

FROM: POLSINELLI SHUGHART PC LIFE SCIENCE PRACTICE GROUP
**SUBJECT: AMENDMENT TO FINANCIAL REFORM BILL ALLEVIATES
CONCERN OF ANGEL INVESTMENT COMMUNITY**
DATE: JUNE 5, 2010

We previously reported on the negative effects certain provisions contained in the Senate's financial reform bill would likely have had on the life science industry. Today, we are pleased to report that these concerns have since largely been eliminated.

1. HISTORY

As background, the bill was introduced to the Senate as Senate Bill 3217 (the "Bill") on April 15. On May 17, the Senate passed a bipartisan amendment to the Bill by voice vote (the "Amendment"). The Senate passed the Bill, as amended by the Amendment (the "Amended Bill"), on May 20, by a vote of 59 to 39, with four Republicans voting in favor of, and two Democrats opposing, the Amended Bill.

2. CONCERNS WITH INITIAL BILL

With respect to angel investing, the biggest problematic effects of the Bill, as originally proposed, included:

- (a) Decreased Investor Pool;
- (b) Increased Time; and
- (c) Increased Costs.

As discussed below, the Amended Bill has largely eliminated these concerns.

3. ALLEVIATION OF CONCERNS

Original Problem - Decreased Investor Pool.

As originally proposed, the Bill dramatically increased the wealth requirements for "accredited investors" to adjust for "price inflation", an increase which sources say would have decreased the pool of such investors by 77%.

The Amended Bill maintains the current individual net worth requirement at \$1,000,000 for four years following enactment of the legislation but adds that the value of an individual's primary residence shall be excluded from the calculation of his or her net worth.

700 West 47th Street, Suite 1000
Kansas City, MO 64112
Telephone: (816) 753-1000
Fax: (816) 753-1536

During the first four years following enactment, the Amended Bill also gives the Securities and Exchange Commission (the "SEC") the right to review the definition of "accredited investor" (excluding the \$1,000,000 threshold) and, by notice and comment rulemaking, to make any adjustments to the definition "as the [SEC] may deem appropriate for the protection of investors, in the public interest, and in light of the economy." Thereafter, the Amended Bill obligates the SEC to undertake a review of the definition in its entirety (including the threshold amounts) at least once every four years to determine whether any adjustments should be made under the same standards.

Even though the Amended Bill contemplates future increases to the threshold amounts, it also contemplates that factors beyond mere increases in the cost of living should be taken into consideration in determining whether to make such increases.

Original Problem - Increased Time.

The Bill originally required issuers to register with the SEC and then wait 120 days for the SEC to review the filing. The Amended Bill deleted this waiting period.

Original Problem - Increased Costs.

As proposed initially, the Bill removed the federal preemption of state regulation over offerings to accredited investors which would have required issuers to navigate the complex rules of the applicable states, thus likely increasing the legal and other fees involved. The Amended Bill reinstated the federal preemption.

* * *

Now that it has been passed by the Senate, the Amended Bill must be reconciled with the House's financial reform bill (HR 4173) that was passed in late 2009. We will continue to monitor the status of this legislation and report on any significant developments.