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PRIMER ON HOW TO OFFER AND SELL SECURITIES

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Note: This is a brief summary and is not to be relied upon for legal advice.

Preface

This Primer has been written assuming the reader has read the "Primer on Selection of a Business Entity" prepared by Foley & Larder in connection with this Wisconsin Primer series. This Primer, when read together with the other Primers prepared by Foley & Lardner in the series as listed below, is intended to assist readers in thinking about securities law issues with respect to financing of their business.

OTHER FOLEY & LARDNER PRIMERS

Foley & Lardner has several volumes in this Wisconsin Primer series that are designed for non-lawyers such as founders of start-ups and emerging companies, other executives and "Angel" investors. The entire series of Primers is listed below:

I. Primer on Selection of a Business Entity

II. Primer on for Early Stage Financing

III. Primer on Intellectual Property

IV. Primer on Federal and Wisconsin Securities Laws

V. Primer on How to Offer and Sell Securities

VI. Primer on Use of the Internet to Sell Securities

The Primers are designed for use in Wisconsin, but also provide information to assist readers in other states.

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I. BACKGROUND – OBSERVATIONS

This Primer assumes that the parties wishing to raise capital have gone through the process of creating a Business Plan, determining what type of entity to use – limited liability company, C corporation, S corporation, limited partnership, etc., lining up the management team, engaging a lawyer and accountant and thinking through where the company is headed.

Generally, a private placement is the easiest and least expensive way to raise modest amounts of funds ($50,000 to $1,000,000) if one is acquainted with wealthy (preferably "accredited"[1] see definition below) investors or knows a Placement Agent who can help raise the funds. Some start-ups do not have the contacts to raise the required amounts and turn to a "504" public offering (See "Public – The Choices – An Outline" below).

In the lowest category ($50,000 – $100,000) entrepreneurs frequently use some of their own funds and credit cards, and/or turn to family and friends.

If a Placement Agent (a broker-dealer or investment banker who places the offering) is involved, the amount that can be raised privately can go as high as several million dollars. This is, however, unusual for the first round of financing for a start-up company but occasionally occurs in later private placement rounds for companies with clear potential.

So, one of the first question is: how much is to be raised? The higher the figure, the more a public offering is usually needed, especially in the event that a Placement Agent is not available.

Certain observations should be made before proceeding farther:

1. Generally, investment bankers will not take on an underwriting (best efforts or firm commitment) if the amount involved is less than $5 million; the larger investment houses will rarely go below $15-$20 million.

2. It is rare for an investment banker to finance a start-up. "Trophy" management and a great mouse trap are required for them even to consider it.

3. Any stock priced below $5 per share is anathema to investment houses as such stock is "penny stock" as interpreted by the regulators and thus subject to certain burdensome rules relating to disclosure and suitability.

4. A Regulation A offering will not usually satisfy an investment banker as audited financials are not required by federal rules and, also, the bankers will want the

[1] As to natural persons, an "accredited investor" is one who, with spouse, has a net worth of at least $1 million, or who had an individual income of at least $200,000 ($300,000 with spouse) in each of the two preceding years and has a reasonable expectation of receiving the same income in the current year. There are further definitions for trusts, corporations, non-profits and partnerships.

company to be a "Reporting Company," which is not the result of a Reg A Offering.

5. To raise $5 million or more using a Direct Public Offering ("DPO") (i.e. without the assistance of an investment banker or Placement Agent) is very difficult. A more "doable" DPO would usually be around $2 million.

6. Use of the Internet to raise funds is a possible vehicle for leads. While it is possible to obtain investors by the use of the Internet, in most cases, other means are required. This may change as the use of the Internet matures. A "private" offering is possible on the Internet on a very limited basis, but you should seek the advice of securities counsel before you attempt the use of the Internet in connection with a private offering.

7. It is important to keep in mind that, in the event of a violation of the securities laws, the officers and directors of the offering company can be personally liable.

8. Throughout all preparations and selling efforts keep in mind the investor's attitude. The investor's basic question is: "Why should I invest?" In a simple and straightforward manner, one should present this "investment concept," perhaps in the Business Plan and also in the offering documents (keeping in mind the need to "hedge"; i.e., make clear that there is no assurance the concept is a guaranteed winner). To this basic concept question one should add the following subsidiary questions asked by the investor:

   a) How much money do you want?
   b) What do I get for it?
   c) What are you going to do with it? ("Use of Proceeds")
   d) How do I get out? ("Exit Strategy").

   These basics are sometimes ignored to the detriment of the issuer.

II. PRIVATE PLACEMENTS- THE CHOICES – AN OUTLINE

A. Assumption and a Good Route
B. An Underwriter – "Placement Agent"
C. Officers and Directors
D. Finders – Agents – Registered Reps
E. Problems That Frequently Arise
F. Costs
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A. Assumption and a Good Route

The primary assumption of this Primer is that professionally managed venture capital is either not available or not desired by the issuer (the company selling the securities). For the majority of start-ups and emerging growth companies, this is certainly the case.

In light of the above observations (see "Background – Observations"), private placements are the usual route followed by start-ups and emerging growth companies. This is particularly true after the preemption of the securities registration jurisdiction of the states by Congress in the 1996 legislation (e.g. National Securities Markets Improvement Act). Pursuant to this preemption by Congress, the most that can be required for a Regulation D, 506 offering by a state is a post sale notice filing. Thus, Rule 506 is now a favorite vehicle, particularly when accredited investors are the only ones involved. Under such circumstances, no state or Federal registration or review is required and the disclosure document (Private Placement Memorandum) format is not prescribed by any regulators. However, sufficient disclosure must be provided to comply with the "anti-fraud" provisions under state and federal securities laws. Further, if even one non-accredited investor is involved, a rather elaborate Reg A Offering Circular format is required. Rule 506 allows any number of accredited investors and up to thirty-five (35) non-accredited investors. If non-accredited investors are involved, audited financials (to the extent material), are required. Any amount of money may be raised. (See the "Primer on Federal and Wisconsin Securities Laws" for a discussion of Rule 506.)

In Wisconsin, an issuer can sell exclusively to accredited investors, as defined under Regulation D (provided the issuer has reasonable belief that each "individual" accredited investor, or his or her investor representative has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the investment), without a filing under the Wisconsin Uniform Securities Law. **(Note: the legislation expected to be effective in the second half of 2002 eliminates the condition to this exemption requiring the issuers to have reasonable belief of the individual accredited investor's knowledge and experience).** If selling to one or more non-accredited persons under Rule 506, the issuer needs only to make the notice filing and fee with the Wisconsin Division of Securities within 15 days of the first sale of the securities in Wisconsin.

