ROCKETHUB

IMPLEMENTATION OF CROWDFUNDING

BUILDING ON TITLE III OF THE JOBS ACT

RESPONSE TO PROPOSED RULES
(Release No. 33-9470)

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Introduction

RocketHub acknowledges the Commission's diligence and effort in producing the proposed regulations. We believe, however, that the proposed rules fail to address the realities of operating a crowdfunding Portal,[1] and fail to respond to the needs of an issuer considering a Section 4(a)(6) offering. The proposed rules need to be more cost-sensitive, less burdensome and more realistic to permit the development of a vibrant, sustainable, and scalable securities crowdfunding market, as envisioned by the JOBS Act.

Through this response paper, RocketHub argues that the proposed regulations are cumbersome and expensive. We believe the Commission has not taken full advantage of the opportunity provided by the JOBS Act to craft rules for a low-cost, web-based offering exemption and has instead imported expensive concepts from traditional regulatory frameworks. This is amply demonstrated by Rockethub's cost-analysis of the filing and audit requirements,[2, 3] which establish an upfront cost that is too high for small businesses to accept. These proposed regulations also require businesses to engage an excessive amount of outside expert advice, which is not appropriate for the size of the market. Furthermore, Portals are saddled with misplaced liability, hindering their ability to operate in the market alongside other intermediaries.

RocketHub is concerned that the Commission too frequently relies on traditional concepts, instead of addressing and exploring the modern social media marketplace that underpins this new market. The complexity of the proposed regulations (585 pages) will increase costs associated with compliance, and discourage issuances. One reason that crowdfunding has become so popular is its low barrier to entry. Project leaders can leverage RocketHub's system to test the market, see if there is support for their ideas, and use that information to inform their decisions on how to move forward. Under the proposed rules, issuers will be faced with significant upfront costs, and the real possibility of a failed offering leaving them in a worse position than before the attempt.

In this whitepaper RocketHub has endeavored to bring operational insight, and an experienced crowdfunding & technology industry perspective to the discussion of the proposed rules. RocketHub believes that this perspective will benefit the Commission, allowing them to create regulation that will provide adequate protection of the consumer, and opportunity to the issuer. While we will continue to push for legislation that will reduce costs to the market, we urge the Commission to reexamine its approach in implementing the crowdfunding provisions of the JOBS Act.

[1] Funding Portal as defined in section 3(a)(80) of the Securities Exchange Act of 1934, as amended.
[2] See Appendix I, II and III
[3] See page 8

About RocketHub:
RocketHub is one of the world's largest, and most successful, perks-based crowdfunding platforms, and the only established crowdfunding platform that has taken an active role in the rule making process surrounding the JOBS Act. Through the release of two prior whitepapers,[4, 5] Congressional testimony,[6] and numerous meetings with both the Commission[7] and FINRA,[8] RocketHub has offered expert opinion on how the investment-based crowdfunding market will function, and data and insight into the user behavior that has made crowdfunding a social phenomenon. RocketHub firmly believes that all parties involved are making legitimate efforts to construct a functional regulatory framework that will revitalize the US economy, encourage job creation, and foster domestic innovation.

[4] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012
[5] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012
[6] http://oversight.house.gov/wp-content/uploads/2012/06/6-26-12-TARP-Hillel-Tuch.pdf
[7] http://www.sec.gov/comments/jobs-title-iii/jobs-title-iii.shtml#meetings
[8] RocketHub, Module XVII of FINRA's Capital Markets Series, September 17, 2013

Overview of Responses to the Commission's Request for Comments

Ongoing Reporting Requirements

This is in response to the following requests for comment: 17, 18, 24, 25, 26, 29, 30, 31, 32, 33, 34, 36, 37, 38, 41, 42, 72, 73, 74, 75, 79, 84, 92, 93, 94, 96.

As currently proposed, the initial and ongoing reporting requirements for issuers impose unnecessary costs and complexity, which fail to take advantage of the web-based nature of crowdfunding, and are not supported by the JOBS Act.

- The requirement for issuers to file a Form C with the SEC prior to making an offering on a Portal imposes an up-front cost on issuers with no benefit to investors. The up-front cost is that issuers need to incur the time and expense of completing the Form C. This is especially troublesome for issuers who are ultimately not successful in completing their capital raise. The Form C, however, is neither reviewed, nor declared effective by the SEC. As a result, there is no countervailing benefit to investors in terms of rule compliance or anti-fraud. Instead, all potential investors in the offering will be viewing the materials that are posted and available on the Portal's site. A better solution would be to only require a Form C be filed upon the completion of the offer. This "final" Form C would include the final versions of materials disclosed to investors during the offering process. The "final" Form C should be filed exclusively electronically, and should allow for reference to materials on the Portal's website (if the Portal has agreed to keep such information available).

- The requirements for issuers to file "Form C-U" progress updates are similarly flawed. If an offering is unsuccessful, the requirement that issuers make a filing upon reaching the 50% commitment threshold is irrelevant. If an offering is successful, the requirement that issuers make a filing upon reaching the 50% commitment threshold is useless because the issuer will have disclosed reaching 100% of funding. These progress updates also fail to account for (i) the various lengths of offering periods, (ii) the nature of the timing of funding commitments (which may all come in at the end of the funding period, making interim filings irrelevant), and (iii) the visibility of funding status to all potential investors on the Portal's website. As a result, these progress reports (which are not required for other types of offerings) add a layer of useless regulation and cost on small business issuers.

The proposed rules seek to implement a pre-offering filing requirement with subsequent amendments (analogous to a registered offering) which is inappropriate for an exempt offering that utilizes social media and web-based communications. All potential crowdfunding investors have access to all information posted on the funding Portal's website, either by the issuer or by other potential investors contemplating an investment. The issuer has the opportunity to engage in public discussion with the investors, and the investors have the opportunity to raise concerns and request additional information. We do not expect that many (or any) investors will look to

the EDGAR system over having the same information provided (and discussed) on the funding Portal's website. The rules as proposed fail to integrate this reality in their approach and as a result, impose unnecessary filing requirements.

While such filings may serve certain statistical compilation purposes, they do not provide a direct benefit to investors, and impose real costs on issuers. As such, we urge the SEC to revisit their approach in providing information to investors and reduce the filing requirements.

Instead, the Commission should set minimum reporting requirements with the understanding that such requirements can be enhanced or adjusted through collective decisions by issuers and investors. If too many disclosures, filings, reports, and forms are required, issuers will face unnecessary hurdles and costs. Issuers would also be better positioned to serve their investors' interests if not distracted from successfully building and running their enterprises.

The Commission should generally rely on investors to ensure adequate disclosure through the initial offering materials. As discussed throughout, if the investors do not feel that sufficient information has been disclosed, they are free to simply not invest or request further information. The crowd will be able to compel the issuer to make the requested disclosure in order to attract or retain investors. The Commission should also specify the material changes that would trigger an issuer's responsibility to disclose such information. The Commission should provide a list similar to that accompanying Form 8-K; however, the list should be modified to appropriately acknowledge the difference between public and private companies, and the different types of material events that early growth companies experience. Issuers would then be able to easily identify and comply with their reporting obligations. While investors would then have access to this information, they would also retain the ability to request disclosure of additional material changes from the issuer. Rather than create a rigid, one-size-fits-all solution, this would enable investors to determine what changes they deem material to their particular investment.

Material changes should be disclosed by the issuer on the Portal, where they can be used by investors and potential investors to make informed decisions. This method of disclosure will also permit issuers to use various media to communicate with investors (e.g., written statements, video presentations, etc.).

Ability of Intermediaries to Define and Police their Platforms

This is in response to the following requests for comment: 15, 103, 104, 113, 114, 115, 116, 133, 134, 135, 166, 167, 168, 169, 170, 219, 220, 221, 222, 223.

Intermediaries require the ability to define their market position and "police" their platform for inappropriate use. To do so, intermediaries must be allowed to determine the content that will

appear on their platforms and be allowed to select certain issuers (and exclude others) based on predefined criteria. Such criteria could include, but would not be limited to:

- Issuer's industry (i.e., permitting industry specific intermediaries);
- Type of securities being offered (i.e., permitting offering term specific platforms);
- Size of offering;
- Geographic location of issuer's business;
- Stage and operating history of company;
- Valuation methodology; and
- Securities and background check results (i.e., permitting intermediaries to impose higher standards than the Commission).

Regulation should likewise not interfere with a Portal's ability to use its discretion to accept or reject certain campaigns. Similar to specialty stores, Portals may specialize by industry, size of the offering, geography, and investor type or issuer history. This may improve disclosure and investor protection, as (i) investors may more easily compare investment opportunities in similar businesses (and educate themselves) on a Portal that specializes in that industry, (ii) competition may drive market norms (Portals or investors may decide that "idea only" companies are too risky and not worth their attention, or that such companies provide the only attractive returns), and (iii) Portals may develop special knowledge regarding the industry or class of issuer which may help reduce fraud and improve disclosure to investors. Such decisions should not be interpreted as an endorsement of individual campaigns or provision of investment advice, and should not be subject to intrusive regulation.

Portals must also maintain the ability to "police" their own platforms for inappropriate content. For example, nearly every web-based business, which allows users to post comments or content, moderates the forums where content is posted. Intermediaries must be allowed to remove content that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable. Intermediaries must also be allowed to suspend or ban users who repeatedly abuse the system.

Issuer's Ability to Restrict the Offer

This is in response to the following request for comment: 15.

An issuer should be allowed to determine the nature of its own offering by restricting the investors it chooses to accept. For example, an issuer my wish to leverage Section 4(a)(6) specifically to formalize a "friends and family" investment round. To facilitate such an offering, the issuer should be allowed to make the offering "invite only" by delivering invitations to a specified list of perspective investors while restricting all others from viewing the offering.

Issuers should be permitted to choose investors based on specific criteria, such as the size of the required investment, the investor's geographic location, or any other legal, non-discriminatory metric. Issuers should also be permitted to approve or reject individual investors before the offering is formally closed. Receipt of an indication that a perspective investor would like to invest in the issuer should not obligate the issuer to accept that investor. As long as the issuer's justification for rejecting an investor is not discriminatory in nature, issuers should not be obligated to explain such decisions to investors, intermediaries, the SRO, or the Commission.

This approach is consistent with basic legal principles and other private placements in which the issuer has the right to determine to whom to make offers to participate.

Promotion by the Portal

This is in response to the following requests for comment: 99, 100, 101, 187, 216, 217, 218, 220, 223.

Portals should be permitted to advertise to: (i) draw interest to their sites generally, and (ii) encourage issuers to fund through them. Portals should be barred from language that implicates the level of risk involved in the investment or the overall quality of the investment opportunity. Nevertheless, if a Portal chooses to feature or highlight certain offerings based on its discretion or the use of specific metrics (e.g. topic, press, or momentum), such decisions should not be viewed by the Commission as investment advice, a recommendation, or a solicitation. Portals need the ability to feature campaigns to compete with other Portals.

Portals should be barred from soliciting investments for any specific campaign by providing offering details outside of the Portal itself. However, Portals should be allowed to advertise more generally, as well as highlight ongoing offerings through various communication channels. Additionally, like other businesses, Portals may have staff dedicated to handling business development and marketing initiatives. Such standard business practices should not be limited.

Promotion by the Issuer

This is in response to the following requests for comment: 97, 100, 101, 103, 105, 106, 108.

There is a clear distinction between an issuer hiring an individual or entity for promotion and more standard web-based advertising, such as Google ads, Facebook ads, or sponsored tweats. When an issuer hires an individual or entity for promotion, investors may not be aware of the commercial relationship between the parties. The Commission should not enact rules that may

interfere with promotional compensation, but should rather require simple disclosure of a commercial relationship where it would not otherwise be apparent to investors.

Notice to investors can be achieved by highlighting comments or postings by promoters or affiliates of the issuer. To avoid confusion, the Commission must also provide clear definitions regarding what constitutes compensation and payment for promotion. A simple disclosure by the issuer on its offering page that compensation was provided to select promoters should suffice. The Commission should also supply examples of the application of these definitions in major social media outlets (e.g., the use of hashtags on Twitter), where traditional recognition of a commercial relationship may not be possible.

We anticipate that most promotions will be limited to notices that direct investors to the intermediary's platform, which are not prohibited by the proposed rules. We also anticipate that when investors or potential investors have questions or comments for an issuer, they may publicly tweet an issuer or post a question on the issuer's Facebook account. If the question pertains to the offering, the issuer should be able to respond to the investor with a link directing the investor to the public communication channel on the intermediary's platform. While the link the issuer provides could technically be considered a communication, we believe any communication directing an investor to the compliant communication offered through the Portal should be permitted.

Liability of Funding Portals

This is in response to the following requests for comment: 129, 130, 131, 134.

We disagree with the SEC's commentary in the proposing release that, "it appears likely that intermediaries, including funding Portals, would be considered issuers for purposes of [liability under Section 4A(c)]". In this context it would be akin to holding a securities exchange liable for fraud committed by an issuer listed on such exchange.

To resolve any dispute, however, we encourage the SEC to adopt a clear position and safe-harbor that acknowledges that a Portal providing the services permitted under applicable rules is not an "issuer" for purposes of the Securities Act. This position is consistent with the historical treatment of securities marketplaces and the common (and statutory) understanding of the term "issuer". Failure to address this provision exposes Portals to misplaced liability and threatens the fundamental economics of the crowdfunding marketplace.

While funding Portals can perform basic background checks on the issuer and certain disclosed equity holders, they have neither the resources, nor the expertise to examine statements to determine truth (or detect omissions). Issuers will make statements regarding business plans,

affiliate transactions and contracts which Portals will have no ability to verify. Exposing the Portals to liability as an issuer requires that the Portal conduct diligence as if it were the issuer. As the Portal does not receive the economic benefit of the issuer, this burdens the Portal with risks that are not commensurate with the reward.

Investors should be informed of the explicit and limited steps to police fraud that the Portal has undertaken, and acknowledge that their recourse for misstatements lies solely against the issuer of the securities. Investors will instead be protected through disclosure regarding the risks of investing and the receipt of adequate disclosure from the issuer. Investors will have the opportunity to perform diligence and pose questions to the issuer. Each investor will then have the ability to review the issuer's responses, as well as feedback on those responses from other potential investors. The nature of crowdfunding encourages disclosure of relevant information through the negotiation and agreement that will occur between the issuer and investors.

Viewing Portals as issuers (or underwriters) misstates their role in the marketplace and threatens to create economic disincentives so extreme as to eliminate any possibility of non-Broker[9] / Dealer[10] Portals operating under the proposed rules.

Financial Statements

This section is in response to the following requests for comment: 12, 18, 19, 20, 29, 31-33, 47-48, 50-58, 60-62, 64-66, 69, 71, 80, 85, 86, 88, 122-127.

After assessing the proposed rules, the dynamics involved in a crowdfunded offering, and the types of issuers most likely to seek to leverage Section 4(a)(6), there appear to be significant costs which are structured in a manner that will jeopardize the viability of the potential market for a crowdfunded offerings. Since there is no guarantee of an offering's success, excessive up-front costs will penalize issuers and create an issuer oriented risk-exposure to debt (due to regulatory compliance costs) that may cripple the very small businesses the JOBS Act was designed to support.

[9] Broker as defined in Section Section 3(4) of the Securities Exchange Act of 1934, as amended.
[10] Dealer as defined in Section Section 3(a)(5) of the Securities Exchange Act of 1934, as amended.

Figure 1.1[11, 12]

	Offerings of $100,000 or less	Offerings of more than $100,000, but not more than $500,000	Offerings of more than $500,000
Compensation to the intermediary. **A**	$2,500 - $7,500	$15,000 - $45,000	$37,500 - $112,500
Costs per issuer for obtaining EDGAR access codes on Form ID. **B**	$60	$60	$60
Costs per issuer for preparation and filing of Form C for each offering. **C**	$6,000	$6,000	$6,000
Costs per issuer for preparation and filing of the progress updates on Form C-U. **D**	$400	$400	$400
Costs per issuer for preparation and filing of annual report on Form C-AR. **E**	$4,000	$4,000	$4,000
Costs for annual review or audit of financial statements per issuer. **F**	Not Required	$14,350	$28,700
Costs per issuer for preparation and filing of Form C-TR to terminate reporting. **G**	$600	$600	$600

Figure 1.1 can be used to model issuers' potential cost structures. An issuer conducting an offering to raise $501,000 would have to allocate 21.15%[13] of the total amount raised in costs, with $34,760 in potential up-front costs.[14] On a $101,000 raise, if one year of accountant-reviewed financials is required, the predicted costs amount to **40.01%**[15] of the total raise, with at least $20,410 in anticipated up-front costs.[16] This percentage increases to **54.22%** if two years' worth of accountant reviewed financial statements are required.[17] Given these proposed rules, more funds would be spent on compliance costs than retained by the issuer.

These calculations do not include additional costs that will be imposed on issuers and Portals to ensure compliance. Therefore, these figures understate the true cost of the proposed rules.

