

**BEFORE THE  
MARYLAND SECURITIES COMMISSIONER**

IN THE MATTER OF:

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OFFERINGS MADE UNDER SEC  
REGULATION A, TIER 1 OR TIER 2

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February 27, 2018

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**ORDER**

**WHEREAS**, the Maryland Securities Commissioner (the “Commissioner”) is charged with the administration of the Maryland Securities Division (the “Division”), the Maryland Securities Act, Corporations and Associations Article, Title 11, Annotated Code of Maryland (2014 Repl. Vol. & Supp. 2017) (the “Act”), and the regulations promulgated under the Act; and

**WHEREAS**, section 11-203(a) of the Act provides that the Commissioner from time to time may make, amend and rescind the rules, forms and orders necessary to carry out the provisions of the Act; and

**WHEREAS**, section 11-203(b)(1) of the Act provides that a rule, form, or order may not be made, amended, or rescinded unless the Commissioner finds that action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act; and

**WHEREAS**, section 11-203(b)(2) of the Act provides that in prescribing rules and forms the Maryland Securities Commissioner may cooperate with securities administrators of the other states with a view to effectuating the policy of the Act to achieve maximum uniformity in the form and content of the registration statements, applications, and reports wherever practicable; and

**WHEREAS**, section 11-804 of the Act provides that the Act shall be construed to, *inter alia*, coordinate the interpretation and administration of the Act with the related federal regulations; and

**WHEREAS**, section 11-503.1(c) of the Act provides that with respect to a security that is a federal covered security specified in section 18(b)(3) or (4) of the Securities Act of 1933 (“Section 18(b)(3) and (4)”), the Commissioner may require, by rule, order, or otherwise, the issuer to file a consent to service of process signed by the issuer, the fee required under section 11-506 of the Act, and any document filed with the Securities and Exchange Commission (“SEC”) under the Securities Act of 1933; and

**WHEREAS**, as of March 25, 2015, pursuant to Section 18(b)(3) and (4), the SEC adopted amendments to its rules concerning Regulation A (“Reg A”) offerings; and

**WHEREAS**, those rules provide that certain offerings up to \$20 million may be made under rules applicable to Reg A, Tier 1 (“Tier 1”) offerings, and certain offerings up to \$50 million may be made under rules applicable to Reg A, Tier 2 (“Tier 2”) offerings; and

**WHEREAS**, although the states retain antifraud authority, the states are preempted from requiring registration of the securities offered and sold under a Tier 2 offering; and

**WHEREAS**, on May 16, 2016, the North American Securities Administrators Association (“NASAA”) adopted the Uniform Notice of Regulation A – Tier 2 Offering (“Tier 2 Notice Form”), a copy of which is available at <http://www.nasaa.org/industry-resources/uniform-forms/>, to be used for state notice filings containing information about the issuer and the offering as well as a consent to service of process; and

**WHEREAS**, pursuant to the SEC requirements, the offering documents for a Tier 2

offering are to be available on the SEC's EDGAR filing system at least 21 calendar days prior to qualification of the offering by the SEC staff; and

**WHEREAS**, the Division will continue to review Tier 1 offerings pursuant to the registration provisions under section 11-504 of the Maryland Securities Act, either through a review by the Division or under NASAA's coordinated review program for Reg A, Tier 1 offerings, the protocol of which is available on the NASAA website at <http://www.nasaa.org/industry-resources/corporation-finance/coordinated-review/regulation-a-offerings/>; and

**WHEREAS**, the Commissioner has determined that it would be consistent with the purposes fairly intended by the policy and provisions of the Act to issue this Order for offerings made under Reg A, Tier 1 or Reg A, Tier 2;

**NOW, THEREFORE, IT IS HEREBY ORDERED**, pursuant to the authority granted by the Act for purposes of compliance with the registration, exemption and notice filing provisions of the Act, offerings made under Regulation A shall comply with the conditions set forth in this Order:

1. For an offering made under Reg A, Tier 2, an issuer shall file with the Division, twenty one calendar days in advance of the first offer or sale in Maryland, a completed Tier 2 Notice Form and the \$100 filing fee required under Section 11-506 of the Act.
2. For an offering made under Reg A, Tier 2 for which a notice filing was filed with the Division, an issuer shall:
  - (a) File with the Division each amendment to the SEC filing no later than one

business day after the day the amendment is forwarded to or filed with the SEC, whichever comes first;

(b) Renew the notice filing on or before the expiration date of the notice filing by filing with the Division a completed Tier 2 Notice Form marked “renewal” and the \$100 filing fee required under section 11-506; and

(c) Terminate the notice filing by filing with the Division written notification of termination of the offering.

3. For an offering made under Reg A, Tier 1, an issuer may comply with the requirements of section 11-501 of the Act by filing its registration under section 11-504 of the Act, which filing is required to be made at least ten business days before an issuer begins selling its securities in the State, and may fulfill those requirements by filing under the NASAA Coordinated Review Program.

4. For an offering made under Reg A, Tier 1 and registered under section 11-504 of the Act, an issuer shall file with the Division:

(a) Each amendment to the registration statement no later than one business day after the day the amendment is forwarded to or filed with the SEC, whichever comes first;

(b) A renewal application and the filing fee required under section 11-506 of the Act, within 30 days before expiration pursuant to COMAR 02.02.03.09, for an offering that has not terminated; and

(c) Written notification of termination of the offering in the State pursuant to COMAR 02.02.03.09 E.

5. For an offering made under Tier 1 filed under the NASAA Coordinated Review Program, an issuer shall follow the protocol contained on the NASAA website and shall submit to the Division the filing fee required under Section 11-506 of the Act.

The Commissioner reserves the authority under to amend or rescind this Order and to issue other guidance concerning Regulation A offerings.

DATE OF THIS ORDER:

SO ORDERED:

**Commissioner's Signature on File  
w/Original Document**

February 27, 2018

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Melanie Senter Lubin  
Securities Commissioner