

“Disclosures”



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SEC Rule 10b-5

It shall be unlawful for any person, directly or indirectly, by use of any means to:

- make any untrue statement of a material fact.
- omit to state a material fact necessary ... to make statements ... not misleading.
- to engage in any act ... which would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

Source of guidance

Regulation S-K

- 101 c(iii), c(iv), c(vii), c(xii) - offering exemptions
- 102 - description of properties
- 404 - conflicts of interest
- 503(c) - risk factors

Regulation A (form 1A)

- relates to unaccredited investors

Question

The PPM is essentially a Disclosures document. How does the market affect its drafting?

Topics

- Use of proceeds
- Amending PPM with every material change
- When should you consider a ‘rescission offer’
- Corporate governance
- Control persons
- Too much v. not enough disclosure
- Translating into foreign languages
- Writing disclosure documents in ‘plain English’