[11] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 358, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013
[12] See Appendix I
[13] See Appendix III.A
[14] See Appendix III.F
[15] See Appendix III.C
[16] See Appendix III.G
[17] See Appendix III.C

Figure 1.2

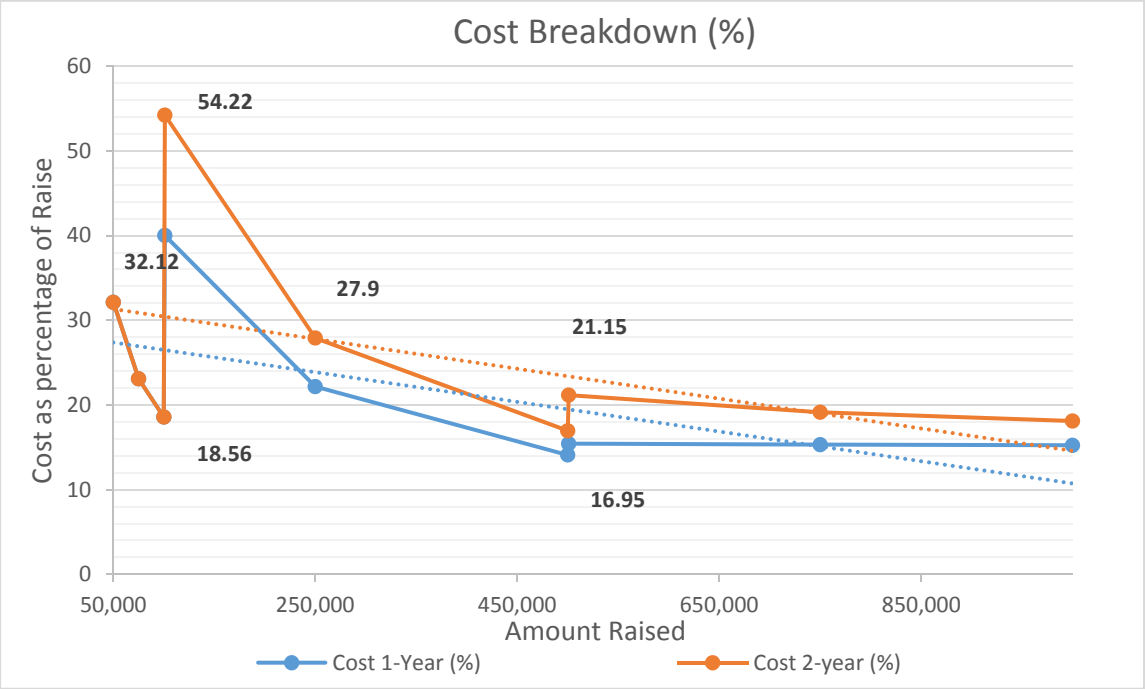


Figure 1.2 demonstrates that the proposed rules create resistance points in the amount being raised.[18] This structure creates a disincentive to raise amounts in excess of the resistance point, unless an issuer can raise considerably more and mitigate the cost. This could force increased dilution or a larger capitalization table than desired. Although some aspects of the resistance points can only be reduced through legislative change, a considerable up-front cost component imposed by the Commission can be avoided. The bulk of these upfront costs are associated with preparing filings for the Commission, obtaining an EDGAR access code, and using the proposed Form C.[19]

RocketHub believes that the Financial Condition of Issuer requirements are excessive in cost and misguided in intent. While subsection Sec.302(b)/Sec4A.(b)(1)(D)(i)(II) requires issuers to provide certified financial statements, an early stage company may not have historical financial statements to provide. "Financial statements" should therefore be interpreted to mean "historical financial statements" only for periods that the issuer has been in existence. Moreover, not all issuers will have historical financial information that can be audited, and the prohibitively

[18] These points are $100,000 & $500,000, respectively.

[19] This becomes very apparent for an issuance of less than $100,000. Using the function $ax + by + c = 0$, $y = 0.05x + 13{,}560$. When the slope of the linear line is marginal (0.05), but the y-intercept point (when amount raised [x] is equal to zero) is a large portion of total range of ($0 \leq x \geq 100{,}000$) this means that the up-front cost component is the largest influencer. At the high-end of the range, when x = 100,000, up-front cost is equal to 13.56% of the total amount raised, which is the best case scenario.

expensive nature of audits contradicts the spirit of the Act. Regardless of historical financials, the requirements when applied to offerings of less than $1,000,000 highlight that the funds appropriation ratios are excessive.

Sec.302(b)/Sec4A.(b)(1)(D)(iii) explicitly permits the Commission to adjust the target offering amount where audited financials are required. As audited financials are generally not required for angel investments or venture capital investments of this size (largely due to the cost incentives described above), the target offering amount should be raised to an amount in excess of $1,000,000. This will permit elimination of the audit component of the proposed requirements for offerings of less than $1,000,000.

Request for Comment 58 specifically addresses the ability to require issuers to provide financial statements that are certified by the principal executive officer to be true and complete in all material respects for issuers looking to raise more than $100,000 but less than $500,000. RocketHub fully supports certification by the principal executive officer in lieu of the costly accounting requirements, though we recognize that legislative support may be necessary to accomplish this. The ability to self-certify would help reduce up-front costs. Furthermore, a serious reduction in the unnecessary rate of reporting through Form-C would further reduce the up-front costs, making Section 4(a)(6) viable for the market the JOBS Act is intended to support.

Rescission Period

This is in response to the following requests for comment: 34, 171-172, 182-186.

We support the Commission's position on not prescribing how oversubscribed offerings would be allocated, as well as the simple disclosure of the target offering amount and oversubscription cap. However, the Commission has included proposed rules on the process to cancel commitments without requesting comment. RocketHub has serious concerns with the process as proposed. The Commission's proposal leaves investors open to considerable risk of "pump & rescind" schemes.[20] It also leaves issuers at risk of "short fall" situations.[21] Investors must have the ability to cancel their commitments within a reasonable time limit. However, as provided in the proposed rules, the right to rescind exposes both the investor and issuer to specific types of

[20] Pump & Rescind: An unscrupulous issuer could have fake investors "pump up" the campaign by committing large dollar amounts up-front, in order to create the appearance of momentum, thereby attracting other investors. According to the proposed rules, at the end of the offering, those initial investors could slowly "rescind" their investments, leaving only the new investors committed. This amounts to fraudulent promotion through faux-investing, and should not be permitted.

[21] Short Fall: Investors who are allowed to rescind their commitments to invest, after the campaign has reached the target amount, may cause the campaign to fall short of the target amount. This short fall may jeopardize the entire offering if the issuer does not have enough time to replace the lost investors before the campaign expires.

fraud and risk, and the proposed rules methodology unnecessarily exceeds the JOBS Act's requirements.

RocketHub suggests that once an investor expresses an intent to invest, the investor's investment should be placed in a "pending" state for 24-hours. After that 24-hour rescission period expires, the investor's funds should transition from "pending" to "committed," and should be held in escrow until transferred to the issuer. Notices of commitment can be submitted to investors after their rescission period has ended, and a secondary notice can be submitted to investors at the completion of the issuance. If the offering does not reach its funding target before the campaign deadline, the investor's funds should be released from escrow and returned to the investor.

As described in the proposed regulations, the Commission allows for a rescission period that is as long as the offering itself. This does not reflect the dynamics of crowdfunding. As Sec.302(b)/Sec4A.(a)(6) requires a minimum offering period of 21 days, the investor should have enough time to review the investment opportunity before investing, rendering a longer rescission period unnecessary. A short rescission period will protect investors from "pump & rescind" schemes and minimize an issuer's exposure to the risk of "short fall."

Intermediary's Ability to Provide Ancillary Services

This is in response to the following requests for comment: 76, 77, 78, 79, 80, 81, 82, 94, 96, 102, 105, 106, 107, 108, 114, 116, 128, 140, 146, 187, 226.

An intermediary may initially seem to serve solely as the platform on which an issuer's offering appears. In actuality, the intermediary creates the user experience and the user interface for both issuers and investors. The intermediary also creates the system through which issuers and investors interact with one another and third-party service providers. For example, whether or not a Portal uses a third-party payment service or its own technology, the issuer will perceive them as one and the same.

It would be impractical to have issuers and investors switching between various parties' software (i.e., EDGAR) in order to complete tasks. Intermediaries, and in particular Portals, are centrally located and will be able to unify the experience for issuers and investors, thereby increasing compliance and oversight.

Examples of services Portals seek to offer include, but are not limited to:

- Form-C filing;
- Form-C update filing;
- Amendment filing;
- Additional investor and issuer education;

- Direct registration of securities;
- Allocation and disbursement of funds as appropriate;
- Assist issuer with corporate structure;
- Connect issuer and investors with qualified service providers (including lawyers, accountants, etc.);
- Assist with and/or directly perform background checks and income verification;
- Post-issuance investor relations;
- Financial statement construction; and
- Copywriting, and video production.

Fundamentally, the crowdfunding market is designed to enable fundraising by issuers that represent idea-only, early stage, and small businesses. These issuers seek to actively engage with investors who have a genuine interest in the success of their businesses, often for reasons that are not limited to a return on investment. This includes family and friends that are connected with the issuers via online and offline social networks. These businesses may not be venture capital ready, or may not be traditionally venture-backable, and their Section 4(a)(6) offerings may be their first exposure to securities regulation. Therefore, allowing Portals to provide the necessary ancillary services will not only facilitate a smooth offering, but also ensure investors and issuers are fully protected, compliant, and informed.

Specific Responses to the Commission's Request for Comments

II.A.1: Limitation on Capital Raised

1. Should we propose that the $1 million limit be net of fees charged by the intermediary to host the offering on the intermediary's platform? Why or why not? If so, are there other fees that we should allow issuers to exclude when determining the amount to be raised and whether the issuer has reached the $1 million limit?
2. As described above, we believe that issuers should not have to consider the amounts raised in offerings made pursuant to other exemptions when determining the amount sold during the preceding 12-month period for purposes of the $1 million limit in Section 4(a)(6). Should we require that certain exempt offerings be included in the calculation of the $1 million limit? If so, which types of offerings and why? If not, why not? As noted above, at this time the Commission is not proposing to consider the amounts raised in non-securities- based crowdfunding efforts in calculating the $1 million limit in Section 4(a)(6). Should the Commission propose to require that amounts raised in non-securities-based crowdfunding efforts be included in the calculation of the $1 million limit? Why or why not?

RocketHub agrees with the Commission's position that the limit on capital raised via Section 4(a)(6) should be calculated based solely on funds raised via that exemption. Other exempt offerings should not be included in the calculation of the $1 million limit, as doing so could severely restrict a business's ability to leverage this exemption, and defeat the spirit of the legislation. Additionally, we predict that some issuers will opt to leverage multiple exemptions, including Title II of the JOBS Act, and 506(c) offerings under Regulation D.

Section 4(a)(6) establishes a brand new exemption and structure, distinct from other exempt offerings. As compliance with this exemption requires its own costs, RocketHub suggests the $1 million limit should be net of all expenses associated with compliance and facilitation of Section 4(a)(6) issuance. Those expenses include, but are not limited to fillings fees, transfer costs, regulatory costs, background checks, intermediary fees, and other expense incurred within the ordinary course of a Section 4(a)(6) issuance. As proposed, the cost ratio of compliance with a Section 4(a)(6) issuance may be greater than that associated with a Regulation D offering. In order to ensure that the Section 4(a)(6) exemption will be a viable option to issuers, the Commission should allow issuers the opportunity to cover the cost of compliance within the raise. If not, the aggregate limit on capital raised under Section 4(a)(6) would be significantly reduced (based on the Commission's own calculations[22]), defeating the spirit of the legislation and significantly limiting its use.

[22] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 358, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013

Non-securities based crowdfunding should similarly be excluded from the calculation of the Section 4(a)(6) $1 million limit. The spirit of the legislation is to offer a new avenue for access to capital. If the Commission were to include non-securities based crowdfunding in the calculation, companies with a track record of success and support from the crowd would be unduly restricted from access to capital in a way that is neither intended nor implied by the legislation. Furthermore, non-securities based crowdfunding encompasses many different types of transactions: charitable giving, pre-sales, exchange, in-kind donations, etc. Effectively establishing rules regarding how each of those types of transactions should be included within Section 4(a)(6) $1 million limit calculation is impractical, may hamper the existing market, and would place a severe burden on the issuer in order to maintain compliance.

3. As described above, we believe that offerings made in reliance on Section 4(a)(6) should not necessarily be integrated with other exempt offerings if the conditions to the applicable exemptions are met. How would an alternative interpretation affect the utility of crowdfunding as a capital raising mechanism? Are there circumstances under which other exempt offers should be integrated with an offer made in reliance on Section 4(a)(6)? If so, what are those circumstances? Should we prohibit an issuer from concurrently offering securities in reliance on Section 4(a)(6) and another exemption? Why or why not? Should we prohibit an issuer from offering securities in reliance on Section 4(a)(6) within a specified period of time after or concurrently with a Rule 506(c) offering under Regulation D involving general solicitation? Why or why not? Should we prohibit an issuer from using general solicitation or general advertising under Rule 506(c) in a manner that is intended, or could reasonably be expected, to condition the market for a Section 4(a)(6) offering or generate referrals to a crowdfunding intermediary? Why or why not? Should issuers that began an offering under Section 4(a)(6) be permitted to convert the offering to a Rule 506(c) offering? Why or why not?

As noted above, we predict that some issuers will opt to leverage multiple exemptions, including Section 4(a)(6), Title II of the JOBS Act, and Rule 506(c) under Regulation D, either concurrently, or within a short time frame. The Commission should not mandate that multiple offerings be integrated.

The Commission should not prohibit an issuer from issuing a Rule 506(c) offering under regulation D, either concurrently, or within a particular time from a Section 4(a)(6) offering. Nor should the Commission prohibit an issuer from using general solicitation or advertising under Rule 506(c) in a manner that is expected to condition the market for a Section 4(a)(6) offering, or generate referrals to a crowdfunding intermediary. RocketHub expects that Section 4(a)(6) offerings will occur at the initial stages of an issuer's capital needs, with a Rule 506(c) offering under Regulation D to follow, targeting accredited investors. Prohibiting an issuer from

leveraging one exemption or another could restrict the issuer's access to capital, and discourage accredited investors from separately investing amounts in excess of the Section 4(a)(6) investment limits.

Issuers that have an actively running offering under Section 4(a)(6) should not be permitted to convert the offering to a Rule 506(c) offering. The active Section 4(a)(6) offering should first be withdrawn (or allowed to expire). Actively running offerings under Section 4(a)(6) will have already been made public, and are designed for a different market than Rule 506(c). Conversion of an active offering could create confusion for both the investors and the Portal.

II.A.2: Investment Limitation

6. While we acknowledge that there is ambiguity in the statutory language and there is some comment regarding a contrary reading, we believe that the appropriate approach to the investment limitations in Section 4(a)(6)(B) is to provide for an overall investment limit of $100,000 and, within that limit, to provide for a "greater of" limitation based on an investor's annual income or net worth. In light of ambiguity in the statutory language, we are specifically asking for comment as to the question of whether we should instead require investors to calculate the investment limitation based on the investor's annual income or net worth at the five percent threshold of Section 4(a)(6)(B)(i) if either annual income or net worth is less than $100,000? Similarly, for those investors falling within the Section 4(a)(6)(B)(i) framework, should we require them to calculate the five percent investment limit based on the lower of annual income or net worth? Should we require the same for the calculation of the 10 percent investment limit within the Section 4(a)(6)(B)(ii) framework? If we were to pursue any of these calculations, would we unnecessarily impede capital formation?
7. The statute does not address how joint annual income or joint net worth should be treated for purposes of the investment limit calculation. The proposed rules clarify that annual income and net worth may be calculated jointly with the annual income and net worth of the investor's spouse. Is this approach appropriate? Should we distinguish between annual income and net worth and allow only one or the other to be calculated jointly for purposes of calculating the investment limit? Why or why not? Should the investment limit be calculated differently if it is based on the spouses' joint income, rather than each spouse's annual income? Why or why not?

With respect to the issues raised in request for comment 6, we agree with the Commission's position in the proposed rules.

With regards to the treatment of joint income or joint net worth, RocketHub suggests the Commission refer to the structure established by the Internal Revenue Service (IRS). The IRS

has established five types of filling statuses: Single, Married Filing Jointly, Married Filing Separately, Qualifying Widow(er) With Dependent Child, and Head of Household.[23] We recommend the Commission follow this established classification system, which would allow for the use of joint income or joint net worth of spouses when calculating the investor's annual limit.

8. We are proposing to permit an issuer to rely on the efforts that an intermediary takes in order to determine that the aggregate amount of securities purchased by an investor will not cause the investor to exceed the investor limits, provided that the issuer does not have knowledge that the investor had exceeded, or would exceed, the investor limits as a result of purchasing securities in the issuer's offering. Is this approach appropriate? Why or why not? Should an issuer be required to obtain a written representation from the investor that the investor has not and will not exceed the limit by purchasing from the issuer? Why or why not?

The issuer must be allowed to rely on the best efforts of the intermediary to enforce the investor's annual limit. The issuer may not have the expertise or information necessary to determine the aggregate amount of securities purchased by an investor under Section 4(a)(6), or if the purchase will cause the investor to exceed that investor's annual limit. Through its user interface, the Portal should be able to gather the required information. All efforts made by the Portal should be considered to be best efforts, and should not imply liability is accepted by the Portal. Requiring written representation from the investor is a logical suggestion if, and only if, that written representation can be made by digital means through the intermediary platform used. RocketHub strongly recommends the Commission consider structuring an appropriate safe harbor for intermediaries as well as a form of due diligence defense for Portals.[24]

RocketHub discusses this issue at length, from the operational perspective of a Portal, in its second white-paper, "Implementation Of Crowdfunding: Building On Title III Of The JOBS Act."[25] Requiring Portals to share information on investors, in order to police these requirements would be difficult, costly, and increase the risk of exposure of confidential information. As such relying on self-certification will ensure a reduction in both cost and the risk of the exposure of confidential information.

9. Should institutional and accredited investors be subject to the investment limits, as proposed? Why or why not? Should we adopt rules providing for another crowdfunding exemption with a higher investment limit for institutional and accredited investors? If so, how high should the limit be? Are there categories of

[23] http://www.irs.gov/pub/irs-pdf/p501.pdf

[24] For further discussion see our response to questions 216-230 in Section II.D.3.

