



Developing Pre-Existing Relationships for Rule 506(b) Securities Offerings

Below is a blueprint that you should use to develop defensible investor relationships for a Rule 506(b) offering:

Document the Relationship – The SEC says you need to have a pre-existing relationship with investors prior to making an offer (as opposed to making a sale). The relationship has three parts and depends more on quality than timing. Think of this like dating: it's more about the quality of the contact, and not how many times you have seen or talked to someone that determines whether you have the requisite substantive, pre-existing relationship.

Pre-qualify Investors – The relationship begins after you have met someone and know him or her well enough to determine whether the prospective investor is accredited or sophisticated, as required for a Rule 506(b) offering. You can use the pre-qualification questionnaire that the investor fills out, your notes from an interview with him or her, or the investor's financial information. In addition, you might consider other information that makes the investor obviously qualified (e.g., the investor is the president of a Fortune 500 Company, runs an investment club, has owned self-storage or other investment real estate –aside from his or her own home, etc.).

Determine Suitability – The initial meeting must be followed by contact (preferably a phone call or face-to-face meeting) from someone on your team to determine the investor's suitability to invest in the type of things you may have to offer in the future (this is not a place to pitch what your business may have available today). This conversation should be 70% about the investor and 30% about the company and what it does in general. (It is possible to combine steps 1 and 2.) See the article on our website regarding Investor Suitability to determine what "quality" means to the SEC. www.SyndicationAttorneys.com.

Allow the Passage of Time – Finally, there must also be a passage of time between when you first met and when you make the investment offer. During this time, the relationship should ripen. It would be ridiculous to meet someone at a social event, have a follow-up phone call three days later, wait 30 days and ask the person to get married, right? Something else has to happen in between to the relationship if you want it to go any further. So put the prospect in your investor database after the suitability call, send him or her a newsletter or welcome email, invite the investor to a webinar or educational event about the type of opportunity you will be offering, and then wait a week or two after that to invite the person to the password-protected area of your website, etc. The idea is to do something to nurture the relationship that furthers the prospective investor's knowledge about who you are and why the investor might want to invest with your company, before you start making offers.

Make Offers – Only after some passage of time (one to three weeks or more, with several documented contacts would be ideal) and ripening of the relationship can you send offering materials and make offers. (CAVEAT: Do not send offers via email blasts, even if you have established relationships with all recipients. The SEC considers email blasts to multiple recipients to be general solicitation.) HINT: You will be much more effective at getting responses from prospective investors if you call them first and then send them a personalized email with offering documents attached.

Technically, for a Rule 506(b) offering, you should not make offers to people you met after your offering was contemplated or active. The offering is active when you have legal documents in hand and are actively raising money. Your offering is certainly contemplated when your company has property under contract and your attorney is drafting the offering documents. This rule can be relaxed if enough time is taken to go through the

steps above for an ongoing offering and every contact you have with every investor is documented. Again, be sure to document the *quality* of the relationship (i.e., what was discussed, information shared, etc.), and not just the number of contacts or the time between meeting the investor and making an offer.

Ideally, you should develop a written policy on the ways in which you will accomplish the steps above so that everyone raising money in your group follows the same procedure. Additionally, you should consider a customer relations management (CRM) software system such as Insightly (the most cost effective), Constant Contact, Salesforce, Filemaker, etc., to keep records of investor contact information and contacts between your company and prospective (and current) investors.

Note: While these steps are not technically required for offerings that allow you to advertise, following a consistent procedure with *every prospective investor* (or establishing a similar written policy for meeting, qualifying and following up with prospects) will ensure that the only investors allowed into your company are those who are compatible with you and your team.

Having an established sales and follow-up process for selling your securities will definitely increase the rate of converting leads from prospects to investors.

Please visit our Online Store at SyndicationAttorneys.com if you wish to purchase a marketing plan template, company brochure, pitch deck, track record, or business plan/investment summary that will help you develop a sound investor marketing plan.

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