Rule 506 is actually a "safe harbor" under Section 4(2) of the Securities Act of 1933 (the "'33 Act"). This Section exempts from registration offers that do not involve a public offering. Regulation D with Rules 504 (under Section 3(b) of the '33 Act involves no Federal review, if $1 million or less) and Rule 506 has provided some definition to what one can do. However, one can still simply use Section 4(2) and, in such an instance, most states have similar exemptions, that are self-executing (e.g. no filing requirement in order to perfect the exemption).

The central problem of a private offering is how to reach a sufficient number of qualified investors without having a prohibited "general solicitation" and in being limited to only those with whom one had a "pre-existing" relationship.

Private placements allow no advertising, no general announcements or advertisements and offerings may only be made to persons with whom the offeror

or its agent (usually a broker-dealer) has a "pre-existing relationship". That is a federal requirement applying to interstate offerings.

As to Rule 506, "pre-existing relationship" means one knows the investor well enough to ascertain the investor's financial condition (net worth and nature of assets) and financial acumen (ability to fend for himself in financial transactions such as the subject offering). Admittedly, this criteria is frequently not readily available as one's information is too sketchy. To overcome this deficiency, use of an "Offeree Questionnaire" is desirable; this form is designed to reveal such information prior to any sale. Unfortunately, deals that are already in the financing process can only be funded by those qualified as having a "pre-existing relationship"; i.e., they had answered the Questionnaire prior to the deal coming in view. Thus, pursuant to use of Rule 506, "deals" can be funded only by those who have qualified prior to the offeror's knowledge of the deal. Please note, however, the important exception to this rule would be for a Wisconsin issuer conducting an "intra-state" offering (which is exempt under Sec. 3(a)(11) of the '33 Act for offers and sales exclusively in Wisconsin and sales are confined to investors enumerated in Section 551.23(8)) (i.e. institutional and financial investors and accredited investors), even though there may be no pre-existing relationship with the potential investors.

Assuming one has access, without a general solicitation, to a sufficient number of accredited investors to permit one to raise the target amount, a Rule 506 private placement is the easiest and most inexpensive way to raise initial funding.

A possible route to follow is to raise a modest amount, say $75,000 to $500,000 privately, then use a portion of the proceeds to finance a SCOR or Reg A offering (both public). This should be a "doable" route for most entrepreneurs. After "seasoning" the Company and a few rounds of private financings, the final step may then be a full registration using a Form SB-2 and Blue Skying in the states (by Coordinated Equity Review, see "V" below). This results in the company becoming a "Reporting Company" (having to file 10-K's, 10-Q's, etc. with the SEC.)

B. An Underwriter – "Placement Agent"

In some rare instances an underwriter (broker-dealer) will be willing to act as a "Placement Agent" in a private offering for a start-up or emerging growth company. The Placement Agent will approach its customers (thereby complying with the "pre-existing relationship" requirements for a private placement) who may be either domestic or off-shore investors.

The fee for the Placement Agent usually consists of 8% to 12% of the amount raised plus some expense charges (often up to 3% for "unaccountable" expenses) and a sizeable amount of warrants (often one warrant for each ten shares sold with a strike price equal to the offering price).

This effort would be a "best effort" undertaking; i.e., no firm commitment. This method can be successful, albeit costly, and there are some caveats that should be watched closely:

1) Avoid an exclusive agency appointment for more than sixty (60) to ninety (90) days, with an extension if a target is reached (say, 50% of the hoped-for fund amount). This allows one to shop elsewhere if the Placement Agent is not "Placing".

2) Try to exclude sales made by officers and directors from the commission fees and allow such sales even during the "exclusive" period.

3) Try to control the preparation of the Private Placement Memorandum with the Placement Agent's counsel being limited in its role to the greatest extent possible. Same goes for Blue Skying. This should reduce legal fees.

C. Officers and Directors

In a private placement exempt from registration the officers and directors may offer and sell securities without qualifying as broker-dealers or agents so long as they are not paid extra compensation for acting in this capacity. The rules of each state must be checked ("Blue Sky'd"). Remember, also, the sales must be truly private to those investors with whom there is a preexisting relationship. An officer or director placing securities for extra compensation must generally register as an agent for the issuer in each state in which he or she will solicit investors for extra compensation. In the event an officer, director, or an employee, even without extra compensation, raises funds more than once in twelve months, there is a Federal prohibition against further activity without being licensed (Exchange Act Rule 3a4-1).

This "do-it-yourself" effort is not easy unless one is acquainted with wealthy investors.

D. Finders – Agents – Registered Reps

Finders

Finders frequently act as broker-dealers, even if not licensed as such. A Finder acts as a broker-dealer when the Finder is deemed to be "in the business of effecting transactions in securities"; i.e., does more than just "find" ("there is an investor"). Once involved in "effecting transactions in securities" on more than an isolated occasion, the Finder may be required to be licensed as a broker-dealer. Further, some of the states take the position that merely finding purchasers for compensation may be enough to require licensing of an individual as an "agent" under the state securities law. (See "Agents" below).

An editorial note: Finders are a valuable part of the money raising scene and hopefully the Federal and state legislatures and, more appropriately, the National Association of Securities Dealers, (the "NASD") will adopt laws allowing them to get "out-of-the-closet". By creating a new category of broker-dealer-finders, it is hoped they will become more visible and usable for start-ups and emerging companies. Frequently the problem is finding the Finder.

Agents

An "agent" is generally defined under state securities laws as an individual who represents an issuer (or broker dealer) in effecting or attempting to effect securities transactions. In the event one is an agent, the individual must first be licensed under the applicable state law as an agent for the issuer. Officers or directors who are separately compensated for selling are classified as "agents";

Under most of the exemptions from securities registration under the Wisconsin Uniform Securities Law, it is necessary to be licensed as an "agent" for the issuer before receiving compensation for selling securities in offerings that rely on such exemptions. However, even if not paid and therefore free to sell, there is the danger, if "effecting the transaction," of being a broker-dealer under Federal law and thus violating the law unless one is a broker-dealer (see above).

Third parties working for the company such as attorneys, accountants and financial consultants who refer or identify potential investors while performing other valuable services and without receiving special compensation for referring or identifying potential investors should not be deemed "agents" requiring licensing.