[25] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

persons that should not be subject to the investment limits? If yes, please identify those categories of persons. If the offering amount for an offering made in reliance on Section 4(a)(6) is not aggregated with the offering amount for a concurrent offering made pursuant to another exemption, as proposed, is it necessary to exclude institutional and accredited investors from the investment limits since they would be able to invest pursuant to another exemption in excess of the investment limits in Section 4(a)(6)?

Institutional and accredited investors should not be subject to the annual investment limits under Section 4(a)(6) offerings. RocketHub supports an interpretation of the investment limits as pertaining to unaccredited investors only. The financial markets (and other SEC rules) recognize accredited investors to be sophisticated investors, that not only have a greater understanding of the risks involved in making a financial investment, but also are less likely to be significantly impacted by poor investment decisions.

10. Should we adopt rules providing for another crowdfunding exemption with different investment limits (e.g., an exemption with a $250 investment limit and fewer issuer requirements), as one commenter suggested, or apply different requirements with respect to individual investments under a certain amount, such as $500, as another commenter suggested? Why or why not? If so, should the requirements for issuers and intermediaries also change? What investment limits and requirements would be appropriate? Would adopting such an exemption be consistent with the purposes of Section 4(a)(6)?
11. Should we consider additional investment limits on transactions made in reliance on Section 4(a)(6) where the purchaser's annual income and net worth are both below a particular threshold? If so, what should such threshold be and why?

RocketHub supports efforts to reduce costs to issuers, and investors, by exempting investors who make small investments, or who have adequate financial resources, from complex regulation. We believe the current investment limits are too stringent, and the issuer requirements are already excessive.

While some legislative support is necessary, RocketHub believes most recommendations are attainable within the structure and intent of the JOBS Act, and therefore, we do not see the need to craft an alternate independent crowdfunding exemption. The Commission should merely provide exemption from issuer restrictions under Section 4 (a)(6) for issuers willing to limit investment to $500 per investor. We encourage the Commission to explore the reduction or elimination of requirements on individual investments under a certain amount. The adoption of appropriate rules, that do not overly complicate, but support the purpose of Section 4(a)(6), should be aggressively pursued.

II.A.3: Transaction Conducted Through an Intermediary

12. The proposed rules would prohibit an issuer from conducting an offering or concurrent offerings in reliance on Section 4(a)(6) using more than one intermediary. Is this proposed approach appropriate? Why or why not? If issuers were permitted to use more than one intermediary, what requirements and other safeguards should or could be employed?

RocketHub believes that an issuer should be prohibited from using more than one intermediary to conduct a single Section 4(a)(6) offering, or multiple concurrent offerings. Leveraging a single intermediary during an offering will allow for effective sharing of information between committed and prospective investors, and for the "collective wisdom of the crowd" to effect the success of the offering. This significant benefit will only be effective if there is only one intermediary platform being leveraged at a time. However, this prohibition should not affect an issuer's right to change intermediaries for subsequent offerings.

13. Should we define the term "platform" in a way that limits crowdfunding in reliance on Section 4(a)(6) to transactions conducted through an Internet website or other similar electronic medium? Why or why not?
14. Should we permit crowdfunding transactions made in reliance on Section 4(a)(6) to be conducted through means other than an intermediary's electronic platform? If so, what other means should we permit? For example, should we permit community-based funding in reliance on Section 4(a)(6) to occur other than on an electronic platform? To foster the creation and development of a crowd, to what extent would such other means need to provide members of the crowd with the ability to observe and comment (e.g., through discussion boards or similar functionalities) on the issuer, its business or statements made in the offering materials?

The Section 4(a)(6) exemption was conceived of as an online exemption, and its fundamentals are based on the growth of online crowdfunding. Offline offerings are inherently unable to leverage the information sharing and crowdsourced review this exemption is designed to maximize. Therefore, Section 4(a)(6) offerings should be required to leverage a web-based platform.

15. Should we allow intermediaries to restrict who can access their platforms? For example, should we permit intermediaries to provide access by invitation only or only to certain categories of investors? Why or why not? Would restrictions such as these negatively impact the ability of investors to get the benefit of the crowd and its assessment of an issuer, business or potential investment? Would these kinds of restrictions affect the ability of small investors to access the capital markets? If so, how?

As described in the first section of this paper, intermediaries should have the right to block and/or restrict certain issuers and investors. For example, an investor with an established history of unfounded abuse in public comments may degrade the productivity of the public forums/comment boards hosted by the intermediary. The ability to suspend or ban problematic users is a staple of web-based business, and must be permitted. Often users notify platforms of such abuses through 'flags'. Portals should also be permitted, at their sole discretion, to only service certain categories of investors. For example, Portals may only want investors that are located within their town, or state. So long as this selection is not discriminatory, it should be permitted. Portals are a business and, similar to businesses generally, have the right to police the items they offer to ensure compliance with law and judgments of taste.

RocketHub also believes that issuers should have the right to create invitation-only offerings, or only provide certain investors access to their offering. For example, an issuer should have the right to not permit a competitor from investing in the offering through an intermediary. Or the issuer may be looking to raise capital purely from a select group of friends and family, or investors within their town or state. This should be permitted as the limited number of investors reduces the risk that uninformed investors will participate, and is consistent with more standard private placements, where companies are able to select who purchases securities.

II.A.4: Exclusion of Certain Issuers from Eligibility under Section 4(a)(6)

17. Section 4A(b)(4) requires that, "not less than annually, [the issuer] file with the Commission and provide to investors reports of the results of operations and financial statements of the issuer . . . ." Should an issuer be excluded from engaging in a crowdfunding transaction in reliance on Section 4(a)(6), as proposed, if it has not filed with the Commission and provided to investors, to the extent required, the ongoing annual reports required by proposed Regulation Crowdfunding during the two years immediately preceding the filing of the required offering statement? Why or why not? Should an issuer be eligible to engage in a crowdfunding transaction in reliance on Section 4(a)(6) if it is delinquent in other reporting requirements (e.g., updates regarding the progress of the issuer in meeting the target offering amount)? Why or why not? Should the exclusion be limited to a different timeframe (e.g., filings required during the five years or one year immediately preceding the filing of the required offering statement)?
18. Is the proposed exclusion of issuers who fail to comply with certain ongoing annual reporting requirements too broad? If so, how should it be narrowed and why? Should the exclusion cover issuers whose affiliates have sold securities in reliance on Section 4(a)(6) if the affiliates have not complied with the ongoing annual reporting requirements? If so, should this encompass all affiliates? If not, which affiliates should it cover? Should we exclude any issuer with an officer, director or controlling shareholder who served in a similar capacity with another issuer that failed to file its annual reports? Why or why not?

RocketHub believes the reporting and progress update requirements in II.B.1.b are excessive and unnatural for the market that Section 4(a)(6) is intended to faciliate. As such there is a risk that issuers will frequently fall into delinquency, purely due to the regulatory hurdles and requirements imposed, many of which are purely for speculative statistical purposes, not regulating good behavior or a healthy market. As discussed above, the reporting and progress update requirements are estimated to be significant and obstructive in cost.

Instead of simple exclusion, the Commission should consider mandating that an issuer disclose its outstanding failure to comply with reporting requirements in any new offerings. This doctrine should apply to both issuers and their affiliates. RocketHub encourages focused regulation, and automatic exclusion of an issuer from new issuances based only on specific, enumerated failures. This doctrine should apply to both issuers and their affiliates.

19. What specific risks do investors face with "idea-only" companies and ventures? Please explain. Do the proposed rules provide sufficient protection against the inherent risks of such ventures? Why or why not?

The proposed rules do not adequately take into consideration "idea-only" stage companies and ventures. Idea-only endeavors are inherently higher risk ventures, with only limited financial history, or none to speak of. This lack of financial history stands in contrast to the accountant review and audit requirements proposed in the rules. RocketHub suggests that the Commission incorporate rules that acknowledge the fact that idea-only stage, and early stage companies may not have historical financials to audit, and waive the audit requirements for these companies. Such regulations should be limited, however, and aimed at low-cost compliance. Crowdfunding may provide an efficient source of capital for "idea-only" stage companies, helping them grow into small and large businesses.

20. Does the exclusion of issuers that do not have a specific idea or business plan from eligibility to rely on Section 4(a)(6) strike the appropriate balance between the funding needs of small issuers and the information requirements of the crowd? Why or why not? Are there other approaches that would strike a better balance among those considerations? If the proposed approach is appropriate, should we define "specific business plan" or what criteria could be used to identify them? How would any such criteria comport with the disclosure obligations described in Section II.B.1.a.i.(b) (description of the business) below?

Issuers that do not have a specific idea or business plan should not be outright excluded from eligibility to rely on Section 4(a)(6). This question highlights a fundamental misunderstanding around the dynamics of crowdfunding, how the crowdfunding market operates, and the criteria that crowds have historically leveraged to make decisions in perks-based crowdfunding. The crowd should be allowed to decide on these matters, and a clear disclosure should be made to

investors that an issuer does not have a specific idea or business plan. Without a specific idea or business plan, the issuer would likely need to demonstrate other remarkable factors, in order to convince investors to back the offering. If those factors are impressive enough, the investors should be allowed to make their own decision. The JOBS Act's intent was to help facilitate a new form of capital formation. A paternalistic approach to regulation will hinder the very market the capital is intended to help form.

II.B.1: Disclosure Requirements

23. Under the proposed rules the definition of the term "officer" is consistent with how that term is defined in Securities Act Rule 405104 and in Exchange Act Rule 3b-2. Should we instead define "officer" consistent with the definition of "executive officer" in Securities Act Rule 405 and in Exchange Act Rule 3b- 7? Why or why not? Which definition would be more appropriate for the types of issuers that would be relying on the exemption?

Most companies utilizing the crowdfunding exemption will be small and have limited personnel. The only officers relevant for all purposes under these rules should be the principal executive officer and the principal financial officer, which may be the same person.

24. Are these proposed disclosure requirements relating to the issuer and its officers and directors appropriate? Why or why not? Should we only require the disclosures specifically called for by statute or otherwise modify or eliminate any of the proposed requirements? Should we require any additional disclosures (e.g., disclosure about significant employees)? Is there other general information about the issuer or its officers and directors that we should require to be disclosed? If so, what information and why? For example, should we require disclosure of any court orders, judgments or civil litigation involving any directors and officers, including any persons occupying a similar status or performing a similar function? Why or why not? If so, what time period should this disclosure cover and why?
25. The proposed rules would require disclosure of the business experience of directors and officers of the issuer during the past three years. Is the three-year period an appropriate amount of time? Why or why not? If not, please discuss what would be an appropriate amount of time and why. Should the requirement to disclose the business experience of officers and directors include a specific requirement to disclose whether the issuer's directors and officers have any prior work or business experience in the same type of business as the issuer? Why or why not?

Listing past business experience can help the crowd form an understanding of the competencies of an issuer's management team, but may also disadvantage younger generations of entrepreneurs such as recent college or high school graduates. The Commission should not penalize issuers that lack business experience through restriction or mandated time-based disclosure. Issuers should have a choice to list business experience, and best practices will likely encourage them to do so, but issuers should not be required to do so. The Commission should be flexible and allow the market to decide what information is appropriate. The Commission should attempt to adhere to a regulatory approach that allows the issuer and investor to maintain a relationship, without imposing an overly paternalistic influence. Investors can ask about relevant experience and make an investment decision based on the response.

Requiring the disclosure of all court orders, judgments, civil litigation, and other similar matters involving directors, officers or others of a similar status is overly invasive of an issuer's privacy (and is not required disclosure in other private offerings). RocketHub believes that the Commission should mandate that Portals and issuers disclose certain judgments and events, which judgments and events should be limited to those involving fraud and criminal conduct. Disclosure of such judgments and events (especially crimes involving a financial element) will adequately protect investors without unduly burdening issuers.

26. The proposed rules would require disclosure of the names of persons who are beneficial owners of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power. Is this approach appropriate? Why or why not? Should the proposed rules require disclosure of the names of beneficial owners of 20 percent or more of any class of the issuer's voting securities, even if such beneficial ownership does not exceed 20 percent of all of the issuer's outstanding voting equity securities? Why or why not? Should the proposed disclosure requirement apply to the names of beneficial owners of 20 percent or more, as proposed, or to more than 20 percent of the issuer's outstanding voting equity securities? Why or why not?
27. The proposed rules would require that beneficial ownership be calculated as of the most recent practicable date. Is this approach appropriate? Why or why not? Should beneficial ownership be calculated as of a different date? For example, should the reported beneficial ownership only reflect information as of the end of a well-known historical period, such as the end of a fiscal year? Please explain. Should there be a maximum amount of time from this calculation date to the filing to ensure that the information is current? If so, what maximum amount of time would be appropriate?
28. Should we provide additional guidance on how to calculate beneficial ownership on the basis of voting power? If so, what should that guidance include? Should the proposed rules require disclosure of the name of a person who has investment power over, an economic exposure to or a direct pecuniary interest in the issuer's

securities even if that person is not a 20 Percent Beneficial Owner? Why or why not?

RocketHub recommends the Commission keep the regulation as simple as possible, and supports the disclosure of names of persons who are beneficial owners of 20 percent or more of the issuer's outstanding equity securities (or any class thereof).

Additionally, it is worth noting that not all classes of shares would allow shareholders to block the majority holder from undertaking an offering under Section 4(a)(6). In order to protect future classes of stakeholders, as this new market develops, as well as protect existing investors, the Commission needs to take into consideration that certain classes of shares may have assigned their voting rights, or prior investors may hold convertible notes that only trigger after the offering is complete (in effect holding no outstanding shares at the moment of offering).

Any additional guidance provided by the commission regarding the calculation of beneficial ownership should be structured to allow for simple interpretation and low-cost response. We do not believe the beneficial ownership calculations implementing Sections 13 and 16 of the Securities Act are appropriate models. The requirements on disclosure of beneficial ownership should be so simple that minimal guidance is needed.

29. Are these proposed disclosure requirements appropriate? Why or why not? Should we require any additional disclosures? Should we prescribe specific disclosure requirements about the business of the issuer and the anticipated business plan of the issuer or provide a non-exclusive list of the types of information an issuer should consider disclosing? Why or why not? If so, what specific disclosures about the issuer's business or business plans should we require or include in a non-exclusive list? For example, should we explicitly require issuers to describe any material contracts of the issuer, any material litigation or any outstanding court order or judgment affecting the issuer or its property? Why or why not?

We agree that the Commission should not specify the information to be included by the issuer in the description of the business or the business plan. The appropriate level of disclosure will be determined by the issuer and investors. This description, however, will not be subject to diligence by the Portal and that Portal should not have any liability for the accuracy of such description.

30. Would more specific line item disclosures be more workable for issuers relying on Section 4A or provide more useful guidance for such issuers? Would such disclosures be more useful to investors? Why or why not? For example, should we require issuers to provide a business description incorporating the information

that a smaller reporting company would be required to provide in a registered offering pursuant to Item 101(h) of Regulation S-K? Why or why not? Should we require issuers to provide information regarding their plan of operations, similar to that required by Item 101(a)(2) of Regulation S-K in registered offerings by companies with limited operating histories? Why or why not?

Specific line item disclosures will not necessarily be more useful to investors. Trying to match crowdfunding issuers with disclosures from Item 101(h) of Regulation S-K should be avoided. Instead the Commission should let the investors determine the necessary information to be provided by issuers.

31. Are these proposed disclosure requirements appropriate? Why or why not? Should we require any additional disclosures, including specifying items required to be disclosed? Is the proposed standard sufficiently clear such that it would result in investors being provided with an adequate amount of information? If not, how should we change the disclosure requirement? Should the rules include a non-exclusive list of examples that issuers should consider when providing disclosure, similar to the examples discussed above?
32. Under what circumstances, if any, should an issuer be required to update the use of proceeds disclosures?
33. Is there other information regarding the purpose of the offering and use of proceeds that we should require to be disclosed? If so, what information? Should any of the examples above be included as requirements in the rules? Why or why not?

We believe that Commission is relying too heavily on a "top-down" approach in this regulation. The Commission should allow the investors to determine the required disclosure through their communications with the issuer.

During annual or quarterly reporting an issuer can disclose use of proceeds information to invested parties only if there was a significant use of proceeds change. Too many disclosures, filings, reports, and forms submissions will create unnecessary hurdles and costs for issuers, who would serve their investors' interests best if focused on running their enterprise. As such, RocketHub recommends limiting mandated disclosures.

34. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? Should we require any additional disclosures?

RocketHub supports the Commission's position on simple disclosure of target offering amount and over subscription cap. We also agrees that the Commission should not prescribe how

oversubscribed offerings must be allocated. However, the Commission has included proposed rules on the process to cancel commitments, without requesting comment, and RocketHub has serious concerns with this rescission period policy. It is important that investors have the ability to cancel their commitments within a reasonable time limit. However, the right to rescind, as written in the proposed rules, exposes both the investor and issuer to specific types of fraud and risk, and the proposed rules methodology is in unnecessary excess of the JOBS Act's requirements.

The Commission's proposal leaves investors open to considerable risk of "pump & rescind" schemes, An unscrupulous issuer could have fake investors "pump up" the campaign by committing large dollar amounts up-front, in order to create the appearance of momentum, thereby attracting other investors. If the rescission period is too long, those initial investors could slowly "rescind" those investments as new investors join. This amounts to promotion through faux-investing, and should not be permitted.

