

Note, however, that while the specified exceptions provide relief from filing an amendment as soon as practicable, the exceptions are very limited in scope and provide a bright-line test for when such an amendment is required. For example, a decrease of the minimum investment amount by no more than 10 percent or an increase of the minimum investment amount would not require an amendment of a previously filed Form D, but a decrease of the minimum investment amount by more than 10 percent would, by negative implication, require an amendment to be filed as soon as practicable after such change.

Any person who files Form D electronically or who files using the revised Form D after September 15, 2008, will be subject to the new amendment rules for such Form D filing. Any person filing the current version of Form D on paper will be able to follow amendment rules that are substantially similar to the current rules until March 16, 2009.

ELECTRONIC FILING OF FORM D

Beginning September 15, 2008, issuers may file Form D electronically with the SEC on a new online filing system that the SEC is developing. Issuers claiming an exemption under Regulation D will be required to file Form D electronically with the SEC beginning March 16, 2009.

To file a Form D electronically, issuers will use the same Central Index Key (CIK) and CIK Confirmation Code (CCC) codes that they currently use in connection with the SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system for Schedule 13D/G or Form 3, 4 or 5 filings. If an issuer does not have CIK and CCC codes, it will need to request the codes by using the SEC Form ID.

The SEC is coordinating with the North American Securities Administrators Association (NASAA) to allow filing of Form D and payment of related fees electronically with state securities authorities through a website linked with the SEC's new online filing system. Until the state electronic system is completed, issuers will have to file the Form D electronically with the SEC and mail a printed copy of the Form D to the appropriate state securities authorities.

CONCLUSION

The SEC's amendments to Form D and the requirement that Form D be filed electronically will have a significant impact on compliance procedures for private placements by hedge funds and private equity funds. Among other things, the amendments will require issuers to report the date of first offering, the CRD number of promoters, minimum offering amounts and, if applicable, the exemption from the ICA on which the issuer relies. In addition, funds that are open to new investment will need to monitor changes to their offering terms in order to determine if an amendment is required as soon as practicable after such change or if the change will need to be reflected on the annual amendment.

After electronic filing of Form D becomes mandatory on March 16, 2009, regulators and the public will be able to easily view and search Form Ds. To prepare for electronic filing, issuers should ensure that the existing Form D contains updated information. Issuers should also obtain filing codes from the SEC so they are ready to file Form D electronically.

APPENDIX A

<u>Item No.</u>	<u>Revised Form D</u> <u>Information Required</u>	<u>Item No.</u> ³	<u>Current Form D</u> <u>Difference between Current Form D and</u> <u>Revised Form D</u>
1.	Name and previous name of each issuer, jurisdiction of formation, type of entity and year of formation for each issuer.	A.1.	Current Form D requires the month and year of formation and allows estimation of formation year. Current Form D does not allow for multiple issuers to use the same form.
2.	Address of principal place of business and telephone numbers for each issuer.	A.1.	Current Form D requires both the address of the executive offices and the principal place of business and does not allow multiple issuers to use the same form.
3.	Name and address of each executive officer, director or promoter.	A.2.	Current Form D requires the name and address of beneficial owners of more than 10 percent of the voting securities of an issuer.
4.	Industry group (chosen by dropdown).	A.1.	Current Form D requires a "brief description of business."
5.	Revenue range for all issuers other than hedge fund issuers and net asset value range for hedge fund issuers (may decline to disclose).	–	Not required on Current Form D.
6.	Federal exemption(s) and exclusions claimed, including Rule 504(b)(1), 504(b)(1)(i), 504(b)(1)(ii), 504(b)(1)(iii), 505, 506 or Section 4(6) of the Securities Act, and, if applicable, Section 3(c)(1)-(14) of the ICA.	Top of Form	Current Form D does not require the selection of a sub-paragraph of Rule 504 or the section of the ICA but includes an option for the Uniform Limited Offering Exemption.
7.	Type of filing—new notice or amendment—and, if a new notice is being filed, the date of first sale.	Top of Form	Current Form D allows filing of an amendment but does not require date of first sale.
8.	Whether offering is intended to last more than one year (chosen by dropdown).	–	Not required on Current Form D.
9.	Type of securities offered.	C.1.	Type of securities offered is required, but the aggregate offering price and amount already sold is required for each category of securities.
10.	Whether the offering is made in connection with a business combination transaction, such as a merger, acquisition or exchange offer.	C.1.	Current Form D includes a check box if the offering is an exchange offering.
11.	Minimum investment accepted from any outside investor.	B.2.	Current Form D requests the minimum investment amount accepted from any individual.
12.	Sales compensation recipients, including CRD number, associated broker-dealer, said broker-dealer's CRD number, street address of recipients and state of solicitation.	B.4.	Current Form D does not request the CRD number of the broker-dealer or the associated firm.
13.	Total offering amount (with a check box to indicate if amount is indefinite), total amount sold and total remaining to be sold (with a check box to indicate if amount is indefinite).	C.1.	Current Form D does not allow an issuer to check that an offering is indefinite and requires offering amounts for each type of security being sold.

³ The information contained in the current Form D may correspond to several items in the revised Form D.