Registered Representatives

Registered Representatives, acting under the license of a broker-dealer, can sell in a private placement. Because the offering is private, these offerings do not need NASD approval under the NASD Rules of Fair Practice. However, beware of the need for preexisting relationships and the requirement of no general solicitation. Further, the Registered Representative may not participate in the private placement without the prior approval of his or her broker-dealer employer, upon written notice. Such approval is often hard to obtain due to the broker-dealer's ongoing obligation to supervise over the Registered Representative's activities, even in the context of a private placement offering. The design of the state and Federal laws, when taken in concert, is, in a private placement, to limit the people who can sell the offering to the officers and directors, to licensed broker-dealers, and if available, to unpaid volunteers. Also, a "Finder," who only "finds" can be compensated but also may need to be licensed under the state securities law in which he or she "finds" investors. Further, note that most Finders sell, rather than just find and, by selling, violate the law as unregistered broker-dealers.

E. Problems that Frequently Arise – Private Placements

1. General Solicitation

A private placement is just that: private. A "pre-existing relationship" with the stock buyer is required (note, there is no such requirement for a Wisconsin issuer in a Wisconsin only offering if the issuer relies on the "intra-state" exemption under the '33 Act and sells solely to accredited investors in Wisconsin).

Offerors sometimes put out a bulletin or general letter (even multiple e-mails) to relative strangers using an "affinity" list. This is not permitted and will cause the offering to be illegal (public without qualification).

One cannot publicly search for investors in a private offering, even accredited investors.

There are what are perceived to be gray areas involved regarding what is a general solicitation. Typical would be a general presentation of an "investment opportunity," without any detail, in an open forum. Although most probably and often illegal, such activity does take place. This type of presentation is not recommended. Always remember that the officers of the offeror can be personally liable in the event of any violation of the securities laws. Note, however, that the SEC is allowing non-profits to perform "matching" services of accredited investors and entrepreneurs. ACE-NET is such a service (contact the Wisconsin Department of Commerce or your attorney for more information).

2. Use of Finders

Finders frequently act as broker-dealers without being licensed. If they do more than "find," they are probably violating the law. In some states, merely finding investors for compensation may trigger broker-dealer or agent licensing requirements. "Agents" who are paid and who are not broker-dealers may be used in private placements in Wisconsin as long as they are licensed as agents of the issuer. **(Note, due to a recent change under the Wisconsin Uniform Securities Law expected to be effective in the second half of 2002, agents for an issuer selling securities in Wisconsin to accredited investors (including "individual" accredited investors) will not be required to be licensed under the Wisconsin Uniform Securities Law.)**

3. Failure to Blue Sky and Report

Many offerors simply do not report sales to states where such reporting is required. Even Rule 506, which pre-empts the states as to review, requires reports to be filed and fees paid to the states. It is important to do so. In Wisconsin, the issuer is required to file an executed copy of Form D and

filing fee of $200 not later than fifteen days after the first sale of the securities in Wisconsin.

F. Costs and Time

Private placement costs vary a great deal depending on the abilities of the management of the offering company.

The costs in cash (not the time of the management, which is usually very substantial) is always of the highest concern to clients seeking private financing.

Cash costs consist of attorneys' and accountants' fees and some modest filing fees. Different routes produce different costs.

The time involved in a private placement is primarily that required for a good Business Plan. Once a Business Plan is available, the attorneys, in a number of days, can prepare a "wrap around" Private Placement Memorandum ("PPM") that contains the specific offering terms, legends, risk factors (if not in the Business Plan or inadequate), capitalization, dilution, use of proceeds, etc.

1. Rule 504

A Rule 504 private Offering means no Federal registration for up to a $1 million offering with state clearance only. In the states, the issuer would generally rely on an exemption for sales to a limited number of persons during a 12 month period or solely to accredited investors. This involves generally no state review of the Private Placement Memorandum ("PPM") and often times, no notice filing or fee. The PPM must be written to help protect the offeror from later charges of misrepresentation or fraud. If the offeror has a good Business Plan, that is a great start. As noted, as a time saver and to reduce legal fees, one may be able to "wrap-around" the Business Plan with legal and financial information in what is called a transmittal letter offering.

Legal fees will vary depending on how elaborate the PPM is, what law firm is involved and how much work the offeror does. Figure $10,000 to $25,000, if not more, depending upon the quantity and quality of work performed by the company and the expertise and quality of protection afforded by legal counsel. The possible extra cost of using very experienced legal and accounting firms is usually considered worth the extra professionalism and personal liability protection being purchased.

Most states have exemptions for private placements but require a filing fee, usually modest. To "BlueSky" each state, figure, in a private placement up to $1,500 per state, this includes the filing fees and legal costs (in addition to the basic legal mentioned above). In the event a Placement Agent (broker-dealer) is involved who, understandably, insists on a very complete PPM, the costs could be considerably higher as the

Placement Agent will usually have its own attorney that insists on changes, etc.

2. Rule 506

The costs of a Rule 506 offering to accredited investors only are similar to a private Rule 504 offering. Higher accounting fees must be considered if sales are to be made to even one non-accredited investor. Generally, audited financials are not needed in private placements (though they are a good investment by making it easier to sell the securities and to protect the offeror from giving false information). However, in a Rule 506 offering to non-accrediteds, an audit is required. If no more than $2 million is being raised, an audited balance sheet is required (dated within ninety (90) days of the start of the offering). If the offering is more than $2 million up to $7.5 million, unless it would take "unreasonable effort or expense," a full audit is required. An audit can cost anywhere from $2,500 up to $25,000 depending on the complexity of the business, the periods being audited and the auditing firm. Frequently the Big Five auditing firms will reduce their fees at first in order to obtain a new client. It is not necessary to have a Big Five firm, but the CPA must be familiar with the SEC accounting rules (Reg S-X, etc.). Be sure the accounting firm will be willing to consent later to the use of its name in the filing with the SEC for a public offering. Even though the firm has performed the audit, it may not sign off. This can be very expensive and disrupting. In addition, start-ups frequently face a "going concern" caveat in the Auditor's Opinion. This can create a high hurdle in fund raising. Using a more recognizable name accounting firm (likewise with a law firm) not only increases the probability of a better product, but brings additional credibility to the company and the offering and is often given considerable weight by investors who do not have in depth knowledge of the company and its management.

