

SEC Expands "Testing the Waters" Communications

September 27, 2019 | Client Update

On September 26, the SEC announced a welcome, broad expansion of “testing the waters” flexibility for *all* companies. Under new Rule 163B, all companies, and persons authorized to act on their behalf (such as underwriters), will be able to gauge market interest in a possible offering with qualified institutional buyers and institutional accredited investors prior to or after the filing of a registration statement. The new rule is welcome relief for all non-emerging growth companies and for companies without a registration statement on file.

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.

Marcel Fausten

+1 212 450 4389
marcel.fausten@davispolk.com

Joseph A. Hall

+1 212 450 4565
joseph.hall@davispolk.com

Michael Kaplan

+1 212 450 4111
michael.kaplan@davispolk.com

James C. Lin

+852 2533 3368
james.lin@davispolk.com

Byron B. Rooney

+1 212 450 4658
byron.rooney@davispolk.com

Gregory S. Rowland

+1 212 450 4930
gregory.rowland@davispolk.com

Richard D. Truesdell, Jr.

+1 212 450 4674
richard.truesdell@davispolk.com

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