

THE FLORIDA BAR BUSINESS LAW SECTION  
CORPORATIONS, SECURITIES & FINANCIAL SERVICES  
COMMITTEE MEETING

August 31, 2013  
Boca Raton Resort & Club  
Boca Raton, Florida

MINUTES

1. Call to Order and Welcome. Meeting was called to order by Stefan Rubin, Chair of the Committee, who presided at the meeting.
2. Introduction of Members and Guests Present. All members present at the meeting, and all guests attending the meeting, introduced themselves and signed an attendance sheet.
3. Approval of Minutes. Upon motion, duly seconded, the minutes of the January 10, 2013 Committee meeting were unanimously approved. Approval of the June 2013 meeting minutes were tabled for a later date.
4. Public Benefit Corporations. Professor Stuart Cohn led a discussion about public benefit corporations (B corps). At present, at least 20 states have enacted some version of a B corp statute. Since the Committee's last meeting in June 2013, the American Bar Association task force on B corps has been making advances, and Delaware recently enacted B corp legislation.

Our Sub-Committee proposal contemplates two (2) distinct types of B corps – a benefit corp and a social corp. The benefit corp proposal is substantially based upon the model public benefit statutes proposed by B Labs, and is commonly referred to as being for “green” companies, where directors must consider all public benefit issues in their corporate decision making. The social corp proposal allows a corporation to adopt a single social purpose and directors are only obligated to consider ‘that’ social factor.

A B corp may appoint a benefit director, and if so then such director must opine in an annual benefit report to shareholders on the corporation's status of meeting its benefit goals. Benefit corps must prepare a report to third party standards.

The recent Delaware B corp statute requires a B corp to change its name to reflect its status. The Sub-Committee's proposal does not.

Upon motion duly made, the Committee again approved submitting a triple motion to the Section to support the Sub-Committee's B corp bill, which was substantially the same as the bill previously discussed in prior Committee meetings.

5. Chapter 517 Securities Sub-Committee. Greg Yadley led a discussion on the recently enacted JOBS Act. In April 2012 the JOBS Act was passed regarding capital raising. In July 2013 the SEC adopted new rules, effective September 23, 2013. Most notable amongst the new rules is a new Rule 506(c) exemption. The prior Rule 506 exemption is now referred to as the Rule 506(b) exemption. Under new Rule 506(c), issuers will be allowed to use general solicitation in their capital raising efforts if all purchasers are accredited and the issuer takes reasonable steps to verify such accreditation. Questions arise regarding what will be deemed reasonable. Bad actor rules regarding directors, officers or 20% owners may result in disqualification. Form D may be revised, and filing time requirements changed.
6. Chapter 607 Revision Sub-Committee. Phil Schwartz led the discussion. Now that the Committee's LLC Statute revision task is over, the Chapter 607 Revision Sub-Committee is gearing up once again to undertake a thorough analysis of the Florida Business Corporation Act. The Sub-Committee plans to use frequent in-person and telephonic meetings. They will concentrate on areas in need of improvement, and will look at model and other states' corporate laws for suggestions. Andrew and Phil Schwartz will serve as Reporter of the Sub-Committee.
7. Upcoming Events. Stefan Rubin reminded the Committee that the Federal Securities/M&A Institute will be holding their annual two-day event in Miami in February 2014 and encouraged members to attend. Also, the Section is hosting two (2) upcoming CLE events on the recently enacted Revised Limited Liability Company Act – on October 24, 2013 in Miami and on October 25, 2013 in Tampa.
8. Meeting Adjourned.