The time involved in a Rule 506 Offering is about the same as in a private 504 offering (above) unless non-accredited investors are involved. In that case, the legal fees escalate to $15,000 to $30,000 or more as the PPM must meet the standards of a Regulation A offering (though not reviewed by the SEC) and the time involved can be a month or more in preparation, depending on the company's ability to supply information that is adequate and timely.

G. Summary

For "doable" amounts, private placements are the most logical way to raise capital. The "GAP" (or "Capital Chasm") between $100,000 and $5 million is the difficult area. There is little or no financial services infrastructure serving this area. There may be a number of private placement rounds using officers and directors, finders, agents, small investment bankers or a Direct Public Offering

("DPO") on the Internet before the company would be in a position to consider an underwritten Initial Public Offering ("IPO").

III. PUBLIC – THE CHOICES – AN OUTLINE

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C. Direct Public Offering
    1. Management Time
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D. Problems That Frequently Arise
E. Costs

A. General Advice

As noted in the Private Offering Section above, start-up and emerging growth companies normally do not have access to investment bankers or professionally run venture funds (despite popular illusions to the contrary). The capital GAP between $100,000 and $5 million is very much alive. A future solution may be developing – the use of the Internet. The Internet is emerging as a possible new tool allowing growing companies the option of bypassing the investment banking community and directly accessing investors. This may make access to capital more available to start-ups and emerging growth companies. (Please see "IV. The Internet").

Assuming one has raised some capital privately, at least $75,000 and, preferably, at least $200,000 and that the business or concept to be financed is "ripe" for a more extensive offering, the question then is: "how?"

A SCOR ("Small Corporate Offering Registration") offering is possible (up to $1 million, no federal review) or a Reg A (up to $5 million, federal review) or a SB-2 (Federal review, registration and becoming a "Reporting Company"). SCOR's are allowed under Rule 504 of Regulation D. Rule 504 is very much misunderstood: It is simply the federal government – SEC – saying it will not impose federal registration requirements on an offering, either private or public, if it is $1 million or less. Please see the "Primer on Federal and Wisconsin Securities Laws" for a full discussion of these alternatives. One possible route is a SCOR offering followed by a Reg A or SB-2 as the company realizes its potentials. (Other possible routes would include additional private placement rounds with wealthier Angel investors, venture capital firms or strategic partners.)

B. Underwritten

1. An Underwriter (Broker/Dealer). There are many tiers of broker-dealers ranging from the Morgan Stanleys to a small boutique. The latter are the most likely to play with small businesses. In between are so-called "Regionals" which sometimes will be involved. The Regionals have organized an association: Regional Investment Bankers Association ("RIBA"). The members of this association are good candidates for small underwritings. RIBA's headquarters is in Charleston, South Carolina (843) 577-2000.

2. Firm Commitment. It is most unlikely that an underwriter, a broker-dealer registered with and "licensed" by the National Association of Securities Dealers ("NASD") a Self-Regulating Organization ("SRO") under the supervision of the SEC, would be willing to sell the securities of a small start-up or emerging growth company on a "firm commitment" basis wherein the underwriter guarantees to buy (and then try to sell to others) all the offered securities.

3. Best Efforts. Sometimes, although rarely, a "best-effort" underwriting is available, usually, as noted, from a small, local "boutique" investment house or a regional broker-dealer who has a business involving such offerings.

   The risk in this instance is that the broker-dealer will approach the most likely customers and then cease selling once the cream has been skimmed off the top. The lesson: try not to give an exclusive in a best effort underwriting other than for a short (60-90 days) time period with possible extensions as certain benchmarks of raised funds are reached.

4. Underwriting Fees. The underwriting fees in a public offering must be approved by the NASD pursuant to its "Rules of Fair Practice." These rules are rather convoluted, the percentage of the offering depending on many factors. Typical would be a maximum of around 14% made up of 3% unaccountable expenses, i.e., expenses the underwriter need not account for, front-end payments (for "due diligence") and 8% to 10% sales commission. In addition, warrants are frequently involved with the "strike price" (the exercise price of the warrant) affecting the total allowed percentage. For example, a strike price of 165% of the public offering price does not count against the total percentage allowed by the NASD, whereas a strike price of 120% will count as 2.25%. The NASD must approve all public offering practices – the "deal" between the underwriter and the issuer.

   Unless a time limit is imposed, best effort underwritings can go on for many months. As noted above, one should attempt to impose time limits.

5. Registered Reps. Sometimes a registered representative of a broker-dealer will assist in selling a public offering. This arrangement must be approved by the rep's boss and if the broker-dealer for whom, or under whose license the registered rep works, is the underwriter, the compensation of the rep is counted towards the total allowable under the Rules of Fair Practice. This is an unusual arrangement.

C. Direct Public Offering

1. Management Time. DPO's are a potential partial answer to the lack of access to capital for small and emerging companies. The Internet is the main reason for this as it allows one to contact large numbers of investors at a nominal cost. However, it is still rare to complete a successful DPO solely on the Internet. Other efforts are required, especially if the amount to be raised is over $1 million, the "concept" lacks "sex appeal" and there is no identified "affinity group" (a group of investors either familiar with the company, such as catalog customers, or a group interested in the product, such as Internet users). These supplemental efforts require management's time, and lots of it, for "dog and pony shows" and follow-up on leads.

2. Who Can Sell? The rules relating to officers, directors and Agents in private offerings differ from those that apply to public offerings. As in private offerings, officers and directors cannot be paid based on sales and must be assigned regular, on-going duties that are apparent during and after the offering. Under federal law, they are allowed only one such effort every twelve months (Rule 3a4-1 of the '34 Act Rules). In Wisconsin, Agents can be utilized but they first must be licensed as agents of the issuer and they should keep in mind, as officers and directors or employees, the Federal '34 Act Rule 3a4-1 limits such activity to one financing each twelve months. There is a difference as to broker-dealers. In a public offering, the fees of registered broker-dealers must be approved by the NASD; in a private placement, no approval is needed.

D. Problems That Frequently Arise

1. Integration
2. Advertising
3. Complicated Structure
4. Valuation
5. Minimum
6. Escrow of Shares
7. Suitability
8. Dilution

1. Integration

This is a very tricky area. Some private placements can be "killed" (rendered illegal) if followed by a public offering sooner than six months. See the "Primer on Federal and Wisconsin Securities Laws" for the rules. In this space, suffice it to say that there are two exemptions from integration: Rule 506 (private) may be followed immediately by a public offering and Reg A is not integrated into a prior private offering. Great care must be taken in avoiding integration. For example, two closely timed Rule 506 offerings may be integrated and thus collectively involve over thirty-five (35) non-accredited investors (too many).