The Commission's proposed rules leave issuers at risk of a "short fall". Investors who are allowed to rescind their commitments to invest, after the campaign has reached the target amount, may cause the campaign to fall short of the target amount. This short fall may jeopardize the entire offering if the issuer does not have enough time to replace the lost investors before the campaign expires.[26]

RocketHub's solution, as outlined in our first white-paper, suggests that once an investor expresses intent to invest, his/her investment should be placed in a "pending" state for 24-hours. After that 24-hour rescission period expires, the investor's funds should transition from "pending" to "committed," and be held in escrow until transferred to the issuer. However, if the offering does not reach its funding target before the campaign deadline, the investor's funds should be released from escrow and returned to the investor. A short rescission period will protect investors from "pump & rescind" schemes, and minimize an issuer's exposure to the risk of "short fall." As Sec.302(b)/Sec4A.(a)(6) requires a minimum offering period of 21 days, the investor should have enough time to review the investment opportunity before investing. A longer rescission period is unnecessary. As described in the proposed regulations, the Commission allows for a rescission period that is as long as the offering itself; this is unnatural for crowdfunding dynamics. Alternatively, the Commission could also allow different Portals to experiment with their own methodologies for rescission, provided that such methods comply with the parameters established by the JOBS Act.

35. The proposed rules would require an issuer willing to accept investments in excess of the target offering amount to provide, at the commencement of the

[26] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 11, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

offering, the disclosure that would be required in the event the offer is oversubscribed. Is this approach appropriate? Why or why not?

The proposed rules here are clear and transparent allowing investors to have knowledge of potential changes to their position.

36. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? Should we require any additional disclosures? Please explain.

Please see our response to questions 24-29, above.

37. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? Should we require any additional disclosures? Please explain.

The proposed disclosure requirements go beyond the requirements laid out by the JOBS Act. The regulation should allow for frictionless participation by good actor issuers. Many, if not most issuers, may not be able to demonstrate examples of various methods for how "such securities may be valued by the issuer in the future, including during subsequent corporate actions."

RocketHub agrees with the Commission in that proposed rules should require disclosure of the number of securities being offered and/or outstanding, as well as the voting rights, limitations on voting rights, and a description of the transfer restrictions, if any. However, we only agree insofar as these requirements do not require additional form submission, accountant or legal work. These additional extensive disclosure requirements, which are not required by the Act, will increase the cost of compliance significantly, and by default will exclude issuers who do not readily have access to tens of thousands of dollars.

38. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? If so, how and why?
39. To assist investors and regulators in obtaining information about the offering and to facilitate monitoring the use of the exemption, the proposed rules would require an issuer to identify the name, Commission file number and CRD number (as applicable) of the intermediary through which the offering is being conducted. Is there a better approach? What other information should be provided? If so, please describe it.

40. Should we require disclosure of the amount of compensation paid to the intermediary, as proposed? Why or why not? Should we require issuers to separately disclose the amounts paid for conducting the offering and the amounts paid for other services? Why or why not?

Regarding CRD disclosure: the Commission must outline the location and method of this disclosure. Additionally, if all offerings must be listed on an intermediary platform and it is not permissible for any offering to be listed on more than one intermediary at the same time, this disclosure is unnecessary.

Regarding compensation paid to the intermediary: the intermediary's fee may not be calculable at the onset of an offering, since certain components of the compensation may be percentage based. In this case, the Commission should allow for disclosure of the method used to calculate the intermediary's compensation. In addition, disclosure of fees paid for compliance and overhead should be included as well. Appropriate government overhead should be explicitly stated (accountant, lawyer, background verification, income verification, compliance costs, etc.). Intermediary fees should be able to be broken down as well to highlight the costs spent for compliance, SRO fees, transaction costs, and more. A similar example would be the pricing model that Spirit Airline uses. Spirit breaks down how much of your ticket goes to government fees and fuel. This provides a level of transparency that consumers deserve. RocketHub believes in transparency for its users and strongly recommends that all fees are included.

Regarding material risk factors: RocketHub interprets a discussion of material factors to be a general statement of disclosure that can be made, which does not have to be greater than 500 words in length.

41. Should we require the issuer to include certain specified legends about the risks of investing in a crowdfunding transaction and disclosure of the material factors that make an investment in the issuer speculative or risky, as proposed? Why or why not? Should we provide examples in our rules of the types of material risk factors an issuer should consider disclosing? Why or why not? If so, what should those examples be?

The issuer should be able to use generic language to warn about the risks of investing in a crowdfunding transaction. Requiring each issuer to provide a detailed risk analysis would make legal expenses associated with Section 4(a)(6) offerings cost prohibitive and for small businesses would not be cost efficient (as general business risks would likely outweigh specific risks to the issuer).

42. Should we require disclosure of certain related-party transactions, as proposed? Why or why not? The proposed rules would require disclosures of certain

transactions between the issuer and directors or officers of the issuer, 20 Percent Beneficial Owners, any promoter of the issuer, or relatives of the foregoing persons. Is this the appropriate group of persons? Should we limit or expand the list of persons? If so, how and why?

43. As proposed, immediate family member, for purposes of related-party transactions disclosure, would have the same meaning that it has in Item 404 of Regulation S-K. Is this the appropriate approach? Why or why not? If not, what would be a more appropriate definition and why? For purposes of restrictions on resales of securities issued in transactions made in reliance on Section 4(a)(6), "member of the family of the purchaser or the equivalent" would, as proposed, expressly include spousal equivalents. Should the definition of immediate family member for purposes of related-party transactions disclosure also expressly include spousal equivalents, or would including spousal equivalents create confusion in light of the fact that the definition for purposes of related-party transactions already includes any persons (other than a tenant or employee) sharing the same household? Please explain.
44. Is it appropriate to limit the disclosure about related-party transactions to transactions since the beginning of the issuer's last full fiscal year? Why or why not? Is it appropriate to limit disclosure to those related-party transactions that exceed five percent of the aggregate amount of capital raised by the issuer in reliance on Section 4(a)(6)? Should we instead require disclosure of all related-party transactions or all transactions in excess of an absolute threshold amount?

We agree that this is appropriate disclosure to mandate. Issuers should make an affirmative declaration of any funds that would be required or expected to be paid towards affiliates, as well as amounts paid or payable to promoters. Disclosure of amounts paid to related parties prior to the last physical year (or shorter period that the issuer has been in existence) is not necessary. Disclosure thresholds should be fixed and not based on the size of the capital raise.

45. Is it appropriate to require a description of any prior exempt offerings conducted within the past three years, as proposed? Why or why not? Would another time period (e.g., one year, five years, etc.) or no time limit be more appropriate?

Disclosure of prior unsuccessful offerings is not relevant and imposes a cost on entrepreneurs. Disclosure of successful prior offerings for the specific issuer is appropriate.

46. Should we require any additional disclosures (e.g., should we require disclosure about executive compensation and, if so, what level of detail should be required in such disclosure)? If so, what disclosures and why?

No additional disclosures should be required.

47. Are these proposed requirements for the discussion of the financial condition of the issuer appropriate? Why or why not? Should we modify or eliminate any of the requirements in the proposed rule or instruction? If so, which ones and why? Should we require any additional disclosures? If so, what disclosures and why? Should we prescribe a specific format or presentation for the disclosure? Please explain.
48. Should we exempt issuers with no operating history from the requirement to provide a discussion of their financial condition? If so, why? Should we require such issuers to specifically state that they do not have an operating history, as proposed? Why or why not?

RocketHub believes that these requirements are excessive in cost and misguided in intent. While subsection D(i)(II) requires issuers to provide certified financial statements, it is possible that an early stage company does not have historical financial statements to provide. "Financial statements" should be interpreted to mean "historical financial statements" only for periods that the issuer has been in existence. Furthermore, not all issuers will have historical financial information that can be audited, and audits can be prohibitively expensive, counteracting the spirit of the Act. Regardless of historical financials, when applied to offerings less than $1,000,000 the cost/benefit and funds appropriation ratios are irresponsibly high. For example on a $501,000 raise the Commission estimates (in the *Issuer Requirements* section [27]) a near 10% expenditure on the audit requirement for two years' worth of audits.[28]

Sec.302(b)/Sec4A.(b)(1)(D)(iii) explicitly permits the Commission to adjust the target offering amount where audited financials are required. As audited financials are not generally a requirement of angel investments or venture capital investments of this size (for the cost reasons described), RocketHub believes this amount should be raised to an amount in excess of $1,000,000. This in effect will permit the audit component of the proposed requirements to no longer be applicable to offerings less than $1,000,000 where audits are a prohibitively expensive upfront cost.

Although many audit costs are scalable, scalability does not extend to audit costs associated with start-ups and "idea only" companies. Despite the minimal (if any) work that auditors will have to do on behalf of such companies, auditors will nevertheless command a fee simply to allow their name to be associated with a project. This will in essence create a flat fee that may be prohibitively costly for companies that might otherwise benefit from Section 4(a)(6) offerings.

[27] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 357, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013
[28] See Appendix I

RocketHub has, in its previous two whitepapers, and during in-person Commission meetings, campaigned strongly for digital submission of tax returns. Language allowing for this has not made it into the proposed rules. The ability to submit tax returns digitally instead of black-lining printed statements is relevant for both issuers and investors. Digital tax reporting is common practice at this point, with the IRS starting electronic filing in 1986; in 2010, of the 129.3 million U.S. returns filed with the IRS, 93.4 million returns were filed digitally (72.3 percent). As such, a simple line item disclosure in a format as either the issuer or intermediary sees fit is more than appropriate.

RocketHub firmly believes that issuers with no operating history should be able to satisfy any requirement to discuss their financial condition by simply statin that they lack an operating history.

49. In the discussion of the issuer's financial condition, should we require issuers to provide specific disclosure about prior capital raising transactions? Why or why not? Should we require specific disclosure relating to prior transactions made pursuant to Section 4(a)(6), including crowdfunding transactions in which the target amount was not reached? Why or why not?

See our response to question 45, above.

50. Under the statute and the proposed rules, issuers are required to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements. The proposed rules would require all issuers to provide a complete set of financial statements (a balance sheet, income statement, statement of cash flows and statement of changes in owner's equity) prepared in accordance with U.S. GAAP. Should we define financial statements differently than under U.S. GAAP? If so, what changes would be appropriate and why? What costs or challenges would be associated with the use of a model other than U.S. GAAP (e.g., lack of comparability)? What would be the benefits? Please explain.

While RocketHub has serious concerns regarding the cost and relevance of audited financial statements, we also believe that any form of required financial statement should be prepared in accordance U.S. GAAP. This will allow standards set out by the Public Company Accounting Oversight Board (PCAOB) to be referenced and leveraged. Since the PCAOB has already determined certain statutory rulings to ensure protection of investors and the public interest, this is a cost effective and commonly acceptable practice to undertake

51. Should we exempt issuers with no operating history or issuers that have been in existence for fewer than 12 months from the requirement to provide financial statements, as one commenter suggested? Why or why not? Specifically, what difficulties would issuers with no operating history or issuers that have been in existence for fewer than 12 months have in providing financial statements? Please explain.
52. If we were to exempt issuers with little or no operating history from the requirement to provide financial statements, should we require additional discussion of the fact that the issuer does not have an operating history? If so, what additional discussion should we require?

See our response to questions 47-48, above.

RocketHub is concerned that the Commission is not properly acknowledging the expense of producing accountant reviewed or audited financial statements. While the Commissions economist department has managed to anticipate the issuer born costs of an audit, it has not taken into account how this would affect the viability of the market. Congress specifically empowered the Commission to move the audit requirement out of scope, most likely in recognition of the expertise, research, and resources the Commission has available.

"Idea-only" stage offerings, as discussed in our response to question 19 above, are unlikely to be able to undertake the significant cost burden of an accountant review or audit. As proposed, the Commission is in effect influencing the market to create a capital raise ceiling at $500,000 for idea-only issuers, as well as small business with limited working capital.[29] This market influence is undue and seriously damaging. The Commissions needs to recognize that audits are designed be an official inspection of the company's accounts, but at the idea stage the Commission is effectively asking auditors to audit 'zero' at a cost that can be upwards of $50,000 per year. As such, this is non-scalable cost at this level of operation.

RocketHub believes that audited financial statements should only be required for issuers that have been in operation for more than two years, and are raising more than $5,000,000. Furthermore the issuer should be required to provide audited financial statements only for the prior fiscal year.

Rather than mandating a review of financials, a disclosure should be made stating that no review or audit was performed due to the Company's limited financial history or stage.

53. Section 4A(b)(1)(D) establishes tiered financial statement requirements based on aggregate target offering amounts within the preceding 12-month period. Under

[29] See Appendix I

the proposed rules, issuers would not be prohibited from voluntarily providing financial statements that meet the requirements for a higher aggregate target offering amount (e.g., an issuer seeking to raise $80,000 provides financial statements reviewed by a public accountant who is independent of the issuer, rather than the required income tax returns and a certification by the principal executive officer). Is this approach appropriate? Why or why not?

Voluntary disclosures are appropriate. RocketHub believes that issuers should always have the choice to make voluntary disclosures of additional information. This helps propagate the concept of letting the market decide what is appropriate information disclosure, instead of artificial regulatory induced market dynamics.

54. Should we allow issuers to prepare financial statements using a comprehensive basis of accounting other than U.S. GAAP? For example, should issuers be allowed to provide financial statements prepared on an income tax basis, a cash basis or a modified cash basis of accounting? Why or why not? If so, should we allow all issuers to use a comprehensive basis of accounting other than U.S. GAAP, or only issuers seeking to raise $100,000 or less, or $500,000 or less? Why or why not?

See our response to question 50, above.

55. Should we require issuers to provide two years of financial statements, as proposed? Should this time period be one year, as one commenter suggested, or three years? Please explain.

See our response to questions 48-48, and 51-52, above.

56. Should we require some or all issuers also to provide financial statements for interim periods, such as quarterly or semi-annually? Why or why not? If so, which issuers and why? Should we require these financial statements to be subject to public accountant or auditor involvement? If so, what level of involvement is appropriate?

Interim financial statements should not be required, and certainly not filed with the Commission. This overly and unnecessarily complicates the issuer's disclosure responsibilities, and will push the exemption even farther into the realm of financial unviability. Issuers and investors should negotiate to determine what financial information will be provided on an ongoing basis, and any

interim financials should only be provided to investors. In order for Section 4(a)(6) to offer any issuer access to capital, the Commission must reduce the cost of compliance.

57. As proposed, subject to certain conditions, issuers would be able to conduct an offering during the first 120 days of the issuer's fiscal year if the financial statements for the most recently completed fiscal year are not yet available. For example, an issuer could raise capital in April 2014 by providing financial statements from December 2012, instead of a more recent period. Is this an appropriate approach? If the issuer is a high growth company subject to significant change, would this approach result in financial statements that are too stale? Should the period be shorter or longer (e.g., 90 days, 150 days, etc.)? What quantitative and qualitative factors should we consider in setting the period? Should issuers be required to describe any material changes in their financial condition for any period subsequent to the period for which financial statements are provided, as proposed? Please explain if you do not believe this description should be required.

The proposed approach is appropriate. Issuers can voluntarily provide more recent financial statements, but should not be required to do so.

58. The proposed rules would require issuers offering $100,000 or less to provide financial statements that are certified by the principal executive officer to be true and complete in all material respects. Should we require issuers offering more than $100,000, but not more than $500,000, and/or issuers offering more than $500,000 to provide financial statements that are certified by the principal executive officer to be true and complete in all material respects? Why or why not?

This request for comment seems to be in direct conflict with the requirements defined in the JOBS Act. The Act requires that a public accountant review the statements for offerings over $100,000, and audit the financials for offerings over $500,000. While RocketHub fully supports certification by the principal executive officer in lieu of the costly accounting requirements, it recognizes that this is unfortunately not possible without legislative change. As such, we want to reduce additional requirements, and at this time, see the additional certification as unnecessary costs to the issuer and inappropriate.

59. Have we adequately addressed the privacy concerns raised by the requirement to provide income tax returns? Should we require issuers to redact personally identifiable information from any tax returns, as proposed? Is there additional information that issuers

should be required or allowed to redact? In responding, please specify each item of information that issuers should be required or allowed to redact and why. Under the statute and proposed rules, an issuer must be a business organization, rather than an individual. Does this requirement alleviate some of the potential privacy concerns? Please explain.

See our response to questions 47-48, above.

RocketHub recommends the Commission permits issuers to digitally enter the data from their original documents, instead of submitting digital scans. This will protect the issuers from accidental disclosure of confidential information, and will allow investors to view the information in a structured and consistent manner. For example, if each issuer were to upload their version of a financial statement, the responsibility of learning to understand each format would fall to the investor. Standardized formats for financial projections, financial statements, and business plans will allow investors to quickly compare issuances and more readily evaluate investment opportunities.[30]

60. If an issuer has not yet filed its tax return for the most recently completed fiscal year, should we allow the issuer to use the tax return filed for the prior year and require the issuer to update the information after filing the tax return for the most recently completed fiscal year, as proposed? Should the same apply to an issuer that has not yet filed its tax return for the most recently completed fiscal year and has requested an extension of the time to file? Should issuers be required, as proposed, to describe any material changes that are expected in the tax returns for the most recently completed fiscal year? Please explain.

See our response to question 57, above.

RocketHub suggests the Commission adopt a similar approach to issuers who have not yet filed tax returns. The issuer should be allowed, but not required, to provide updated information. With regards to material changes, the commission must provide clear and firm definitions of what qualify as material changes – without proposed rules and definitions on what classifies as a material change it is difficult to provide constructive commentary.

