

Certain Investment Grade Debt Issuers Would No Longer Qualify to Use Shelf Registrations Under SEC's Proposed Amendments

February 9, 2011 | Client Update

In response to requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the SEC issued proposed rules today that would revise the Form S-3 and Form F-3 transaction eligibility criteria so that issuers of non-convertible debt securities could no longer qualify to use Form S-3 and Form F-3 by issuing investment grade securities. This transaction criterion would be replaced with a new transaction criterion which would allow companies to use Form S-3 or Form F-3 to register primary offerings of non-convertible securities if the company has issued, for cash, more than \$1 billion in non-convertible securities, other than common equity, through registered primary offerings over the prior three years and meets the registrant requirements. This is modeled on the standard used to determine whether a company that does not meet the public equity float requirement qualifies as a well-known seasoned issuer ("WKSI") based on its debt issuances.

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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