2. Advertising

Advertising is permitted in a public offering. However, it must be submitted to the regulators and should not go beyond the information contained in the disclosure documents and must comply with various content and prospectus delivery requirements. The regulators check the media, including the Internet, for ads. Normal corporate reports, such as a quarterly report, are not considered advertising, if they do not hype the offering.

3. Complicated Structure

Keep it simple. The regulators do not like complicated capital structures involving indefinite conversion rights dependent on some milestone that may not occur, multiple classes of securities combined with warrants and debt, voting and non-voting stock and any number of variations on the theme. Frequently those with a little experience in this arena tend to "invent" overly complicated structures. In a private offering, a limited liability company can be used if flexibility is called for; in a public offering, a simple capital structure is the most prudent route.

It is usual in private placements to provide the founders/ promoters with common stock and the investors with convertible preferred. The preferred is preferred as to liquidation and may convert upon certain events such as an IPO or a sale of a certain prescribed amount; e.g., $5 million.

4. Valuation

A start-up company raising $1 million or a public offering should be valued at a reasonable level – $10 million is probably tops although some go much higher. The higher the valuation, the more problems with the regulators (and investors); especially in the area of suitability, escrow and minimums.

5. Minimum

Be prepared in a public offering to defend the minimum required to assure the viability of your company. If you're after $1 million, what does it take to "be in business," $500,000? $250,000? Whatever the number, the regulators may insist that the proceeds of the sale be escrowed with a bank or trust company until the minimum is reached.

6. Escrow of Shares

Some states require an escrow of the shares of the promoters until profitability is achieved. This prevents "unloading" by the founders before unloading appears appropriate from the subsequent buyers point-of-view.

7. Suitability

Some states will impose suitability on the offering; i.e., it can only be sold if it is "fair, just and equitable" to the investor and it is fair, just and equitable only to "suitable" investors. A typical state minimum suitability requirement is:

Income	$50,000,	plus
Net worth	$75,000,	or
Net worth of	$150,000,	

Net worth is exclusive of home equity, automobiles and furniture.

8. Dilution

Some states prohibit extreme dilution to be suffered by the new investors. This means the entrepreneurs cannot have paid pennies whereas the investors are paying dollars. This comes down to valuation. Some states limit dilution to as low as 25%; however, they will allow a greater amount so long as the founder's stock is escrowed pending a profitable period of operation.

E. Costs and Time

The costs for a public offering vary greatly; there are many variables that come into play. Public offerings are, without exception, considerably more expensive than private offerings. This is because in a private offering there generally is no regulatory review of the disclosure document, whereas there is always regulatory review in a public offering.

A review of the alternatives on an ascending basis should prove useful.

1. A SCOR Offering (Rule 504)

Up to $1 million, no federal review, mandatory use of the U-7 Form of disclosure and need to Blue Sky. The revised Form U-7 consists of 118 questions and has been adopted by most of the states.

The theory of the U-7 is that the officers of the offeror can fill out the form and, thus, save legal fees. The U-7 is reviewed by the state authorities.

In practice it may not be saving the offeror much, if any, as the officers of the offeror often do not have the experience to answer the asked questions and, in reworking the draft, the legal fees can potentially amount to more than if the attorneys started from scratch. In addition, the regulatory review process can be quite demanding and time consuming. Further, many potential investors comment that the Form U-7 is new to them and they feel more comfortable reviewing a "typical" public offering disclosure document. Many SCOR's are used by start-ups which involve all sorts of issues such as promotional stock, the minimum needed to be escrowed and after-market restrictions. These issues also raise the costs. Note, however, that the U-7 completed by the officers of the offeror can provide needed information to the attorneys writing the final U-7. It is a good checklist of needed information.

Filing fees for SCOR's vary by state. Wisconsin has a flat fee of $750.

Audited financials (for latest year) are generally needed. Although, the NASAA SCOR manual describes conditions under which "reviewed" financial statements would be sufficient. Audited financials can cost from $2,500 (pure start-up) to $25,000 (audit of offeror with on-going business and never audited before).

Legal fees can range from $15,000 for a very clean deal up to $40,000 or more for a complex one. Average is probably around $20,000 – $30,000 in a public offering. Each state that is Blue Sky'd will add approximately $2,500 in legal fees. Some states can be considerably more expensive. Registration fees per state are generally set by the amount of securities to be sold in the state, at $100 per $100,000 of securities. However, many of the states set a minimum fee amount of $100-$300.

As to timing, figure at least three weeks preparation and six weeks in Blue Skying. In total, around two to three months depending on how complicated and how many states are involved.

2. Reg A

Up to $5 million, federal and state review, choice of U-7 form or the conventional "prospectus" form (Form 1-A Model B).

Reg A's are reviewed by the SEC in Washington. The SEC does not usually perform the same review on a Reg A offering as it would on a fully registered offering. However, you can still receive a significant number of comments. Also, although many states claim to clear Reg A's by coordination, most, in fact, review and comment (including Wisconsin). This is not to be confused with "Coordinated Equity Review" which is discussed below.

The comments on the U-7 in "SCOR" above are repeated here.

Although the Federal law does not require audited financials, the market and many states usually do.

Reg A's rarely have underwriters. The costs estimated herein are based on Direct Public Offerings with no underwriter. If an underwriter is involved, the costs go up substantially as the underwriter's attorney tends to demand changes and there are many ancillary documents such as the Underwriting Agreement.

The SEC usually has at least two rounds of comments. The states can also demand changes. This back-and-forth is expensive and unavoidable. It is rare to have the SEC return a filing marked "No Review"; however, it does happen.

The SEC charges no filing fee for a Reg A. The state fees are the same as for a Rule 504 public offering.

Legal fees for a Reg A range between $35,000 to $70,000 and, with a complicated application or product or involvement of an underwriter, would exceed even that.

Each state will cost an additional $2,500 on average (not including filing fees).

As to timing, figure at least one month to complete the filings, and at least two months with the SEC and the States. In total, Reg A's usually take approximately three to five months.

In Wisconsin, instead of registering the offering under Section 551.26, the issuer may utilize the exemption under DFI - § 2.028 which was recently amended to allow offerings up to $5 million. See Appendix A to this Primer for the conditions to the exemption.