61. As proposed, the accountant reviewing or auditing the financial statements would have to be independent, as set forth in Rule 2-01 of Regulation S-X. Should we require compliance with the independence standards of the AICPA instead? Why

[30] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 10, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

or why not? If so, similar to the requirement in Rule 2-01 of Regulation S- X, should we also require an accountant to be: (1) duly registered and in good standing as a certified public accountant under the laws of the place of his or her residence or principal office; or (2) in good standing and entitled to practice as a public accountant under the laws of his or her place of residence or principal office? Is there another independence standard that would be appropriate? If so, please identify the standard and explain why. Alternatively, should we create a new independence standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard? Please explain.

62. As proposed, the accountant reviewing or auditing the financial statements must be independent based on the independence standard in Rule 2-01 of Regulation S-X. Are there any requirements under Rule 2-01 that should not apply to the accountant reviewing or auditing the financial statements that are filed pursuant to the proposed rules? Why or why not? Are there any that would not apply, but should? For example, should the accountant reviewing or auditing the financial statements of issuers in transactions made in reliance on Section 4(a)(6) be subject to the partner rotation requirements of Rule 2-01(c)(6)? Why or why not?

Rule 2-01 of Regulation S-X defines an appropriate standard of independence. It is a commonly understood standard, and will allow accountants to comfortably engage in Section 4(a)(6) related accounting activities.

Partner rotation requirements of Rule 2-01(c)(6) are not applicable. These are not publicly traded companies on a listed national exchange. The issuances being granted here are micro-cap at best, and the role of the accountant is to ensure transparent and authentic information.

63. As proposed, an issuer with a target offering amount greater than $100,000, but not more than $500,000, would be required to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements reviewed by an independent public accountant in accordance with the review standards issued by the AICPA. Is this standard appropriate, or should we use a different standard? Why or why not? If so, what standard and why? Alternatively, should we create a new review standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard and why would it be more appropriate than the one proposed? What costs would be involved for companies and accountants in complying with a new review standard? How should the Commission administer and enforce a different standard?

See our response to question 51-52, above. RocketHub believes that an ‘idea-stage’ Company will not have any statements that will be able to be reviewed by an accountant, and interprets the

Act as requiring an accountant to make review of existing historical financials. As such, a slightly modified standard that exempts idea-stage companies would be appropriate.

64. Section 4A(b)(1)(D)(iii) requires audited financial statements for offerings of more than $500,000 "or such other amount as the Commission may establish, by rule." Should we increase the offering amount for which audited financial statements would be required? If so, to what amount (e.g., $600,000, $750,000, etc.)? Please provide a basis for any amount suggested. Should we identify additional criteria other than the offering amount, as one commenter suggested, that could be used to determine when to require an issuer to provide audited financial statements? If so, what should those criteria be?

See our response to questions 47-48, above. RocketHub believes the Commission should place the audit out of the scope of the current maximum permitted offering amount, in effect a greater than $1,000,000 raised required.

65. Should financial statements be required to be dated within 120 days of the start of the offering? If so, what standard should apply? Should those financial statements be reviewed or audited? Why or why not?

The process of preparing for an offering may take longer than 120 days for certain issuers. The proposal of a 120-day expiration date on documents and statements is in effect a countdown clock to additional costs. Any material changes to the financial statements should be disclosed and certified by the principal executive.

66. Under Rule 502(b)(2)(B)(1)-(2) of Regulation D, if an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet must be audited. Should we include a similar provision in the proposed rules? Why or why not? Should we provide any guidance as to what would constitute unreasonable effort or expense in this context? If so, please describe what should be considered to be an unreasonable effort or expense. If we were to require an issuer's balance sheet to be dated within 120 days of the start of the offering, should we allow the balance sheet to be unaudited? Why or why not?

RocketHub believes that Section 4(a)(6) is an entirely new regulatory space and other forms of regulation and rules have limited applicability. The concept behind Rule 502(b)(2)(B)(1)-(2) should apply to Section 4(a)(6) in the following manner : a lack of information, due to inability to produce for valid reasons should not prevent an issuer from engaging in an offering. An audit for an offering looking to raise less than, or equal to, $1,000,000, should constitute an

unreasonable expense. Regardless, proper disclosure of a limited audit, non-audit, limited accountant review, and no accountant review should be clearly made in the offering.

67. As proposed, an issuer with a target offering amount greater than $500,000 could select between the auditing standards issued by the AICPA or the PCAOB. Should we instead mandate one of the two standards? If so, which standard and why? Alternatively, should we create a new audit standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard? What costs would be involved for companies and auditors in complying with a new audit standard?

In order to maintain consistency within the market, RocketHub encourages, the Commission to mandate auditing under only one of the two proposed standards (AICPA, PCAOB). If the Commission endeavors to create a new auditing standard, that standard should be designed as an ultra-low-cost procedure. Otherwise, creating a new audit standard will dilute the significance and diligence of an audit (which would be typically reserved for public companies and larger private companies). RocketHub considers these standard audits to be excessive for Section 4(a)(6) offerings.

68. Should we require that all audits be conducted by PCAOB-registered firms? Why or why not?

No. Requiring that audits be conducted by PCAOB-registered firms is an unnecessary cost for issuers of the size that will engage in crowdfunding. Other private placement exemptions do not require such stringent audit requirements.

69. Should we consider the requirement to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements subject to a review to be satisfied if the review report includes modifications? Why or why not? Would your response differ depending on the nature of the modification? Please explain.

The review must occur prior to filing with the Commission. If it has not, the Commission must clearly define the type of modifications that can be included. Allowing for discretionary inclusion of modifications will lead to complexity ambiguity and confusion.

70. As proposed, an issuer receiving an adverse audit opinion or disclaimer of opinion would not satisfy its requirement to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors audited financial

statements. Should an issuer receiving a qualified audit opinion be deemed to have satisfied this requirement? Should certain qualifications (e.g., non-compliance with U.S. GAAP) result in the financial statements not satisfying the requirement to provide audited financial statements while other types of qualifications would be acceptable? If so, which qualifications would be acceptable and why?

RocketHub believes such issues should be decided by the market, with proper disclosure. Failure to achieve a "clean" audit opinion is a proper topic for discussion between an issuer and potential investors. Given the size of likely issuers and their "start-up" nature, they may have more justifiable reasons to receive a qualified audit.

71. Should we require that the certified public accountant reviewing or auditing the financial statements be in good standing for at least five years, as one commenter suggested? Why or why not? Should we require that the public accountant be in good standing for a lesser period of time? If so, for how long? Would such a requirement restrict the pool of available public accountants? If so, by how much? Would such a requirement reduce investor protections? If so, how?

Requiring certified public accountants to be in good standing for at least five years is anti-competitive and artificially drives up market costs as this would effectively prevent any newly formed accounting firms and/or recently certified public accountants from servicing this new market.

72. Views about what constitutes a "regular update" may vary, particularly when considering the length of the offering. Is the requirement to file an update when the issuer reaches one-half and 100 percent of the target offering amount appropriate? Is the proposed requirement to file a final update in offerings in which the issuer will accept proceeds in excess of the target offering amount appropriate? Why or why not? Should we require the progress updates to be filed at different intervals (e.g., one-third, two-thirds or some other intervals)? Why or why not? Alternatively, should the progress updates be filed after a certain amount of the offering time has elapsed (e.g., weekly or monthly until the target or maximum is reached or until the offering closes)? Should the progress updates be based on reaching other milestones or on some other basis? If so, what milestones or other basis and why?
73. As proposed, issuers would have five business days from the time they reach the relevant threshold to file a progress update. Is this time period appropriate? Why or why not? If not, what would be an appropriate time period? Please explain. Should issuers be allowed to consolidate multiple progress updates into one Form C-U if multiple progress updates are triggered within a five-business- day period, as proposed? Why or why not?
74. Should issuers be required to certify that they have filed all the required progress updates prior to the close of the offering? Why or why not?

75. Should we exempt issuers from the requirement to file progress updates with the Commission as long as the intermediary publicly displays the progress of the issuer in meeting the target offering amount? Why or why not? If so, should the Commission establish standards about how prominent the display would need to be?

Filing Form-C progress updates with the Commission is entirely unnecessary. These updates increase costs and resources spent by issuers without providing investors with any information of value.[31] Furthermore, RocketHub is unsure of the justification for providing regular updates to the Commission, as it is unclear how this will further inform and protect investors and issuers. The only benefit would be for statistical purposes, in-house at the Commission, at the expense of increased cost, overhead, and resource expenditure by all market participants involved.

Portals such as RocketHub, already list progress for perks-based crowdfunding, and appropriately inform all parties through a combination of online listing and digital notification of completion via e-mail. So long as the intermediary publicly displays the progress of the issuer in meeting the target offering amount, the issuer should be exempt from filing updates with the commission. If a perspective investor is interested in seeing the updated status of a Section 4(a)(6) offering during the life of the offering, that investor need only return to the Portal, to see where the offering stands. It is extremely unlikely that the investor would turn to the Commission for mid-issuance updates, and even more unlikely that the Commission could process the Form-C updates in a rapid enough manner to be of use to any market participants. Therefore, RocketHub recommends that the Commission strike the requirements for all mid-offering reports to the Commission.

As the discussion of the proposed rules makes apparent, the Commission's thinking here is overtly complex and does not recognize the motility of crowdfunded offerings. As experienced industry players within the perks-based crowdfunding space, RocketHub would like to emphasize that there will be no constant rate of participation over the life-span of a crowdfunded offering. The derivative of investors committing to an offering will change over time, causing the issuer and Portals to be overwhelmed with the complex update reporting, which the Commission has proposed. The central depository argument proposed by the Commission is valid, and as such a completion statement filed by the Issuer is appropriate. This form should be submitted prior to the issuer receiving the funds raised.

76. Should we specify that an amendment to an offering statement must be filed within a certain time period after a material change occurs? Why or why not? What would be an

[31] The Commissions estimates the cost to be $400 per issuer for preparation and filing of the progress updates on Form C-U, pg. 358. RocketHub believes this to be a conservative estimate that does not factor in the opportunity cost of the issuer being distracted from their business.

appropriate time period for filing an amendment to an offering statement to reflect a material change? Why?

We do not believe any offering statement should be filed until the completion of the offering. If the Commission requires such a statement, then an amendment should be filled within five (5) business days after a material change. If an offering is already live, the offering may be paused during this time, and can only continue once the filling with the Commission has been completed. If after 5 business days the issuer has not been able to file the amendment, already committed investors will be allowed to rescind. This assumes, however, that the Commissions follows RocketHub's suggested investor rescission methods versus the highly risky method outlined by the Commission in the proposed rules.

RocketHub believes that once an investor expresses intent to invest, his/her investment should be placed in a "pending" state for 24-hours. After that 24-hour rescission period expires, the investor's funds should transition from "pending" to "committed," and will be held in escrow until transferred to the issuer. However, if the offering does not reach its funding target before the campaign deadline, investor funds will be released from escrow and returned to the investor. A short rescission period will protect investors from "pump & rescind" schemes, and minimize an issuer's exposure to the risk of "short fall." As Sec.302(b)/Sec4A.(a)(6) requires a minimum offering period of 21 days, the investor should have enough time to review the investment opportunity before investing. A longer rescission period is unnecessary.[32]

77. If an issuer amends its Form C, should the intermediary be required to notify investors? If so, should we specify the method of notification, such as via e- mail or other electronic means?

Yes, the intermediary should notify investors. And electronic notification (i.e., email) should be allowed.

78. Should establishment of the final price be considered a material change that would always require an amendment to Form C and reconfirmation, as proposed? Would it be appropriate to require disclosure of the final price but not require reconfirmation? Should we consider any change to the information required by Section 4A(b)(1) to be a material change? Why or why not?

Final price should be set prior to the offering, RocketHub believes that dynamic pricing is exceptionally risky, and creates incentives for investors to act quickly without appropriate consideration.

[32] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 7, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

79. Should we require issuers to amend Form C to reflect all changes, additions or updates regardless of materiality so that the Form C filed with us would reflect all information provided to investors through the intermediary's platform? Why or why not?

See response to question 72 above. Filing periodic updates with the Commission creates unnecessary work for both the issuer and the Commission. The Commission should only require a filing at the close of the offering.

II.B.2: Ongoing Reporting Requirements

80. Should we require ongoing annual reports, as proposed? Why or why not? Should we require ongoing reporting more frequently than annually? Why or why not? If so, how often (e.g., semi-annually or quarterly)?

Ongoing annual reports are appropriate. If an issuer choses to provide reports more frequently, that should be left to the discretion of the issuer, and should not be mandated.

81. Two commenters noted that compliance with the exemption would not be known at the time of the transaction if the annual reports are a condition to the exemption under Section 4(a)(6). Should the requirement to provide ongoing annual reports be a condition to the exemption under Section 4(a)(6)? If so, for how long (e.g., until the first annual report is filed, until the termination of an issuer's reporting obligations or some other period)? Please explain.

The restriction on transfer of securities purchased through Section 4(a)(6) is one year, and as such RocketHub believes a minimum of three years of reporting is appropriate – two years greater than the transfer restriction. Annual reports do not have to include audited or accountant reviewed financial statements, a report should be a declaration and informational covering of progress the issuer has made. Intermediaries reserve the right to require offerings on their platform to provide annual reports equal to or greater than the Commission imposed minimum.

82. Should we require that the annual reports be provided to investors by posting the reports on the issuer's website and filing them on EDGAR, as proposed? Should we require issuers also to directly notify investors of the availability of the annual report, such as by e-mail or other electronic means? Should we instead require issuers to deliver the annual reports directly to investors? If so, should we specify the method of delivery (e.g., e-mail or other electronic means, U.S. mail or some other method)? Would investors have an

electronic relationship with the issuer after the offering terminates? If not, how would an issuer notify or deliver a copy of the annual report to the investor? Would issuers continue to have an ongoing relationship with intermediaries once the offering is completed? If so, should we also require that the issuer post its annual report on the intermediary's platform? Why or why not?

83. After completion of the offering, should we require that investors be represented by a nominee or other party who could help to facilitate physical delivery of the annual report to investors? Why or why not? Should the nominee or other party have other responsibilities, such as speaking on behalf of and representing the interests of investors (e.g., when the issuer wishes to take certain corporate actions that could impact or dilute the rights of investors, distribution of dividend payments, etc.)? If a nominee or other party should be required, what structure should this arrangement take and why?

Investors will have consented to digital/electronic delivery in order to participate in a crowdfunded offering on a Portal's platform, and as such digital/electronic delivery of reports and notifications is appropriate. This will also allow filings with EDGAR to be more easily completed. Intermediaries and other third parties should be able to charge fees to assist the issuer in hosting and notifying investors if the issuer opts into this form of assistance. The issuer must post its annual report on the intermediary's platform. Intermediaries should have the right to request the annual report in the digital format it sees fit and is suitable for the platform – and this may require issuers to enter the annual report data on an intermediary platform through only form and data submission.

Physical delivery of the annual report is not applicable to this market. As previously discussed by the Commission itself, the investor will be obligated to consent to electronic delivery. The nomination of a representative is disruptive to the structure behind various classes of shares, which the Commission should not interfere with.

84. Are the proposed ongoing disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements?

See response to questions 80 & 81 above.

85. Should the discussion of the issuer's financial condition address changes from prior periods? Why or why not? Should the number of years covered by the financial statements be the same as in the offering statement? Why or why not? If not, what should they be?

A disclosure of financial condition alone should suffice along with a basic explanation; an analysis of this nature would be in excess of the regulatory requirements, and be overly complex for the type and size of issuers in this market.

86. Should we require that reviewed or audited financial statements be provided only if the total assets of the issuer at the last day of its fiscal year exceeded a specified amount, as one commenter suggested? Why or why not? If so, what level of total assets would be appropriate (e.g., $1 million, $10 million, or some other amount)? Are there other criteria (other than total assets) that we should consider? Please explain.

RocketHub believes audited financials are entirely unnecessary for offerings of this size. In order to justify the requirements, the Company would need to have total assets in excess of $10 million and be in existence for over two years. Many companies interested in Section 4(a)(6) offerings will not have any historical financials for an accountant to either review or audit. However, if the Commission is unwilling to adjust regulation to exempt issuers from these requirements, this proposal is a step in the right direction, and RocketHub perceives this request for comment as a stop-gap.

87. The proposed rules would require any issuer terminating its annual reporting obligations to file on EDGAR, within five business days from the date of the terminating event, a notice to investors and the Commission that it will no longer file and provide annual reports. Is this approach appropriate? Why or why not? Should we require issuers to file the notice earlier (e.g., within two business days of the event) or later (e.g., within 10 business days of the event)? If so, what would be an appropriate amount of time after the event and why?

See our response to question 76, above. The 5-day window is appropriate and consistent with other proposed regulations.

88. Should an issuer be able to terminate its annual reporting obligation in circumstances other than those provided in the proposed rules? For example, should an issuer be allowed to terminate its reporting obligation after filing a certain number of annual reports, as one commenter suggested, so long as the issuer does not engage in additional transactions in reliance on Section 4(a)(6) (e.g., after filing one annual report, two annual reports or some other number of annual reports)? Why or why not? If so, what would be an appropriate number of annual reports? Should all issuers be allowed to terminate their reporting obligations or only issuers that have not sold more than a certain amount of securities in reliance on Section 4(a)(6)? If so, what would be an appropriate amount of securities (e.g., $100,000, $500,000, or some other amount)? Should an issuer be allowed to terminate its reporting obligation following the issuer's or another party's purchase or repurchase of a significant percentage of the securities issued in reliance on Section 4(a)(6) (including any payment of a significant percentage of debt securities or

redemption of a significant percentage of redeemable securities), or receipt of consent to cease reporting from a specified percentage of the unaffiliated security holders? Why or why not? If so, what would be an appropriate percentage (greater than 50 percent, 75 percent or some other percentage)? Should an issuer be allowed to terminate its reporting obligation if the securities issued in reliance on Section 4(a)(6) are held by less than a specified number of holders of record, as suggested by a commenter? Why or why not? If so, what would be an appropriate number of holders of record (less than 500, 300 or some other number)?

