

JOBS Act EGC Revenue Cap Raised to \$1.07 Billion to Adjust for Inflation

April 3, 2017

The SEC has raised the annual gross revenue cap for a company to qualify as an emerging growth company, or EGC, from \$1 billion to \$1.07 billion, to adjust for inflation. The Jumpstart Our Business Startups (JOBS) Act, which became law five years ago this week, requires the SEC to index to inflation the annual gross revenue cap every five years. The [increase](#) will become effective when published in the Federal Register, which we expect to occur within the next few days.

For up to five years, an EGC can take advantage of JOBS Act accommodations including confidential submission of registration statements, submission of two (rather than three) years of audited financial statements in an IPO registration statement, exemption from Sarbanes-Oxley Act requirements for auditor attestation of internal control over financial reporting, reduced disclosure of compensation-related information for executive officers, and the ability to engage in "testing the waters" communications with certain investors prior to filing a registration statement.

The SEC also made several technical changes to its rules and forms in order to conform them to the JOBS Act and to reflect related SEC statutory interpretations. Among these changes, companies should note that the cover pages of Securities Act registration statements and Exchange Act periodic reports, as well as Forms 10, 20-F and 40-F, will include new check boxes for a company to indicate whether, at the time of filing, the company is an EGC and whether it has elected not to use the extended transition period for an EGC to comply with new or revised accounting standards.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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