3. SB-2

Unlimited amount (usually under $25 million), results in being a "Reporting Company" required to file 10-K's, 10-Q's, etc., follows precisely prescribed disclosure format and is filed in Washington with the

SEC. States can be cleared with Coordinated Equity Review (process wherein the State of Pennsylvania coordinates by appointing one Merit Review state and one Full Disclosure state to act for all the others who have agreed to the process. About 35 states have adopted this process – see below).

An SB-2 usually involves an underwriter as the amount to be raised is large. However, some companies using a DPO (no underwriter) opt for an SB-2 rather than a Reg A in order to become a Reporting Company (necessary in order to qualify for NASDAQ Small Cap and even the Bulletin Board (pending)). Note that to be a qualifying-'34 Act-reporting company, a Form 8(A) must be filed with the SB2.

The legal costs of an SB-2 should be estimated at between $60,000 (without an underwriter) and $100,000 or more (with an underwriter). In addition, the Offeror pays the underwriter's legal costs, which can be higher than those of the Offeror.

Accounting fees and Blue Sky fees are similar to a Reg A with the exception that Coordinated Equity Review should save some of the Blue Sky legal expense. The time involved is similar to that of a Reg A.

IV. THE INTERNET

A. Introduction

The SEC has encouraged the use of the Internet. This is because it can be readily monitored and the SEC recognizes that there is limited access to capital for small and emerging companies.

The author of this Primer is interested in having the Internet evolve as a realistic option for accessing capital for small and emerging companies.

For a detailed legal discussion, the reader's attention is directed to the "Primer on Use of the Internet to Sell Securities" and the treatise "Securities Regulation in Cyberspace by Howard M. Friedman (Bowne, 1998 edition).

B. General – the Revolution

The securities world is into cyberspace. Witness the following:

1. EDGAR – the SEC's information filing and reporting system.
2. Electronic trading systems – E-Trade, Niphix.com, etc.
3. Offering platforms – Direct Stock Market (www.dsm.com, etc.)
4. Much informal and formal financial traffic.
5. Internet "Road Shows."

C. Jurisdiction

Offers used to be illegal if made in a state without first qualifying in that state. Obviously this doesn't work with the Internet's world wide scope.

To avoid the problem one must state words to the effect that "This is not an offering in any state or jurisdiction where it has not been qualified." Many states require that the offering documents must specifically state that the offering has not been qualified in that state. The precise wording is prescribed by the states, either individually or through their organization, the North American Association of Securities Administrators, Inc. ("NAASA").

A majority of the states have adopted this policy, though they wish the legend to limit the offering to certain named states and not to any other state and not to any targeted persons.

Some few states require pre-offering qualifications in order to sell in that state.

The offeror should limit access to offering materials to those in states where the offeror qualifies.

In the event a number of inquiries ("hits") come from a state, a company can qualify in that state prior to sending offering materials to the inquirer.

The area of international offers is quite complex. Suffice it to say that extra precautions (such as passwords and proof of foreign location for the offeree) should be taken.

D. Registered Offerings

1. The pre-established web site of the offeror must not "condition the market." It may contain only basic factual information (See SEC Rule 135). Generally the web site materials should simply explain the Company, its operations, products and markets and not mention the offering until it has been filed with the SEC. These offerings are public and include SB-2's and S-1's.

   The SEC actually encourages web sites that provide accurate general information about the company. No hype and no mention of an offering until the filing with the SEC.

2. During the waiting period (after filing, before effectiveness) a tombstone ad may be disseminated electronically, as can a press release with similar information. (See SEC Rule 134).

3. Road Shows during the waiting period on the Internet are the "latest thing." Obviously it saves time and money and can penetrate into remote centers. Downloading of information presented, other than the "Red

Herring" prospectus, should be prohibited and the Prospectus must be available. There are very strict rules pertaining to the use of Road Shows.

4. One invites inquiries. When one is received, the offeror must check the residence of the person inquiring before allowing a downloading of the offering document to make sure the offer is qualified in the offeree's state.

5. Once qualified, the offeree is given the password, downloads the disclosure document and, if there is suitability involved, the Offeree Questionnaire and the Subscription Documents. These can be returned electronically to the offeror.

6. After becoming effective, the final prospectus may be delivered on-line to an investor that has met the "suitability" requirement, if any. This saves substantial printing costs. Despite the new electronic signature law, it is recommended that the signed subscription papers be sent by conventional mail.

E. Exempt Offerings On The Internet (Exempt from Regulation with the SEC)

These include SCOR, Reg A and Rule 506. These are used most frequently by small and emerging growth companies.

1. Rule 504 – SCOR – Public

Available to non-reporting companies only. No federal jurisdiction. Just file Form D with the SEC. Securities are freely tradable, except by "affiliates" (officers, directors and those in control).

However, the states require registration. The Internet may be used for the 504 public offering. The Direct Stock Market provides a platform (www.dsm.com). The same routine as in a registered offering is followed.

2. Reg A

Up to $5 million. File with the SEC and the states. Securities are freely saleable except by affiliates. States claim to use coordination (with SEC), but it's not apparent; many qualify as if they are the only jurisdiction reviewing.

The company can use the Internet for preliminary and final offering circular (U-7 or Offering Circular). Same routine as in a registered and SCOR offering. The Direct Stock Market is a good route to get the offering out to the public.

3. Rule 506 – Private

No general solicitation or advertising is permitted. Can only use the Internet if there is a pre-existing relationship and a password – to avoid general solicitation. There is an interesting wrinkle: the SEC has permitted use of the Internet to find investors for future private offerings. This is a big break and assists in establishing a "pre-existing relationship." This is done using an Offeree Questionnaire. These can not be an offer of a particular security. At this time, this is also true of Internet platform providers. If using a broker-dealer, one can "borrow" (use) its pre-existing relationship with its customers. Although not a formally adopted SEC policy (only adopted at staff level, not the Commission) it is expected that the Internet platform providers will not, in the future, be able to "lend" their pre-existing relationships unless they are a broker-dealer. Anticipating this rule, most of the platforms, including Direct Stock Market, are either acquiring broker-dealers or getting themselves licensed.

V. COORDINATED REVIEW

There are two types of coordinated review emerging in the United States. These are not to be confused with "qualification by coordination" which refers to the state coordinating with the SEC in the timing of effectiveness. The "coordinated" reviews are:

A. Regional Reviews of SCOR Offerings. There are three regions in being: New England, the Midwest and the West. Wisconsin participates in the Midwest review.