An annual report should be filed every year up-until the minimum amount, as set by the Commission. Any reports after this minimum are at the discretion of the issuer and may or may not have been pre-defined in the offering terms, either by the issuer or by the intermediary. The intermediary may also require a minimum, greater than or equal to the regulatory minimum, from all issuers leveraging that specific intermediary.

89. If an issuer files a petition for bankruptcy, what effect should that filing have on the issuer's reporting obligations? Please explain.

If after filing for bankruptcy the issuer's company is dissolved, its reporting requirements are no longer valid. However, during bankruptcy the issuer still needs to file the annual report for the minimum number of years set by the commission – RocketHub recommends 3 years. Please note, RocketHub's recommendations are all based on audits not being performed, as they are costly and unnecessary, and are the exact type of expense that could drive an issuer into bankruptcy in the first place.

90. Should issuers be required to file reports to disclose the occurrence of material events on an ongoing basis? What events would be material and therefore require disclosure? Should we identify a list of material events that would trigger a report, similar to the list in Form 8-K (such as changes in control, bankruptcy or receivership, material acquisitions or dispositions of assets, issuances of securities and changes to the rights of security holders)? Or should we require that all material events be reported without specifying any particular events? How many days after the occurrence of the material event should the issuer be required to file the report? Please explain.

Significant material events, as defined by the Commission, should be reported to investors quarterly. However, the Commission needs to define the types of material events that are to be considered significant—similar to the list in Form 8-K—however modified so as to be appropriate to acknowledge the difference between public and private companies, and the different types of material events early growth companies experience, versus public companies.

91. We have the authority to include exceptions to the ongoing reporting requirements in Section 4A(b)(4). Should we consider excepting certain issuers from ongoing reporting obligations (e.g., those raising a certain amount, such as $100,000 or less)? Should any exception always apply or only after a certain number of reports have been filed? Please explain.

Issuers raising $250,000 or less should be exempted from ongoing reporting obligations to the Commission and investors. This should be clearly disclosed in the offering. However, intermediaries should have the right to mandate issuers provide reporting on their platform even if exempted by the Commission.

II.B.3: Form C and Filing Requirements

92. Should we require a specific format that issuers must use to disclose the information required by Section 4A(b)(1) and the related rules?

NASAA's Form U-7 is not appropriate. State regulatory agencies are not one of the parties involved in Section 4(a)(6) offerings. Regulation A's form 1-A is also, not appropriate. RocketHub recommends that the Commission create a simple, standardized general form that informs investors, intermediaries, and issuers with legal certainty.

93. Should issuers be required to file the Form C with the Commission in electronic format only, as proposed? Alternatively, should we permit issuers to file the Form C in paper format? What are the relative costs and benefits of permitting the filing of the Form C in paper format? Should issuers be precluded from relying on the hardship exemptions in Rules 201 and 202 of Regulation S-T? Why or why not?

The Commission is correct in mandating that Form C (to the extent required) be filed electronically. Section 4(a)(6) offerings are inherently electronic in nature, and paper filing is unnatural to the process.

94. In what format would the information about an issuer be presented on an intermediary's platform? Will there be written text, graphics, charts or graphs, or video testimonials by the founder or other key stakeholders? Will the information be presented in a way that would allow for the filing of the information as an exhibit to Form C on EDGAR? If not, how should the rules address these types of materials?

There are many different ways in which information about an issuer can be presented. It is not possible to create a one-size-fits-all form of regulation. The rules should recognize the existence

of the diverse media by which information can be disseminated – RocketHub has serious concerns that Form C on EDGAR will be unable to process the various types of information – the solutions the commission has proposed, such as filing transcripts of videos used, are costly and unsustainable in execution.

95. Should we require different forms for each type of required filing? Would the use of one form with different EDGAR tags for each type of filing create confusion among investors who review the issuer's filings? Would it create confusion for issuers that are filing the forms? Please explain.

As discussed in the first section of this paper, RocketHub suggests that the Commission eliminate the initial and updated Form C filings in favor of a single filing at the close of the successful filing. If that solution is unacceptable, however, one form with different tags certainly simplifies the process. The concept of a Form C filing on EDGAR is already confusing enough for issuers – it is best to limit the amount and frequency of form filings.

96. Should we allow issuers to refer investors and potential investors to the information on the intermediary's platform? Are the proposed methods (website posting or e-mail) to refer investors effective and appropriate? Would issuers have access to the investors' e-mail addresses? Are there other methods we should consider? If so, what methods and why?

See our response to questions 97-104, below.

II.B.4: Prohibition on Advertising Terms of the Offering

97. Should we require issuers to file with the Commission or provide to the intermediary a copy of any notice directing investors to the intermediary's platform? Why or why not?
98. The proposed rules would define "terms of the offering" to include: (1) the amount of securities offered; (2) the nature of the securities; (3) the price of the securities; and (4) the closing date of the offering period. Is this definition appropriate? Why or why not? Should the definition be modified to eliminate or include other items? If so, which ones and why? Should we provide further guidance as to the meaning of "terms of the offering?" Please explain.
99. Should we restrict the media that may be used for the advertising of notices (e.g., prohibit advertising via television, radio or phone calls)? If so, why and what media should we restrict? What media should we permit? Please explain.
100. Should we require a specific format for issuer notices? Should we provide examples of notices that would comply with the requirements?

101. Should we further restrict or specify the information that could be included in a notice of the offering? If so, how and why? Is the information that we have proposed to permit in notices sufficient to inform potential investors of an offering? Should we permit the issuer to include any additional information in the notice if, for example, the offering aims to promote a particular social cause, such as driving economic growth in underinvested communities, as one commenter suggested? If so, what information and why? Should we allow any additional information to be included in the notices for all offerings made in reliance on Section 4(a)(6)? Please explain. Should we impose restrictions on the timing or frequency of notices? Why or why not? If so, what restrictions would be appropriate?

102. Should we limit the issuer's participation in communication channels provided by the intermediary on the intermediary's platform? Why or why not? If so, what limitations would be appropriate?

103. The proposed rules would allow an issuer to communicate with investors and potential investors about the terms of an offering through communication channels provided by the intermediary on the intermediary's platform, so long as the issuer identifies itself as the issuer in all communications. Is this approach appropriate? Why or why not? If not, why not?

104. The proposed rules would not restrict an issuer's ability to communicate information that does not refer to the terms of the offering. Is this approach appropriate? Why or why not? If not, what limitations should we include on an issuer's communications that do not refer to the terms of the offering and why?

RocketHub believes that all forms of communication and marketing should be permitted as long as the issuer complies with all proposed rules pertaining to marketing and communication, as well as FCC communication regulation.

As discussed in RocketHub's first whitepaper,[33] RocketHub perceives the intent of Sec.302(b)/Sec4A.(b)(2) as to establish an exclusive forum where the terms of an offering are disclosed and discussed by prospective and committed investors. Given the nature of social media and how many people may view comments and postings at any given time, practical restrictions on the communication methodologies cannot be made.

Advertisements or notices should be permitted to (i) alert the public to the issuer's project/company, (ii) state that the public may participate in the fundraising, and (iii) direct the public to the funding platform.

The Commissions proposed definition of "terms of the offering" adequately captures the critical information points a potential investor requires, however the issuer should be permitted to an

[33] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 14, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

additional term of offering: the date and time the offering will be available to the public. The timing and frequency of notices should not be dictated by the Commission's proposed rules**.**

In addition, various communication platforms incorporate restrictions on the type of text, image, video, or audio that can accompany a communication. For example, Twitter restricts communication to no more than 140 characters per post. As such, no legends should be required to be included with the posts, and due to the various formats, inability to capture all 3rd party communications, and the pure cost burden associated with trying to capture the data, no posts should be filed with the Commission.

In proposed rule 204[34] RocketHub interprets "no more than the following" to mean that "less is acceptable." For example, a compliant message posted to Twitter could be:

> @JoeCoffee567 is doing a crowdfunded equity offering on @RocketHub. Check it out! http://linktooffering.com

The terms of the offering are not included, and the only information identifying the issuer is @JoeCoffee567, which is limited. That said, RocketHub believes this is the type of communication the Commission should expect to see issuers transmitting, and believes it is compliant with the proposed rules. Due to the changing nature of social media, and the high probability that new platforms will be developed with unpredictable user interfaces, the Commission cannot mandate a specific format for this communication. The Commission's discussion on having a section for supplemental information, highlighting certain intangible purposes, should be permitted but not mandated for an offering notice – for example a flyer handed out may have a special section covering the main directive and/or goal of the offering i.e. environmental, pro-social, education, etc. Beyond that, the Commission should not restrict an issuer's ability to communicate information that does not refer to the terms of the offering.

The communication channels provided by an intermediary exist to help an issuer increase their web-presence, reach a wider audience, and discuss the offering's terms, business health, and projections with a larger crowd than the issuer's own. The Commission should not restrict an issuer's participation in communication channels provided by the intermediary, on the intermediary's platform or elsewhere. Furthermore, the issuer will be able to clearly identify themselves as the issuer when communicating on intermediary communication channels, which will help investors identify issuer communication more easily.

II.B.5: Compensation of Persons Promoting the Offering

[34] § 227.204

105. The proposed rules would prohibit an issuer from compensating or committing to compensate, directly or indirectly, any person to promote its offering outside of the communication channels provided by the intermediary, unless the promotion is limited to notices that direct investors to the intermediary's platform. Is this approach appropriate? Why or why not?

106. The proposed rules would require issuers to take reasonable steps to ensure that persons promoting the issuer's offering through communication channels provided by the intermediary disclose the receipt (both past and prospective) of direct or indirect compensation each time they make a promotional communication. Is this an appropriate approach to the statutory requirement for issuers to ensure that promoters make the required disclosures? If not, what standard should we apply and why?

107. Should we require that any person who receives compensation from the issuer to promote an issuer's offering through communication channels provided by the intermediary register with, or otherwise provide notice to, the intermediary? If so, should we require that person to disclose the amount of the compensation and the structure of the compensation arrangement to the intermediary? Why or why not? If so, what would be the purpose of such a requirement?

108. Should the issuer provide disclosure of any person who receives compensation from the issuer to promote an issuer's offering? Why or why not?

SEC.302(b)/SEC4A.(b)(3) which pertains to issuer compensation to promoters states:

> *(3) not compensate or commit to compensate, directly or indirectly, any person to promote its offerings through communication channels provided by a Broker or funding Portal, without taking such steps as the Commission shall, by rule, require to ensure that such person clearly discloses the receipt, past or prospective, of such compensation, upon each instance of such promotional communication;*

Many issuers hire consultants to help them manage a campaign on a funding Portal. These consultants offer services including structuring the campaign, and paying for promotion on the funding Portal and/or social media channels to draw attention to the project. In many of these cases, the consultant's services will be "behind the scenes" such that the consultant is not identified as a promoter of the issuer. In other instances, entities will promote issuers on their own websites, to drive traffic.

Funding Portals regularly have revenue sharing partnerships, with both for-profit and not-for-profit entities, that leverage shared user bases and communication channels. These partnerships may be used to attract either issuers or investors to the funding Portal. As

part of these relationships, the funding Portal may pay the referring partner a fee, and advertise on or link to the referring partner's website. [35]

RocketHub perceives a distinction between an issuer hiring an individual or entity for promotion, where investors may not be aware of the commercial relationship between the parties, and more standard web-based advertising, including through search engines or trending topics. The Commission should not enact rules that may interfere with promotional compensation, but rather require simple disclosure of a commercial relationship where it would not otherwise be apparent.[36]

The Commission must provide clear definitions of what constitutes a receipt, disclosure of compensation, payment for promotion. Anything less will create confusion, and a potentially unnavigable framework. For example, there exist social media management tools for businesses.[37] If an issuer uses such software to manage its social media presence, would a subscription to the software service constitute paying a promoter? The proposed rules are ambiguous and undefined and must be clarified.

The Commission should also supply examples of the application of these definitions in major social media outlets (Facebook, Twitter, LinkedIn, Instagram, Vine, PR Newswire, etc.). A simple disclosure by issuer on their offering page that compensation was provided to select promoters should suffice.

Furthermore, the Commission needs to provide examples of what constitutes a proper "receipt" or recognition. For example, with Twitter's character limitations and text only format, the receipt or disclosure would most likely have to be limited to a hashtag, for example "#promoter".

RocketHub anticipates most promotions will be limited to notices that direct investors to the intermediary's platform and as such are not prohibited by the proposed rules.

RocketHub strongly encourages the Commission to move forward with the requirement for promoters to register with, and provide notice to the intermediary. This will allow the intermediary to list all promoters, and collect reviews by issuers, that can rank and comment on quality of service of promoters for other interested issuers. In addition, this will allow the intermediary to block any promoter that has violated the regulation

II.B.6: Other Issuer Requirements

[35] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 15, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012
[36] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 15, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012
[37] http://www/HootSuite.com

109. Should we require that oversubscribed investments be allocated using a pro-rata, first-come, first-served or other method, rather than leaving that decision up to the issuer? Please explain.

110. Should we limit the maximum oversubscription amount to a certain percentage of the target offering amount? If so, what should the limit be and why?

111. Should we allow issuers to accept commitments in excess of the $1 million limitation so that if an investor withdraws his or her investment commitment prior to the closing of the offering, the issuer would still be able to raise $1 million? If so, should we require that investments in excess of $1 million be allocated using a pro-rata, first-come, first-served or other method, or should we leave that decision up to the issuer? Please explain.

RocketHub believes that oversubscriptions, much like the regular offering, should be permitted to occur either pro-rata or otherwise, with that decision being left to the issuer.

While RocketHub has previously commented that there should be limits on oversubscription, it made this recommendation based on the following premise: a limited rate of oversubscription would allow users to potentially qualify for more appropriate financial reporting requirements when hovering around a inflection point. RocketHub believes that this practice is valid, due to the explicit mention of a target offering amount in SEC.302(b)/SEC4A.(b)(1)(D), and not a maximum offering. For example, an issuer listing $100,000 as their target offering amount, and $490,000 as their maximum amount, would only be obligated to make financial disclosures based on their target raise (ie. financials certified by the Chief Executive, not reviewed by a CPA). A limit on oversubscription (ie. 130% of the target amount) will prevent abuse of the reduced reporting requirements, limiting the issuer in the above example to a maximum raise of $130,000. This is why RocketHub initially proposed a range-based limit on the maximum offering amount.

RocketHub believes that both SEC.302(b)/SEC4A.(a)(6), SEC.302(b)/SEC4A.(a)(7) and SEC.302(b)/SEC4A.(a)(8) pertain to the mechanics involved in the offering. RocketHub believes that accepting commitments in excess of the $1 million mark is an acceptable practice, and the mechanism proposed would be appropriate. As RocketHub suggested in its first whitepaper, there are mechanism available that would prevent the $1 million mark from being exceeded in "commitments."

RocketHub believes that once an investor expresses intent to invest, his/her investment should be placed in a "pending" state for 24-hours. After that 24-hour rescission period expires, the investor's funds should transition from "pending" to "committed," and be held in escrow until transferred to the issuer. However, if the offering does not reach its funding target before the campaign deadline, investor funds should be released from escrow and returned to the investor. A short rescission period will protect investors from "pump & rescind" schemes, and minimize an issuer's exposure to the risk of "short fall."

As Sec.302(b)/Sec4A.(a)(6) requires a minimum offering period of 21 days, the investor should have enough time to review the investment opportunity before investing. A longer rescission period is unnecessary.

As the act specifically allows for issuers to raise funds "greater than a target offering amount," the issuer must also establish an offering cap at campaign inception. This will protect the issuer by limiting over-subscription.

As part of its Portal, RocketHub plans to offer a new countdown mechanism. Once an offering reaches its cap amount, the "count down" to the offering deadline will be paused, awaiting the expiration of the last investor's rescission period. During the pause, RocketHub will continue accepting "investment pledges" and placing those who invest during the pause on a "wait list." If, during the pause, a pending investor exercises his/her right to cancel his/her investment, investors will be added from the wait list, until the cap is reached again, and the pause will continue. If the entire wait list is exhausted, without reaching the cap, the "count down" will resume."

112. Should we require issuers to set a fixed price at the commencement of an offering or prohibit dynamic pricing? Why or why not?

Issuers should be required to set a fixed price at the commencement of an offering. RocketHub is concerned that dynamic pricing is overly complex, with dynamics that encourage fraud, poor investment choices, and rewards a hasty decision making process for all prospective investors. If issuers misjudge investor interest, they should withdraw their offering and recommence with a more appropriate price.

113. Should we limit the types of securities that may be offered and sold in reliance on Section 4(a)(6) (e.g., should the exemption be limited to offers and sales of equity securities)? If so, to what securities should crowdfunding be limited and why? Should we create a separate exemption for certain types of offerings of limited types of securities, as one commenter proposed? 114. Is it anticipated that issuers may want to conduct crowdfunding offerings of securities under Section 4(a)(6) alongside non-securities-based crowdfunding, such as a crowdfunding campaign for donations or rewards? If so, please describe how these offerings may be structured. Are there any issues in particular that our rules should address in the context of such simultaneous crowdfunding offerings? Please explain. 115. Should we require or prohibit a specific valuation methodology? If so, what method and why? Should we specify a maximum valuation allowed as suggested by one commenter? Why or why not?

Issuers should be able to issue various types of securities and classes. The burden of education lies with the issuer and intermediary. The Commission should establish a minimum required disclosure for issuers and intermediaries to use when communicating the price and structure of offered securities. The Commission should not, however, prescribe acceptable types of securities, as markets and securities may evolve.

