

February 4, 2009

## Electronic Filing of Form D

Beginning on March 16, 2009, any investment fund that conducts a securities offering without registration under the Securities Act of 1933, as amended (the "Securities Act"), in reliance on an exemption provided in Regulation D, will be required to electronically file a Form D notice with the Securities and Exchange Commission (the "SEC") and applicable states. In February 2008, the SEC published rule amendments modifying the content and mandating electronic filing of Form D. Electronic filing began on September 15, 2008 on a voluntary basis. However, beginning on March 16, 2009, the SEC will no longer accept paper filings of Form D and Form D must be filed electronically on the SEC's online filing system, "EDGAR."

In order to file or amend Form D electronically, a fund must have its own filer identification number (called a "Central Index Key" or "CIK" number) and a set of password-like "access codes" which will allow it to use EDGAR.

### New Filers

If a fund has never filed a Form D or made any other filing with the SEC, it must apply for a CIK number and EDGAR access codes to make an electronic filing with the SEC. To apply and obtain a CIK number and EDGAR access codes, a fund must provide the SEC with basic information about the fund on a Form ID. When a fund's Form ID is processed and its request for a CIK number and EDGAR access codes are approved, the SEC will send the fund an e-mail that will provide it with a CIK number and information on how to generate access codes in EDGAR.

### Previous Paper Filers

If a fund has previously filed a Form D or other filings in paper format with the SEC, it has been assigned a CIK number by the SEC. Therefore, it only needs to obtain the requisite EDGAR access codes. To apply for EDGAR access codes, a fund must provide the SEC with its CIK number and create a passphrase. As with new filers, the SEC will then send the fund an e-mail providing information on how to generate EDGAR access codes.

### Current Electronic Filers

If a fund already submits filings electronically (e.g., filings on Schedule 13F or 13G), it already has the requisite CIK number and EDGAR access codes. It will file a Form D using the same procedure it follows in submitting any other electronic filing with the SEC.

In addition to new Form D filers, funds that have already filed a Form D become subject to annual and other amendment requirements on March 16, 2009, provided they are conducting a continuing offering at that time. Funds engaged in a continuing offering will be required to file an annual amendment to Form D electronically on March 16, 2009, unless the funds have filed Form D or amended their Form D within the previous 12-month period (in which case they will have to file an amendment on the one-year anniversary of such filings). Accordingly, we urge funds conducting a continuing offering and funds contemplating a Regulation D offering to apply for the requisite CIK numbers and EDGAR codes as soon as possible to ensure that they are ready to file Form D electronically by March 16, 2009.

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