B. Coordinated Equity Review. This involves primarily SB-2's (Wisconsin participates). The Pennsylvania Securities Administrator acts as the coordinator and assigns the offering to a merit review state (Is the offering "fair, just and equitable" to the investor?) and to one full-disclosure state (Does the disclosure document fully disclose the risks, facts, etc. of the offering?). This process, in which over thirty-five states participate, is a great step in the right direction of cutting the costs and hassles of Blue Skying the States. It is hoped that all states will participate in the future.

PERIODIC CHART OF THE ESSENTIAL ELEMENTS OF SECURITIES LAWS AND REGULATIONS
Wisconsin and Federal
Prepared by Joseph P. Hildebrandt, Foley & Lardner

Forward: This chart covers only the highlights of the various Wisconsin and Federal laws and regulations. Unfortunately, each state has its own laws covering small business offerings. No state other than Wisconsin is covered by this chart. This chart is not to be viewed as a definitive explanation of the laws and their application. It was created to be a convenience to assist clients in understanding the basic structure of the laws; it is not to be taken as legal advice.

PUBLIC OFFERINGS AND SALES

Preface: This part of the Chart covers the primary vehicles for public offerings of securities in Wisconsin. Rule 504 is used in conjunction with SCOR's in Wisconsin. These considerations were taken into account in designing this Chart.

	Wisconsin SCOR	**Regulation A**	**SB-2**	**Intra-State**
Statutory Source[1]	Federal – Rule 504 of Reg. D. State §551.26[2]	Federal - Section 3(b) of the '33 Act[3] State – DFI – §2.028 or §551.26	Federal – Section 5 of the '33 Act. State §551.26	Federal - Section 3(a)(11) and Rule 147 State §551.26
Dollar Limit	$1 million	$5 million during any 12 month period (Secondary $1.5 million)	No limit	No limit
Number of Purchasers	No limit	Federal - No limit. State – 100 purchasers and §551.23(8) purchasers if utilizing DFI - §2.028	No limit.	No Limit

[1] Unless noted otherwise, all Wisconsin citations are from the Wisconsin Uniform Securities Law and refer to Wisconsin Administrative Code Rules of the Wisconsin Division of Securities.

[2] The exemption under DFI-Sec. 2.028 may also be used in lieu of registration of a Rule 504 public offering. It is limited to issuers who have their principal office and a majority of their employees in Wisconsin.

[3] The '33 Act is the Securities Act of 1933.

	Wisconsin SCOR	Regulation A	SB-2	Intra-State
Other Qualifications	None	Federal – None. State – "Bad Boy" provisions applies, no commissions paid except to licensed broker-dealers and agents and issuer has reasonable belief of each purchaser's suitability, knowledge and experience for the investment if utilizing DFI - §2.028	None	All offers and sales must be conducted in Wisconsin
Qualification of Issuer	No "blind pools," not in oil and gas or mining; not an investment company; and not a Reporting Company.	Be organized under the laws of any state or Canada. Limited Partnerships and Limited Liability Companies are qualified.	Revenue and public float of less than $25 million.	Federal - the issuer is both a resident of, and doing business in, Wisconsin.
Manner of Offering: General Solicitation	General Solicitation permitted.	General solicitation permitted. May use U-7 or Form 1-A, Model B (regular Offering Circular). Federal: Can "Test the Waters." Wisconsin: Can "Test the Waters."	General solicitation permitted. Must use Form SB-2 disclosure format (not U-7 or Form 1-A).	General solicitation permitted (but must be aware of prohibition on out-of-state offers.
Integration with other offerings?	Six month integration rule may be applied.	Prevents integration with prior offerings or registered subsequent offerings. Safe harbor given by Rule 251(c). State – Integration criteria under Rule 502(a) of Regulation D is applicable if utilizing DFI - §2.028.	No integration if offering follows a 4(2) or Rule 506 offering.	Six month integration rule applies.
Information Requirements	Use of Form U-7	Federal - Form U-7 or Form 1-A, Model B. State – Form U-7 or offering document permitted under Reg. D if utilizing DFI - §2.028	SB-2 format (based on SEC Regulation S-B).	Offering document must meet full disclosure requirements.

APPENDIX A

	Wisconsin SCOR	Regulation A	SB-2	Intra-State
Financial Information	One year of audited financial statements required, "reviewed" statements accepted under certain conditions.	Federal: No audit required unless audited financials are otherwise prepared. State; three years of audited financial statements are required, including a balance sheet for the latest fiscal year and comparative statement of income and changes in financial position and analysis of surplus for each of the three most recent fiscal years if registration under § 551.26 Financial statements required by the applicable offering document and may be reviewed or audited if utilizing DFI - § 2.028.	1 year audited balance sheet; 2 years audited statement of income and cash flows; Unedited interim financial information and reconciliation of equity accounts. See Wisconsin requirements under Regulation A.	See Wisconsin requirements under Regulation A
Required Filings	Register with Division of Securities. All sales material (including Internet) must be submitted prior to use.	File with SEC in Washington D.C. Register with Division of Securities under §551.26 or file notice for exemption under DFI - §2.028 not later than date of first use of the offering document in state. All sales material to be filed with Federal and State.	File with SEC and Register with Division of Securities (within 5 days of SEC filing). Coordinated Equity Review available.	No filing with SEC. Register with Division of Securities.
Fees	SEC – no fees. Wisconsin: $750.	SEC – no fees. Wisconsin: $750 for registration under §551.26, $200 for exemption under DFI - §2.028.	Varied - based on size of offering. Figure $2,500 Federal and $750 for Wisconsin.	SEC: No fee; Wisconsin: $750.

	Wisconsin SCOR	Regulation A	SB-2	Intra-State
Resale Restrictions	None	Federal – None. State – Under §551.26, resales of securities may occur without an exemption from registration during period of registration effectiveness (one year unless extended), under DFI - §2.028, resales must find exemption under §551.23.	None	Federal: No resales to out-of-state purchasers until 9 months after termination of offering; Wisconsin: None, but must find exemption for secondary sales.

PRIVATE OFFERINGS AND SALES

Preface: This part of the Chart covers the most often used private placement exemptions.