RocketHub believes that for ease of understanding by the investor public, offerings will generally be limited to the following structures:

1. Convertible and non-convertible debt, or
2. Equity with a fixed share volume, fixed share price, and of a specific stock class.[38]

RocketHub is concerned that issuers offering multiple classes of shares in the same offering may lead to investor confusion. As such, RocketHub recommends the Commission does not limit the types of securities offered, but does limit each offering to only one type of security. Valuation methodology should be clearly explained by issuers, and must be compliant with U.S. GAAP. Intermediaries should be able to enforce and restrict all offerings on their platform to valuation methods of the intermediaries' choosing, but specific valuation methods should not otherwise be mandated.

By definition, non-securities-based crowdfunding is not seen as a security, and should be permitted to be offered in parallel with securities offered under Section 4(a)(6), so long as participation in one offering is not dependent on participation in the other and funds are properly segregated.

II.C.1: Brokers and Funding Portals

116. Are there other funding Portal activities, other than those in Exchange Act Section 3(a)(80), that we should prohibit? If so, which activities and why? Are there any prohibitions that should be modified or removed? If so, which ones and why?
117. Do we need to provide further guidance concerning which provisions of the Exchange Act and the rules and regulations thereunder would apply to funding Portals? If so, what further guidance is necessary and why?

The JOBS Act explicitly creates a distinction between Brokers and Portals. SEC.304(b)/SEC3(a)(80) clearly defines funding Portals. The Portal definition is in part based on the current activities of large established perks-based crowdfunding platforms, such as RocketHub. No further guidance is necessary from the Commission, nor should other activities be prohibited. As discussed in RocketHub's first whitepaper:

[38] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 14, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

3(a)(80)(A): Funding Portals should be allowed to continue to feature trending campaigns as promotional tools for the Portal. In essence, a Portal should be permitted to advertise to draw interest to its site and encourage other issuers to fund through it, or investors to participate. Portals should be barred from language that implies the risk level or quality of investment opportunity. However, if Portals feature/highlight certain offerings based on discretion or specific metrics (e.g. topic, press, momentum) this should not be viewed as investment advice, recommendation, or solicitation. Nor should regulation interfere with a Portals ability to use its discretion to reject certain campaigns, and accept others. This practice should not be interpreted as endorsement of individual campaigns or investment advice.

3(a)(80)(B): Funding Portals should be barred from soliciting investment for any specific campaign by providing offering details outside of the Portal, but must be allowed to advertise more generally, as well as highlight offerings that are ongoing through various communication channels. Portals may also feature individual campaigns in advertisements, so long as those advertisements do not offer investment advice as discussed in subsection (A) above.

3(a)(80)(C): In the regular course of business a funding Portal may have staff directed to handle business development and marketing initiatives. Subsection (C) above should not limit those standard business practices. Furthermore, crowdfunding Portals such as RocketHub currently engage in revenue sharing agreements with large organizations, communities, institutions, and groups, often due to a shared customer base, interest, or activity. Business development activities should be explicitly permitted by regulation.

3(a)(80)(D): Portals should be barred from managing an investor's funds, with the exception of allowing those funds to be deposited in a segregated account, delivering those funds to successfully funded campaigns, and returning uncommitted funds to investors. RocketHub recommends adopting a policy that does not allow intermediaries to access the funds directly, except for the collection of fees for services rendered at rates agreed to by the issuer, investor, or other type of user. Intermediaries must not commingle funds in their own accounts but can use a separate designated account held by a third party, such as a bank.[39]

II.C.2: Requirements and Prohibitions

[39] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 18-19, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

118. We have named FINRA expressly in the proposed rules as an applicable registered national securities association for crowdfunding intermediaries. Is this helpful? Is this appropriate? Why or why not? Are there other entities considering applying to become registered national securities associations?

119. The proposed rules would require that an intermediary be a member of FINRA or of any other applicable national securities association. Is this an appropriate approach? At present, FINRA is the only registered national securities association. If we were in the future to approve the registration of another national securities association under Exchange Act Section 15A, would it be appropriate for us to require membership in both the existing and new association? Why or why not?

120. No intermediary can engage in crowdfunding activities without being registered with the Commission and becoming a member of FINRA or another registered national securities association. We recognize that while there is an established framework for Brokers to register with the Commission and become members of FINRA, no such framework is yet in place for funding Portals. We do not intend to create a regulatory imbalance that would unduly favor either Brokers or funding Portals. Are there steps we should take to ensure that we do not create a regulatory imbalance? Please explain.

121. The proposed rules do not independently establish licensing or other qualification requirements for intermediaries and their associated persons. The applicable registered national securities associations may or may not seek to impose such requirements. Should the Commission consider establishing these requirements? Should the Commission consider establishing requirements only if the associations do not? Would licensing or other qualifications for intermediaries and their associated persons be necessary, for example, to provide assurances that those persons are sufficiently knowledgeable and qualified to operate a funding Portal? Why or why not? If so, what types of licensing or other qualifications should we consider?

FINRA is the only applicable SRO, and given the fact that the process of establishing another qualified SRO would take years, it is the appropriate choice. At no point should the proposed rules mandate registration in more than one SRO.

Considering there is no SRO framework in existence for funding Portals, regulatory imbalance is a serious concern. Without careful timing and active participation by the Commission, SRO (FINRA), and the industry, the opportunity exists for the unfortunate elimination of Portals, entirely due to mismatched regulatory frameworks and timing. RocketHub's two previous whitepapers both address parts of the concerns.

For example, Brokers enjoy a due diligence defense, while the proposed rules do not explicitly provide this protection to Portals. Furthermore, Portals may be saddled with liabilities for material misstatements and omissions by the issuer, which is impractical and severely damaging to the ability for Portals to participate in the market. RocketHub recommends the Commission establish "substantial compliance" rules that protect issuers and Portals, even if the issuer failed

to comply with the exemption in certain insignificant ways. The Regulation D exemption includes several provisions that protect the issuer if it reasonably believed the requirements of the rule were met, even if they actually were not. If this language is not included, a small infraction, or an infraction that has no true effect on the quality of the offering could invalidate the entire offering.

Additionally, due to timing concerns, it is feasible that Brokers will be able to enter and service the market prior to Portals due to lack of a Portal framework with any SRO, and/or potential delay in Portals filing and registering with the Commission. In order to prevent this unintended loophole from being exploited, the Commission should prohibit Brokers from prematurely entering the market. It should also inform the SRO that Portals and Brokers should receive the same licensing and qualification requirements for intermediaries and their associated persons, with additional requirements for Brokers due to the enhanced level of services they can provide.

122. Should we permit an intermediary to receive a financial interest in an issuer as compensation for the services that it provides to the issuer? Why or why not? If we were to permit this arrangement, the proposed rules on disclosure requirements for issuers would require the arrangement to be disclosed to investors in the offering material. Are there other conditions that we should require? If so, please identify those conditions and explain.

123. If an intermediary receives a financial interest in an issuer, should it be permitted to provide future services as long as it retains the interest? Why or why not?

124. One commenter suggested that an intermediary should be able to receive a financial interest under the same terms as other investors participating in an offering made in reliance on Section 4(a)(6). We request comment on this suggestion. How could an intermediary address potential conflicts of interest that may arise from this practice? Would disclosure of the arrangement be sufficient? Please explain.

125. The proposed rules define "financial interest in an issuer," for purposes of Securities Act Section 4A(a)(11), to mean a direct or indirect ownership of, or economic interest in, any class of the issuer's securities. Should we define the term more broadly to include other potential forms of a financial interest? For example, should the term include a contract between an intermediary and an issuer or the issuer's directors, officers or partners (or any person occupying a similar status or performing a similar function), for the intermediary to provide ancillary or consulting services to the issuer after the offering? Should it include an arrangement under which the intermediary is a creditor of an issuer? Should it include any carried interest or other arrangement that provides the intermediary or its associated persons with an interest in the financial or operating success of the issuer, other than fixed or flat-rate fees for services performed? Should any other interests or arrangements be specified in the term "financial interest in an issuer?" If so, what are they and what concerns do they raise?

126. In light of the reasons for the prohibition, should there be a *de minimis* exception? Why or why not? If so, what would be an appropriate *de minimis* amount? For example,

would a one percent holding be an appropriate amount? Would another amount be more appropriate? Please explain. Should there be disclosure requirements for any *de minimis* exception? Why or why not?

127. Should we impose any other requirements or prohibitions on intermediaries? If so, what requirements or prohibitions and why?

While proposed Rule 300(b) would not prohibit Portals from earning fees for providing the technology product that an issuer would use for a crowdfunded offering, it does directly conflict with earlier proposals, as well as the nature of the crowdfunding business, and how existing perks-based Portals operate. Within SEC.304(b)/SEC3(a)(80), the Commission interpretation of 3(a)(80)(E) should be reflected with proposed rules acknowledging that Portals are well positioned to offer ancillary services to issuers in an efficient manner that will improve the market, increase investor information and reduce transaction costs.

The proposed rules unfortunately exceed the bounds of the Act and impose additional crippling restrictions. RocketHub strongly recommends revising the proposed rules in order to more closely reflect the Act. Crowdfunding platforms organically provide ancillary services to the benefit of users (soon to be issuers and investors). The proposed rules remove the ability for Portals, who are the main point of contact for issuers and investors, to offer directly relevant ancillary services that will help facilitate a more active, safe, secure, transparent, and informed marketplace.

RocketHub believes that an intermediary needs to offer the same pricing structure to all issuers and cannot discriminate. If an intermediary receives securities from an issuer, the intermediary should only receive the same securities that are offered by the issuers to investors (and based on the same pricing).

A *de minimis* exemption of 5%, and disclosure during issuance that the intermediary receives securities post-offering, would suffice to inform investors and address 3rd party concerns. An intermediary should always be permitted to provide services to an issuer regardless of any financial interest, provided adequate disclosure is made.

II.C.3: Measure to Reduce Risk of Fraud

128. We are not proposing to require that an issuer relying on Section 4(a)(6) engage a transfer agent due, in part, to the potential costs we believe such a requirement would impose on issuers. What would be the potential benefits and costs associated with having a regulated transfer agent for small issuers? Are there other less costly means by which an issuer could rely on a qualified third party to assist with the recordkeeping related to its securities?

129. The proposed rules incorporate a "reasonable basis" standard for intermediaries to determine whether issuers comply with the requirements in Securities Act Section 4A(b) and the related requirements of Regulation Crowdfunding, as well as for satisfying the

requirement that the issuer has established means to keep accurate records of the holders of the securities it would offer and sell through the its platform. Is a "reasonable basis" the appropriate standard for intermediaries making such determinations? Why or why not? Is it appropriate for one determination but not the other? If so, please explain which one and why. What other standard would be more appropriate, and why? What circumstances in the crowdfunding context should not be considered to constitute a reasonable basis? Should we permit an intermediary to reasonably rely on the representation of an issuer with respect to one or both determinations?

130. The proposed rules incorporate a "reasonable basis" standard for intermediaries to determine whether an issuer would be subject to a disqualification. In contrast, there is no reasonableness standard for intermediaries' requirement under the proposed rules to deny access to an issuer if it believes the issuer or the offering presents potential for fraud or otherwise raises concerns regarding investor protection. Is it appropriate to have these two different standards under the proposed rules? Why or why not? If one of these standards is not appropriate, please explain what would be a more appropriate standard and why.

The proposed rules should allow intermediaries to provide the necessary services to issuers, and investors for document, record keeping, and information sharing. This may be a for-fee service, and should be permitted.

RocketHub fully supports an intermediary being able to rely on the representations of an issuer,[40] however we strongly recommend structuring such policies within an attainable safe harbor for issuers. Furthermore, the degree of discretion the Commission provides intermediaries needs to be protected and controlled. For example, RocketHub believes all intermediaries must adhere to anti-discrimination laws when denying access to the intermediary's platform, as discriminatory practices do not provide for a reasonable basis for disqualifying an issuer.

The JOBS Act does not explicitly cover the practical issuance, and transfer of securities at the end of a successful crowdfunding campaign, when per SEC.304(b)/SEC3(a)(80)(D) Portals are not permitted to "hold, manage, possess, or otherwise handle investor funds or securities." In RocketHub's previous whitepapers, RocketHub clearly outlines mechanisms that would allow Portals to assist issuers and investors in the sale of securities, without violating any components of the Act pertaining to holding and transferring of securities as a Portal. This method will avoid the use of a costly middle-man group such as a Transfer Agent. While intermediaries should have the choice to use a transfer agent if they see fit, it should not be mandated. Intermediaries should be permitted to assist issuers in keeping records, and through direct registration with the issuer holding the securities, this should not be a concern. The proposed rules should not bar Portals from assigning and/or transferring securities. Portals should be permitted to

[40] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 140, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013

assist issuers with ministerial corporate duties and by keeping corporate stock ledgers. RocketHub believes that in the interest of oversight, security, and cost reduction, Portals should be able to facilitate direct registration. Under this system the security is registered in the investor's name on the issuer's books, and the Portal tracks the security for the investor as a book-entry. This will also allow investors to transfer securities in this way. The Portal can keep the issuer's records on file. RocketHub believes this method allows the Portal to facilitate the registration and transfer of securities, without holding or managing the securities. Direct registration will also allow Portals to assist issuers by forwarding any correspondence from the issuer to the investor, including the annual reports discussed in SEC.302(b)/SEC4A.(b)(4). In addition, once permitted under SEC.302(b)/SEC4A.(e)(1), investors can more easily transfer securities through the Portal. Since the Portals hold a record of securities owned by various investors, on request the Portals are able to print and provide paper certificates. This will allow Portals to enforce transfer restriction by physically printing requirements on certificates.[41]

It is important to note, that Portals should be restricted to recording securities purchased on their Portal, or securities transferred from one Portal to another. Portals should not be permitted to act as full-fledged Brokerage firms or transfer agents.

Again, the proposed rules should explicitly recognize that crowdfunding platforms, and hence Portals, are capable of providing additional services under SEC304(b)/SEC3(a)(80)(E), services that are necessary and beneficial to issuers and investors. The Commission should permit Portals to provide those services, and should not restrict the Portal as a service provider.

Reiterating RocketHub's 2nd whitepaper, most crowdfunding issuers will have little experience with securities sales, it will benefit the issuers and the investors if the Portal assists the issuer in:

- Collecting and transferring funds from investor accounts to the issuer;
- Keeping a record of investors, amounts invested and securities purchased for the issuer; and
- Transferring evidence of investment, such as a stock certificate, to the investor.

Given the web-based nature of crowdfunding Portals, issuers and investors will expect that these services be provided for a low-cost and delivered electronically. Portals will naturally be in the best position to provide these services, as they will have collected the required information in connection with the securities sale.

While Portals should allow issuers to transfer the information over to a third-party provider, or perform these tasks themselves, we believe that allowing the Portal to compete to provide these services will reduce cost to the issuer and investor, while also improving transparency and decreasing investor risk.

[41] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 20, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

131. The proposed rules would implement Section 4A(a)(5) by requiring the intermediary to conduct a background and securities enforcement regulatory history check aimed at determining whether an issuer or any of its officers, directors (or any person occupying a similar status or performing a similar function) or 20 Percent Beneficial Owners is subject to a disqualification, presents potential for fraud or otherwise raises concerns regarding investor protection. Is this approach appropriate? Why or why not? If not, why not? Would another approach be more appropriate? Why or why not?

132. Should we require intermediaries to make the results of the proposed background checks publicly available? Why or why not? Would doing so raise privacy concerns?

133. Should we specify the steps that an intermediary must take in obtaining background and securities enforcement regulatory history checks on the issuer and its officers, directors (or any person occupying a similar status or performing a similar function) and 20 Percent Beneficial Owners? Should we require, for example, an intermediary to check publicly-available databases, such as FINRA's BrokerCheck and the Commission's Investment Adviser Public Disclosure program? Why or why not? Are there third parties who would be in a position to provide these types of services? Please discuss.

134. Should we require intermediaries to conduct specific checks or other steps (such as a review of credit reports, verification of necessary business or professional licenses, evidence of corporate good standing, Uniform Commercial Code checks or a CRD snapshot report)? Why or why not? Separately, should we specify a minimum or baseline level of due diligence to help establish a reasonable basis? Why or why not? If so, what should that level include? For instance, should it include a review or a verification of certain publicly available information about an issuer and its officers, directors (or any person occupying a similar status or performing a similar function) and 20 Percent Beneficial Owners? Should it include searches related or tailored to their location or place of incorporation, assets including real property and liens on those assets? Are there items it should or should not include? Please explain.

135. Are there resources available to an intermediary that enable it to collect the information necessary for making a determination regarding disqualification or the potential for fraud or potential concerns as to investor protection? If so, which resources? Are there aspects of the proposed issuer disqualification rule that would make it difficult for an intermediary to assess whether the issuer is subject to a disqualification? If so, please explain. Are there additional events or factors relevant to reducing the risk of fraud that intermediaries should be required to check? Please explain.

136. Section 4A(a)(5) authorizes the Commission to specify measures to reduce the risk of fraud, in addition to background checks. Are there other risks of fraud which are not contemplated by the proposed rules? Are there any additional measures that we should specifically require? Please discuss any suggested measures, and explain. For example, should we require intermediaries to monitor investment commitments and

cancellations or take any other actions to detect potential attempts to promote an issuer's securities? If so, which actions and why?

137. Should the intermediary be required to report to the Commission (or another agency) issuers that are denied access? Why or why not?

