

SEC Proposes Expansion of "Testing the Waters"

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Yesterday the Securities and Exchange Commission proposed a broad expansion of the popular “testing the waters” provisions to *all* companies, including seasoned reporting companies, smaller reporting companies and all pre-IPO companies, as well as business development companies and other registered investment companies. If adopted, new Rule 163B would allow all companies, and any person authorized to act on their behalf – including underwriters – to engage in oral or written communications with qualified institutional buyers and other institutional accredited investors prior to or after the filing of a registration statement in order to gauge investor interest in a registered offering.

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

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