FEDERAL EXEMPTIONS				**WISCONSIN EXEMPTIONS**				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders** [4]	**10 Offers in 12 Months** [5]	**Institutional and Accredited Investor** [6]	**Model Accredited Investor**	**DFI-Sec. 2.028**
Source	Section 3(b), '33 Act	'33 Act	Section 4(2), '33 Act	Sec. 551.23(10), Wis. Stats., and DFI-Sec. 2.02(5), Wis. Adm. Code	Sec. 551.23(11), Wis. Stats., and DFI-Sec. 2.02(5), Wis. Adm. Code	Sec. 551.23(8), Wis. Stats., and DFI-Sec. 2.02(4), Wis. Adm. Code	DFI-Sec. 2.02(9)(n), Wis. Adm. Code	Sec. 551.23(18), Wis. Stats.
Dollar Limit	$1,000,000	None	None	None	None	None	None	$5,000,000
No. of Purchasers	No limit	No limit	35 non-accredited, unlimited number of accredited	No more than 15 securities holders plus unlimited number of purchasers exempt under Sec. 551.23(8), Wis. Stats.	Sales resulting from offers to not more than 10 persons in Wisconsin in 12 consecutive month period, and from offers to unlimited number of persons listed under Sec. 551.23(8), Wis. Stats.	No limit	No limit	100 investors plus immediate family members of officers and directors and to unlimited number of persons listed under Section 551.23(8), Wis. Stats.

FEDERAL EXEMPTIONS				WISCONSIN EXEMPTIONS				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders [4]**	**10 Offers in 12 Months [5]**	**Institutional and Accredited Investor [6]**	**Model Accredited Investor**	**DFI-Sec. 2.028**
Purchaser Qualification	None	Must have pre-existing relationship	Must have pre-existing relationship. Non accredited must be sophisticated or have a purchaser's representative to be able to evaluate the investment	None	Must be purchasing with investment intent	"Individual" accredited investors either alone, or with the investor's representative, has knowledge and financial matters to be capable of evaluating merits and risks of the offering as defined in Rule 501 of Reg. D. under the)33 Act.	Must be purchasing with investment intent and is an "accredited investor" as defined under Regulation D.	Must be suitable for investors and the investors either alone, or with a representative, has knowledge and experience in financial matters to be capable of evaluating the merits and risks of the investment.

FEDERAL EXEMPTIONS				WISCONSIN EXEMPTIONS				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders [4]**	**10 Offers in 12 Months [5]**	**Institutional and Accredited Investor [6]**	**Model Accredited Investor**	**DFI-Sec. 2.028**
Qualifications of Issuer	Can't be subject to reporting requirements under '34 Act, an investment company or a development stage company that has no specific business plan or purpose or is intending to merge with an unidentified entity.	None	None	Must have principal office in Wisconsin	"Bad-boy" provisions apply	None	"Bad-boy" provisions apply; an issuer who is in the development stage and has no specific business plan or purpose or indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies is disqualified from using the exemption.	Both before and after completion of the offering, the issuer's principal office and a majority of its full-time employees must be located in Wisconsin. "Bad-boy" provisions apply.

FEDERAL EXEMPTIONS				WISCONSIN EXEMPTIONS				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders [4]**	**10 Offers in 12 Months [5]**	**Institutional and Accredited Investor [6]**	**Model Accredited Investor**	**DFI-Sec. 2.028**
General Solicitation or Advertising	No	No	No	Advertising permitted if first filed with the Division	"Offers" limited to 10 persons in state in 12 consecutive months, not counting offers to those persons listed under Sec. 551.23(8), Wis. Stats.	No restrictions	A general announcement is permitted under certain prescribed guidelines.	Advertising permitted if first filed with the Division. Solicitations of interests allowed pursuant to DFI-Sec. 2.027
Integration with other Offerings	Yes	Yes	There is a six months safe harbor	No	Subject to 10 offerees in 12 consecutive month period, which includes persons exempt under the 15 securities holders exemption.	No	No	Yes

FEDERAL EXEMPTIONS				WISCONSIN EXEMPTIONS				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders [4]**	**10 Offers in 12 Months [5]**	**Institutional and Accredited Investor [6]**	**Model Accredited Investor**	**DFI-Sec. 2.028**
Required Filings	File with SEC Form D within 15 days of 1st sale.	No	File with SEC Form D within 15 days of first sale. (File notice with states on same schedule as with SEC)	No	Only for certain issuers involved in oil, gas or mining activities, or investment contract, if more than $100,000 in securities are sold during the prior 12 months	No	Yes, a notice is required to be filed within 15 days of the first sale in the state consisting of Form AI, Consent to Service of Process, copy of any general announcement and fee of $200.	File notice, fee and copy of offering document not later than date of first use of offering document in Wisconsin.

FEDERAL EXEMPTIONS				WISCONSIN EXEMPTIONS				
Item	**Rule 504**	**Sec. 4(2)**	**Rule 506**	**15 Securities Holders [4]**	**10 Offers in 12 Months [5]**	**Institutional and Accredited Investor [6]**	**Model Accredited Investor**	**DFI-Sec. 2.028**
Resale Restrictions	Yes (unless registered in a state or exempted under the Model Accredited Investor Exemption ("MAIE").	Yes	Yes	No	Purchasers must be purchasing with investment intent	No	Yes, any resale of a security purchased in this exemption within 12 months is presumed to be with a view to distribution, except for a sale within that time period pursuant to a registration statement under Sec. 551.25 or 551.26 or to an accredited investor pursuant to an exemption under Ch. 551, Wis. Stats.	No

FOOTNOTES:

[1] Unless noted otherwise, all Wisconsin citations are from the Wisconsin Uniform Securities Law and refer to Wisconsin Administrative Code Rules of the Wisconsin Division of Securities.

[2] The exemption under DFI-Sec. 2.028 may also be used in lieu of registration of a Rule 504 public offering. It is limited to issuers who have their principal office and a majority of their employees in Wisconsin.

[3] A Wisconsin public offering, although technically an exemption under the '33 Act for Federal securities law purposes.

[4] A revision to this exemption expected to be effective in the second half of 2002 will increase the number of securities holders from 15 to 25.

[5] A revision of this exemption expected to be effective in the second half of 2002 will increase the number of offerees from 10 to 25.

[6] A revision to this exemption expected to be effective in the second half of 2002 will eliminate the issuer's obligation to have reasonable belief of the "individual" accredited investor's knowledge of financial matters to be capable of evaluating the merits and risks of the offering.