

SEC Proposes Expanded Exemption for Finders

Alert

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At an open meeting of the Securities and Exchange Commission on October 7, the Commission approved issuance of a [proposed conditional exemptive order](#) that would allow “finders” to engage with accredited investors in connection with a private securities offering without registering as brokers under the Exchange Act.

The regulatory status of finders has been a recurring issue for businesses accessing the private capital markets. In particular, smaller businesses are often reliant on the services of finders to connect with investors who are interested in supporting emerging enterprises. The Commission’s proposed order would provide frequently-requested clarity on precisely what activities a finder may engage in without triggering registration requirements for brokers.

Specifically, the proposal would create two classes of finders, Tier I Finders and Tier II Finders, which would be subject to various conditions tailored to the scope of their respective activities.

Under the proposed exemption, the activities of Tier I Finders would be limited to providing contact information of potential investors, while Tier II Finders would be permitted to engage in more expansive solicitation of potential investors but would also be subject to specific disclosure requirements concerning their role and compensation in connection with the offering.

Both Tier I and Tier II Finders would also be subject to various conditions specified in the order. For example, the exemption would only be available where the issuer conducting the offering is not required to file reports under Section 13 or Section 15(d) of the Exchange Act and the applicable securities offering must be conducted in reliance on an applicable exemption from registration under the Securities Act.

The proposed exemption will be subject to a 30-day comment period following publication in the Federal Register.

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[Read our expansive discussion of the parameters of the proposed conditional exemption.](#)

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