

**SEC TO REVIEW LIMITS ON
SHAREHOLDERS IN PRIVATE COMPANIES**

April 8, 2011

To Our Clients and Friends:

As reported in today's *Wall Street Journal*, the Chairman of the Securities and Exchange Commission has informed a member of Congress that the SEC is reviewing the federal securities laws that (i) limit the number of shareholders of record that a private company may have before it becomes subject to public company reporting requirements and regulation and (ii) prohibit the use of "general solicitations" in private placements.

Both the shareholder limit and the prohibition on general solicitations are currently viewed by many as limiting the extent to which a private company can grow without "going public." Section 12(g)(1) of the Exchange Act imposes the reporting requirements of a public company on private companies with 500 or more shareholders of record. This decades-old threshold has come under pressure as liquidity in private company shares has increased, particularly with the development of private trading platforms and exchanges such as SecondMarket. As a result, private companies (*e.g.*, Facebook) may find themselves in the position of being forced to choose between registering with the SEC or artificially limiting growth. The prohibition on general solicitations in offerings of private securities (debt or equity) effectively limits the pool of potential investors and the manner in which private offerings may be conducted. Also, the ease with which information may be broadly disseminated through various electronic means has made it increasingly difficult for companies to observe the current rules with certainty.

It would be premature for a company to alter pending capital-raising plans based on this review. However, an increase in the shareholder threshold and a relaxation or elimination of the general solicitation prohibition could, in the future, afford private companies greater flexibility to pursue growth for longer periods of time unfettered by public company reporting requirements and regulation. We will continue to monitor and report on relevant developments.

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Please do not hesitate to call us should you have any questions.

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