

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

**SECURITIES ACT OF 1933**  
**Release No. 9436 / July 31, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15399**

**In the Matter of**

**A.R. Schmeidler & Co., Inc.,**

**Respondent.**

**ORDER UNDER RULE 602(e) OF THE  
SECURITIES ACT OF 1933 GRANTING A  
WAIVER OF THE RULE 602(c)(3)  
DISQUALIFICATION PROVISION**

**I.**

Respondent A.R. Schmeidler & Co., Inc. (“ARS” or “Respondent”) has submitted a letter, dated July 30, 2013, requesting a waiver of the Rule 602(c)(3) disqualification from the exemption from registration under Regulation E arising from ARS’s settlement of administrative proceedings commenced by the Commission.

**II.**

On July 31, 2013, pursuant to ARS’s Offer of Settlement, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b)(4) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 against A.R. Schmeidler & Co., Inc., Making Findings, Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”). Under the Order, the Commission found that ARS willfully violated Sections 206(2) and 206(4) of the Investment Advisers Act of 1940 (the “Advisers Act”) and Rule 206(4)-7 promulgated thereunder by failing to (1) seek best execution for advisory client transactions in breach of its fiduciary duty and (2) implement procedures reasonably designed to prevent its best execution violations. In the Order, the Commission ordered that (A) ARS cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder; (B) ARS is censured; (C) ARS pay disgorgement of \$757,876.88 and pre-judgment interest of

\$78,688.57; (D) ARS pay a civil monetary penalty of \$175,000; and (E) ARS comply with the undertakings enumerated in Paragraphs 9-11 of the Order.

### III.

The Regulation E exemption is unavailable for the securities of small business investment company issuers or business development company issuers if, among other things, any investment adviser or underwriter for the securities to be offered is subject to an order of the Commission entered pursuant to Section 15(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) or Section 203(e) of the Advisers Act. 17 C.F.R. § 230.602(c)(3). Rule 602(e) of the Securities Act of 1933 (“Securities Act”) provides, however, that the disqualification “shall not apply . . . if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.” 17 C.F.R. § 230.602(e).

### IV.

Based upon the representations set forth in Respondent’s request, the Commission has determined that pursuant to Rule 602(e) under the Securities Act a showing of good cause has been made that it is not necessary under the circumstances that the exemption be denied as a result of the Order.

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.

Elizabeth M. Murphy  
Secretary