

**Securities Regulation**  
**Sample Multiple Choice Questions**  
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**Some questions have three answer choices; some have four answer choices.**

1. Which of the following presents the clearest case for the existence of a security?
  - a. Common stock in a for-profit corporation;
  - b. A general partnership interest;
  - c. A limited partner's interest in a limited partnership;
  - d. A membership interest in a limited liability company.

**Questions 2-4 are governed by the following state of facts:**

Exam, Inc., a Delaware corporation with its principal office and plant in Middletown, Ohio, plans to issue and sell \$2,000,000 worth of common stock to the public to provide funds for plant expansion and working capital. To date, all the stock of Exam has been owned by the Smith family. The offering is subject to the registration requirements of the Securities Act of 1933 (the "33 Act"). During the course of the transaction, there are several occasions on which legal advice is sought.

2. Prior to the filing of a registration statement with the Securities and Exchange Commission, Thomas Smith, the president of Exam, tells you that he telephoned the office of Goldbar Brothers, a dealer in securities, to inquire whether Goldbar would be interested in handling the securities issue. After an investigation by Goldbar's New York office, Exam and Goldbar reached an informal agreement that Goldbar would serve as principal underwriter of 200,000 shares of common stock of Exam to be sold to the underwriters at \$10 per share for resale to the public at \$11 per share. The agreement was embodied in a letter of intent, which was signed by the president of Goldbar and mailed to Middletown, where it was accepted by Smith on behalf of Exam.
  - a. Exam has not violated the '33 Act because the agreement with Goldbar is preliminary.
  - b. Exam has violated the '33 Act by entering the agreement with Goldbar.
  - c. Exam has not violated the '33 Act.

3. After Exam files the registration statement, but before it has become effective, the president of Goldbar asks counsel if Goldbar may publish an announcement of the proposed offering in the *Wall Street Journal*. The announcement as now contemplated would describe in a couple of sentences Exam's business and the purposes for which the proceeds will be used. It would further invite readers to subscribe for shares at a price of \$11 per share.

- a. The proposed announcement may be permissible under Rule 134; more information is required.
- b. The proposed announcement may be permissible under Rule 135; more information is required.
- c. The proposed announcement is permissible because of the exclusion in Section 2(a)(3).
- d. There is no section or Rule which even arguably would authorize the proposed announcement.

4. The president of Goldbar once again seeks counsel before the registration statement has become effective. He explains that Goldbar is about to mail to the underwriters and to selected dealers around the country copies of the preliminary prospectus (which does not include the offering price or other terms of the underwriting). He also explains that the prospectus will be accompanied by a letter explaining why Goldbar believes that Exam would be an attractive investment (including a five-year projection of earnings) and inviting each dealer to indicate the number of shares it would be interested in purchasing from the underwriters for resale to the public after the registration statement becomes effective.

- a. The mailing is permissible because the letter is accompanied or preceded by a prospectus.
- b. The mailing probably is permissible because Rule 134 authorizes letters of the type described.
- c. The mailing probably is permissible because Rule 135 authorizes letters of the type described.
- d. The mailing is impermissible.

5. The defendant's scienter
  - a. is an element that the Securities Exchange Commission must plead and prove in any action brought under the '33 Act;
  - b. is an element that a private plaintiff must plead and prove in any action brought under the '33 Act;
  - c. both a and b;
  - d. neither a nor b.