## UNITED STATES OF AMERICA Before the SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933 Release No. 8695 / May 31, 2006

## ADMINISTRATIVE PROCEEDING File No. 3-12310

## In the Matter of

BEAR, STEARNS & CO. INC.; CITIGROUP GLOBAL MARKETS, INC.; GOLDMAN, SACHS & CO.; J.P. MORGAN SECURITIES, INC.; LEHMAN BROTHERS INC.; MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MORGAN STANLEY & CO. INCORPORATED AND MORGAN STANLEY DW INC.; RBC DAIN RAUSCHER INC.; BANC OF AMERICA SECURITIES LLC; A.G. EDWARDS & SONS, INC.; MORGAN KEEGAN & COMPANY, INC.; PIPER JAFFRAY & CO.; SUNTRUST CAPITAL MARKETS INC.; AND WACHOVIA CAPITAL MARKETS, LLC, ORDER UNDER RULE 602(e) OF THE SECURITIES ACT OF 1933, GRANTING A WAIVER OF THE DISQUALIFICATION PROVISION OF RULE 602(c)(3) AS TO MORGAN KEEGAN & COMPANY, INC.

**Respondents.** 

Morgan Keegan & Company, Inc. has submitted a letter, dated March 2, 2006, for a waiver of the disqualification from the exemption under Regulation E arising from its settlement of an administrative proceeding commenced by the Commission. On May 31, 2006, pursuant to the offer of settlement by Morgan Keegan, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Section 15(b) of the Securities Exchange Act of 1934 (the "Order"). Under the Order, the Commission found that Morgan Keegan willfully violated Sections 17(a)(2) of the Securities Act of 1933 (the "Securities Act") by engaging in one or more violative practices in connection with certain auctions for auction rate securities.

The Order censures Morgan Keegan and requires Morgan Keegan (1) to cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act; (2) within 10 days of the entry of this Order, to pay a civil money penalty in the amount of \$125,000 to the United States Treasury; (3) to make certain disclosures regarding its

material auction practices and procedures; and (4) not later than 6 months after the date of this Order, unless otherwise extended by the staff of the Commission for good cause shown, have its chief executive officer or general counsel certify in writing to the staff of the Commission that Morgan Keegan has implemented procedures that are reasonably designed to prevent and detect failures by Morgan Keegan to conduct the auction process in accordance with the auction procedures disclosed in the disclosure documents and any supplemental disclosures and that Morgan Keegan is in compliance with Section IV.E. of the Order.

The Regulation E exemption is not available for the securities of a small business investment company or business development company issuer if an investment adviser or underwriter of the securities to be offered is subject to a Commission order pursuant to Section 15(b) of the Exchange Act. *See* Rule 602(c)(3) under the Securities Act. The Commission may waive the disqualification upon a showing of good cause. *See* Rule 602(e).

Based on the representations set forth in the request made by Morgan Keegan, the Commission has determined that a showing of good cause has been made pursuant to Rule 602(e) and that the request for a waiver of the disqualification should be granted.

Accordingly, **IT IS ORDERED**, pursuant to Rule 602(e) under the Securities Act, that a waiver from the application of the disqualification provision of Rule 602(c)(3) under the Securities Act resulting from the entry of the Order is hereby granted.

By the Commission.

Nancy M. Morris Secretary