation of interest in a proposed offering.

Rule 506 Offerings. The JOBS Act will permit use of general solicitation and general advertising (including use of email and Internet) for offerings of securities where all sales will be made to Accredited Investors (e.g., individuals with a net worth of \$1 million (exclusive of their principal residence) or have annual gross income of \$200,000 or more). Again, this change must await SEC rulemaking and it is anticipated that such rulemaking will require general solicitation and general advertising to carry a legend that sales may be made only to Accredited Investors.

Please contact any of the attorneys listed below at 717.731.1700 or by email at the following addresses for additional information or assistance.

Nicholas Bybel, Jr. bybel@bybelrutledge.com
G. Philip Rutledge rutledge@bybelrutledge.com
L. Renee Lieux lieux@bybelrutledge.com
Erik Gerhard gerhard@bybelrutledge.com
Nicole S. Kaylor kaylor@bybelrutledge.com
Mark Worley worley@bybelrutledge.com

Bybel Rutledge LLP
1017 Mumma Road, Suite 302, Lemoyne, PA 17043
Phone: 717-731-1700
Fax: 717-731-8205
Website: www.bybelrutledge.com

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