

## ALABAMA SECURITIES COMMISSION

### POLICY STATEMENT CONCERNING LIMITED OFFERING EXEMPTION FILINGS MADE PURSUANT TO SEC RULES 504, 505 AND 506 OF REGULATION D

#### Rule 506

The National Securities Markets Improvement Act of 1996 (“NSMIA”) included securities sold pursuant to Regulation D, Rule 506 in the classification of a “Covered Security”, preempting the states rights to register these types of offerings beyond requiring a basic notice filing, not to exceed any standards required by the SEC for similar filings. The Commission staff will require the following information for the purpose of complying with the notice requirements of NSMIA for any Rule 506 offering in the State of Alabama.

1. A filing fee in the amount of \$300.00, made payable to the Alabama Securities Commission.
2. A Consent to Service of Process. The Consent must name the Secretary of State, State of Alabama (Form U-2 is acceptable).
3. An electronically or manually executed Form D.
4. One copy of all documents to be distributed to offerees. This requirement is not mandatory, but is requested strictly for informational purposes. The Commission staff will not review or make comment on such offering documents.

No commission, finders fee or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in this state, unless the broker-dealer agent is registered in this state pursuant to Code of Ala. 1975 §8-6-3. In order to determine compliance with this provision, all broker-dealers who will participate in the offering of an issuer’s securities in this state shall be identified on page 3 of the Form D.

**All of the above must be submitted within fifteen days of the first sale in this state.** The Commission staff requests a notice to be filed upon the termination of the offering.

#### Rule 505

NSMIA does not impact the existing Alabama rules and regulations concerning Regulation D, Rule 505 offerings. All offerings made pursuant to rule 505 alone, shall comply with Commission Rule 830-X-6-.11. A brief summary of the requirements follow:

1. A filing fee in the amount of \$300.00, made payable to the Alabama Securities Commission.

2. A Consent to Service of Process. The Consent must name the Secretary of State, State of Alabama (Form U-2 is acceptable).
3. A manually executed Form D.
4. One copy of all documents to be distributed to offerees. Unlike Rule 506, this requirement (number 4) is mandatory. The Commission staff will perform a disclosure review and make appropriate comments on such offering documents.

No commission, finders fee or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in this state, unless the broker-dealer agent is registered in this state pursuant to Code of Ala. 1975 §8-6-3. In order to determine compliance with this provision, all broker-dealers who will participate in the offering of an issuer's securities in this state shall be identified on page 3 of the Form D.

**All of the above must be submitted at least five full business days before the first offer in this state.**

Code of Ala. 1975 §8-6-2(8) defines sale and offer as follows:

“Sale” and “sell” includes every contract of sale of, contract to sell or disposition of a security or interest in a security for value. “Offer” or “offer to sell” includes every attempt to offer or dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

### **Rule 504**

Alabama does not currently recognize Rule 504 filings. Therefore, all offerings relying on Rule 504, on a federal level, must either: 1) Register in Alabama pursuant to Qualification or, 2) Qualify for some other exemption contained at Code of Ala. 1975 §§8-6-10, 8-6-11. Expansion Order requests are common for these types of filings.

DATED this the 6<sup>th</sup> day of June, 1998.

  
JOSEPH P. BORG  
Director