

**SEC ANNOUNCES ASSISTANCE FOR
AIRLINE AND INSURANCE INDUSTRIES IN
ACCESSING CAPITAL MARKETS**

SIMPSON THACHER & BARTLETT LLP

OCTOBER 16, 2001

On September 28, 2001, the Securities and Exchange Commission ("SEC") issued Release 2001-107 (the "Release") announcing administrative steps it has taken to aid airline and insurance companies covered by Congressional legislation in the wake of the September 11th terrorist attacks.¹ These steps include: (i) easing the rules with regard to adding securities to an already existing shelf-registration; (ii) enhancing the usefulness of short-form registration on Form S-3; and (iii) committing to a five-day turnaround of Securities Act filings. The SEC intends to continue these practices through December 31, 2001.

Generally, Form S-3 registration is available to an issuer that has been a reporting company under the Exchange Act of 1934 for at least one year, has a public float (*i.e.* the aggregate market value of the company's voting stock held by non-affiliates) of at least \$75 million, and has timely made all of its Exchange Act filings during the last year.

To aid the airline and insurance industries, the SEC is taking action to ensure that the use of Form S-3 registration will still be allowed where a company:

- was late with a required Exchange Act report during the last year; or
- meets the \$75 million float requirement on any date between July 1, 2001 and December 31, 2001.

In addition to the expanded use of Form S-3, a company with an already existing shelf-registration pursuant to Rule 415(a)(1)(x) will be permitted to register additional securities more readily. The SEC will permit issuers to use the "notice" procedures under Rule 462(b) to register additional securities in an amount up to 20% of the dollar amount of securities originally registered on that shelf registration statement, rather than 20% of the amount remaining on that registration statement.

¹P As of the date of this writing, no such federal legislation has been enacted to specifically benefit the insurance industry, although such legislation is widely anticipated. In any event, we have been informed by the SEC that it will endeavor to work with insurance companies and their underwriters to facilitate access to the capital markets as contemplated by the Release.

Finally, the SEC will also take steps to process Securities Act filings by reporting companies in the airline and insurances industries within five business days of their receipt.

* * *

Any questions concerning this memorandum may be addressed to Gary I. Horowitz (g_horowitz@stblaw.com; 212-455-7113), Peter J. Gordon (p_gordon@stblaw.com; 212-455-2605), Steven R. DeLott (s_delott@stblaw.com; 212-455-3426), or Iris S. Chen (i_chen@stblaw.com; 212-455-2275) of this firm.

SIMPSON THACHER & BARTLETT LLP