The type of background checks, and what is considered to be a qualifying background check has been omitted in the proposed rules. The Commission must define what information disqualifies an individual from becoming an issuer. RocketHub believes only a minimum level of diligence should be undertaken during a background check, and the Commission must establish specific criteria, not procedures, for qualified and disqualified background check results, including protection of issuers under anti-discrimination laws. RocketHub strongly recommends the Commission considers allowing intermediaries to post the results of a background check alongside the issuance (instead of mandating disqualification), thereby allowing the market to decide whether or not it an individual is trustworthy. Note, this does not mean personal information should be revealed. Instead the specific flag should be listed. Examples might include: previously indicated on money laundering claims, in bankruptcy court, non-verified work history or academic background, etc. Issuers should be permitted to opt into more premium background services, which go above the minimum requirements set by the Commission, the results of which could be displayed.

RocketHub is highly concerned by the costs involved in performing background checks, and as such strongly recommends the Commission establish minimum requirements that are low-cost. Furthermore, RocketHub strongly encourages the commission to communicate with 3rd parties who are able to offer background check services, in order to appropriately estimate the costs of the diligence process. Background and securities enforcement checks should be performed on all issuers as described in Sec.302(b)/Sec4A.(a)(5). Intermediaries should be allowed to satisfy their obligations by checking commonly used databases for criminal background, bankruptcy filings, and tax liens, as well as cross check against the Office of Foreign Assets Control (OFAC) sanctions lists, and Specially Designated Nationals (SDN) and Blocked Persons lists. Portals will need to obtain liability waivers from prospective issuers before posting Commission mandated disclosures.

As mentioned, RocketHub's concern, regarding Sec.302(b)/SEC4A.(a)(5), and the nebulous language surrounding protections in the proposed rules, is that there is no standard set for background checks and disqualification. Background checks are useful in identifying issuers with a history of undesirable behavior, and may reduce the risk of fraud. However, blanket disqualifications based on certain information could result in discrimination against groups of people. For example, recent graduates often have poor credit scores due to limited credit history, but this demographic has also created some of this country's largest and most successful companies. Limiting an issuer's ability to

crowdfund based solely on credit score would be inappropriate and against the spirit of the Act.[42]

RocketHub recommends that, as a matter of policy, any and all required background checks should follow guidelines outlined by the Fair Credit Reporting Act (FCRA) and the Equal Employment Opportunity Commission (EEOC). Furthermore, the Commission must clearly define whether, or under what circumstances, the results of such checks need to be made public or should prevent an issuer from utilizing crowdfunding. The Commission's guidance should encompass the results of improved and more comprehensive databases in the future. At a minimum the Commission must offer answers to the following questions:

1. Which databases, if any, must be queried for records in the issuer's name?
2. If a record is found, what specific infraction or information will require exclusion?
3. If a record is found, but exclusion is not required, what specific information must be disclosed to prospective investors?

RocketHub encourages the Commission to note that accessing 3rd party databases comes at a cost, which in most instances will be passed on to the users in some fashion (both investor and issuer). In order to uphold the spirit of the Act, it is imperative to keep friction-based costs such as these as low as possible. [43]

II.C.4: Account Opening

138. Should we specify the types of information that an intermediary must obtain from an investor as part of the account-opening process? If so, what information and why? How would this information differ from what intermediaries would be required to obtain to fulfill their anti-money laundering obligations?

139. Should we permit any exceptions to the proposed requirements to obtain consent to electronic delivery? If so, why and under what circumstances? If an investor does not receive materials electronically, how would he or she be able to participate fully in an offering made in reliance on Section 4(a)(6)?

140. Are there any other means of providing information electronically by an intermediary that are not covered in the proposed rules but that should be covered? Are there any means proposed to be included that should be eliminated or modified? If so, what means are they? For example, should intermediaries be permitted to post

[42] RocketHub, *Regulation of Crowdfunding: Building on the Jumpstart Our Business Startups Act*, Pg. 6, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-39.pdf, May 2012

[43] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 11, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

information in an investor's account on its platform, without sending a notification that it is posted there? Why or why not? Should different types of information be required to be provided through different means? Please explain.

As a general matter, Portals should have flexibility in determining the information they require from potential investors. Portals must be able to establish that each investor using the Portal is unique. Otherwise, an investor could set up multiple accounts to fund one or more issuers on the Portal. Were an investor able to establish multiple accounts with a single crowdfunding Portal, either intentionally or accidentally, the investor could circumvent the Portal's efforts to enforce annual investment caps. Therefore, when registering with the Portal, we believe each investor should be required to supply the following information:

1. Full legal name
2. Social Security Number (SSN)
3. Date of birth
4. Full mailing address

As the Commission recognizes, this can all be handled digitally, and we agree that it was Congress' intent to have account creation and delivery of communication be completed digitally. RocketHub intends to require all users to consent to electronic delivery, and sees no reason for exemption to allow paper delivery to occur; paper delivery may be done as a supplemental at an investor or issuer's request. RocketHub anticipates a cost associated with this supplemental service. Furthermore intermediaries should be able to post all relevant information to an investor's account, which ensures easy consumption of relevant information and actionable items.

141. Is the scope of information proposed to be required in an intermediary's educational materials appropriate? Why or why not? Is there other information that we should require an intermediary to provide as part of the educational materials? If so, what information and why?

142. Should any of the proposed requirements be modified or deleted, and if so, which requirements and why?

143. Should we prescribe the text or content of educational materials for intermediaries to use? Why or why not? Should we provide models that intermediaries could use? Why or why not?

144. Should we specifically prohibit certain types of electronic media from being used to communicate educational material? If so, which ones and why?

145. Should we require intermediaries to submit the educational materials to us or FINRA (or other applicable national securities association) for review? Why or why not? If we should require submission of materials, should we require submission before or

after use, when they are first used, when the intermediary changes them or at some other point(s) in time? Please explain.

146. Should we require intermediaries to provide educational material at additional or different specified points in time, rather than only when the investor begins to open an account or make an investment commitment? Why or why not? If so, why would that be preferable to requiring updates on an as-needed basis? For example, should educational material be provided on a quarterly, semi-annual, or annual basis? Should this material be provided again to investors who have not logged onto or accessed an intermediary's platform for a specified period of time? Why or why not? If so, what should that period of time be?

When investing in a company via a crowdfunding Portal, investors face three broad categories of risk:

1. Underperformance of the issuer's endeavor;
2. Misrepresentation or fraud by the issuer; and
3. Investor misunderstanding of the nature and risks of the investment.

Under Section 302(b) of the JOBS Act, Portals are required to, "provide such disclosures, including disclosures related to risks and other investor education materials as the Commission shall, … determine appropriate."

In addition, the JOBS Act, specifically requires Portals to:

> (4) ensure that each investor—
>
> (A) reviews investor-education information, in accordance with standards established by the Commission, by rule;
>
> (B) positively affirms that the investor understands that the investor is risking the loss of the entire investment, and that the investor could bear such a loss; and
>
> (C) answers questions demonstrating
>
> (i) an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers;
>
> (ii) an understanding of the risk of illiquidity; and
>
> (iii) an understanding of such other matters as the Commission determines appropriate, by rule;

To implement these requirements, investors should be made aware of the following information before making an investment:

1. 100% of the funds invested are at risk because the business may fail;
2. Even if the business is "successful," the investor may never get any money back because either:
   a. The business never becomes successful enough, or
   b. If investor payout (or other structure) is not guaranteed, management may decide there are better uses for the funds;
3. The investor may not have any say in how the business is run; and

4. The investor may not be able to sell his/her stake in the business either because
   a. No one wants to buy, or
   b. It may be difficult to find a willing purchaser, or
   c. It may be difficult to transfer.

Investors should be required to acknowledge these risks before "clicking through" to make an investment. To take advantage of the web-based nature of funding Portals, the Commission should allow for both time tested, and new delivery methods for educational content. Those methods could include, but are not be limited to text, audio, pictures, video, and live seminars. All efforts should also be made to maximize engagement while presenting the educational content, and minimize the volume of required lessons. RocketHub intends to use interactive text and images, time tracking, click tracking, and live webinars to make the material easy to understand and retain.

In order to meet the Act's standard of "ensure," at the close of an educational module, perspective investors should be required to answer questions that demonstrate their understanding of the risks involved. Any questions that are specifically required should be presented in plain English. [44]

If educational materials are submitted to the Commission for approval, such approval should act to limit liability of the Portal under the Act.

II.C.5: Requirements with Respect to Transactions

153. Should we require intermediaries to continue to display issuer materials for some period of time after completion of the offering? Why or why not? If such a requirement were used, which time period would be appropriate? Why? What would be the potential costs and benefits associated with any such requirement?

154. Section 4A(a)(6) requires an intermediary to make available the information that an issuer is required to provide under Section 4A(b). Should we require an intermediary to make efforts to ensure that an investor who has made an investment commitment has actually reviewed the relevant issuer information? Why or why not? If so, how could we implement this?

155. Instead of, or in addition to, requiring that intermediaries make issuer information available on their platforms, should we require that intermediaries deliver this information to investors? Why or why not? If so, should we specify a particular medium, such as e-mail or a screen the investor must click through?

156. Should we consider timeframes other than the minimum 21 days from the time an issuer offers securities on an intermediary's platform, during which the offering information should be made available?

[44] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 8-9, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

157. Should some or all of the issuer's offering materials be required to remain on an intermediary's platform after the close of an offering? Why or why not? If so, for how long?

Intermediaries should continue to display issuer materials at minimum for an additional 30 days after completion of the offering. Intermediaries should have the right, at their own discretion, to continue to display the entire offering, or parts of it, for as long as they see fit.

Any investor moving forward with an investment commitment should demonstrate, through a representation of acknowledgment, that they have reviewed all relevant issuer information. This representation should be made prior to a commitment. This is another reason why RocketHub continues to campaign that the Commission reconsider the proposed rules concerning the rescission period addressed in our response to question 34 above. A well-informed investor should have evaluated all relevant information prior to making an investment, not afterward.

All information should be available on the intermediary platform. The rules should not mandate delivery of this information, in addition or in lieu of, platform base information availability. The 21-day time frame is a sufficient minimum.

Once an offering is completed, an issuer should have the right to limit publicly available information. For active offerings, interested investors should be able to be qualified prior to reviewing memorandums or other offering information. For example, they can request information access, which is subsequently granted by the issuer. This would only work if potential investors become members of the intermediary platform prior to reviewing in-depth information. RocketHub does not believe this should be mandated, but this methodology of issuer protection should be permitted under the proposed rules.

Sec.302(b)/Sec4A.(d) states:

> *(d) INFORMATION AVAILABLE TO STATES.—The Commission shall make, or shall cause to be made by the relevant Broker or funding Portal, the information described in subsection (b) and such other information as the Commission, by rule, determines appropriate, available to the securities commission (or any agency or office performing like functions) of each State and territory of the United States and the District of Columbia.*

RocketHub interprets the proposed rules covering Section 4A(d) as acknowledging state regulators as interested parties only, with information rights that are passive and not privileged.

158. Is the proposed approach for establishing compliance with investment limits appropriate? Why or why not? Is there another approach that we should consider? Please explain.

159. As mentioned above, we are proposing that an intermediary may rely on the representations of a potential investor. Is this an appropriate approach? Why or why not? Is there another approach we should consider? Please explain.

160. Should we require an intermediary to avail itself of readily available information concerning investor limits, such as a centralized database containing information relating to whether particular investors were in compliance with the investment limits, should one become established? Why or why not?

161. Should we require intermediaries to request other intermediary accounts that an investor may have before accepting an investment commitment? Why or why not?

RocketHub interprets a "reasonable basis" to believe an investor satisfies the investment limitations has been met once an investor represents and warrants they satisfy the limitations under Section 4(a)(6)(B) and agrees with the Commission's approach.

162. Should we require intermediaries to have investors acknowledge issuer-specific or security-specific risks as part of the transaction process? Why or why not? If so, to what extent?

163. Are there considerations relating to investor acknowledgments we should take into account, other than those discussed above? Is the proposed requirement to obtain an acknowledgement as to investors' understanding of their ability to cancel investment commitments appropriate? Why or why not? Should we require acknowledgement of investors' understanding of any other matters? Why or why not? If so, which ones and why?

164. Are there any matters apart from the risks identified above that we should require to be addressed in the investor acknowledgements? If so, which ones, and why? How should they be addressed?

165. Should we provide a recommended form of questions and representations? Why or why not? If so, should the Commission provide the form as a starting point, and not a safe harbor, so that intermediaries can adapt the questions and representations to particular offerings? Why or why not?

RocketHub believes that investors only need to comply with Section 4A(a)(4) once, upon account creation. Once an account has been created on an intermediary platform, an investor should be able to invest in multiple offerings on the same intermediary platform without having to re-certify and review the educational materials. When making new investments an investor should only have to certify that they read the educational materials when their original intermediary platform account was created, and acknowledge that inherent risk associated with the investment (proposed Rule 303(b)(2) of Regulation Crowdfunding). If the investor would like to review the educational material, they should be able to do so, on a discretionary basis.

While RocketHub believes intermediaries have the right to present educational materials and acknowledgements as they see fit, it requests the Commission provide a model form of

acknowledgement to be used as a reference. This will help increase consistence across intermediaries, and help guide intermediaries in the development of the representation and questionnaire. Viable alternatives are naturally acceptable, with Commission approval, but a reference model form should be provided to guide and inform the industry, so that the compliance programs that intermediaries establish are appropriately informed by the Commission.

166. Should we require intermediaries to provide communication channels, as proposed, on their platforms? Why or why not? If not, what other methods of communication could, or should, be used and why?

167. Are the proposed conditions imposed on the requirement to provide communication channels appropriate? Why or why not? For example, should the communications on the channels be available for public viewing or participation? Why or why not? What other restrictions, if any, should communication channels be subject to, and why? For example, should we require more specific actions for intermediaries to take in order to ensure adequate disclosure of issuers' and promoters' communications? If so, what actions and why?

168. Under the proposed rules, we limit the ability to post in the communication channels to only those persons who have opened accounts with the intermediaries and thereby identified themselves to the intermediaries. Is this restriction adequate? Why or why not? Would it be appropriate to permit anyone, including persons who have not identified themselves in any way, to post comments in intermediaries' communication channels? Why or why not?

169. The proposed rules would require any person posting a comment in the communication channels to disclose with each posting whether he or she is a founder or an employee of an issuer engaging in promotional activities on behalf of the issuer, or is otherwise compensated, whether in the past or prospectively, to promote the issuer's offering. Should we impose this requirement on other types of persons as well, such as affiliates of the issuer, regardless of whether they are engaging in promotional activities? Why or why not?

170. Should we require the intermediary to maintain the communication channels of its platform during the post-offering period, in order to permit communication between investors and the issuer after the offering has completed? Why or why not? If so, for how long after the offering is completed (e.g., for one month, for six months, for one year, or longer) should the intermediary be required to maintain the channels?

RocketHub agrees with proposed Rule 204 of Regulation Crowdfunding, however we would like to address complications that arise with the requirement, and request a loosening of the language.

Individuals may publicly tweet an issuer, or post a question on their Facebook account. If the question pertains to the offering, we believe the issuer can respond to the investor with a link that directs the investor to the public communication channel on the intermediary platform. The link

the issuer provides could be considered a communication, and we believe any communication that directs an investor to compliant communication on the Portal should be permitted.

Rule 303(c) is appropriate, but an intermediary should be permitted to also disclose relevant information to investors on the communication channel. Examples include: scheduled maintenance, issues with payment processing, technical concerns, etc.

RocketHub has concerns in regards to the communication channel being publicly available. Certain confidential information may have been disclosed between registered investors and the issuer, which are not suitable for a public forum. The Commission needs to consider the balance involved here. For example numerous established perks-based crowdfunding platforms do not even permit comments to be made unless the individual has registered and contributed funds. While RocketHub does not believe this is necessary, it does believe issuers need to be protected from non-registered users who are attempting to access confidential information or inflict harm within the forums, such as competitors and/or others. RocketHub agrees with the proposed rules concerning posts being only permitted by registered users.

Furthermore, the intermediary must have the right to block and remove the comment of any user who is using the public forum for advertising or promotional purposes. RocketHub also believes in the transparency of crowd discussions, but holds a legitimate concern of issuer protection.

Intermediaries should be able to assist posters in disclosing their relationship to issuer. For example, with a simple checkbox, a poster can allow the intermediary to visually highlight the post as one made by a founder or employee. However, the intermediaries must be allowed to rely on representations made by the poster and cannot not be liable for miss-representation. The communication channels should be open for at least the same amount of time as the minimum time the offering information is available. As per our response to question 153, RocketHub suggests a minimum of thirty (30) days, though the intermediary should be allowed to reserve the right to keep an offering, or any aspect of it, available online for a more extensive period of time.

171. Would the notifications we are proposing to require be useful to investors? Why or why not? Should we provide further specificity as to when notice must be provided?
172. Are there any other circumstances under which an investor should receive a notice? If so, under what other circumstances?

See RocketHub's response to request for comment 82 in Section II.B.2 above.

The notice must be submitted once an investor has made a commitment, and once the rescission period is over. RocketHub recommends a rescission period of 24-hours after commitment has been made, to avoid pump & rescind schemes, investor based fraud, and serious negligence towards issuer protection (see RocketHub's response to question 24, above).

173. Are the proposed requirements for fund maintenance and transmission appropriate? Are there other types of custody arrangements that we should specifically permit? Why or why not? If so, what types of arrangements should we permit and how would they protect investor funds?

174. Should we prohibit any variations of a contingency offering, like minimum-maximum offerings? Why or why not? Should we require that offerings made in reliance on Section 4(a)(6) be conducted on an "all-or-none" basis? Why or why not?

175. Instead of a requirement to transmit funds "promptly," as proposed, should we establish fixed deadlines for transmission, such as three business days? Why or why not?

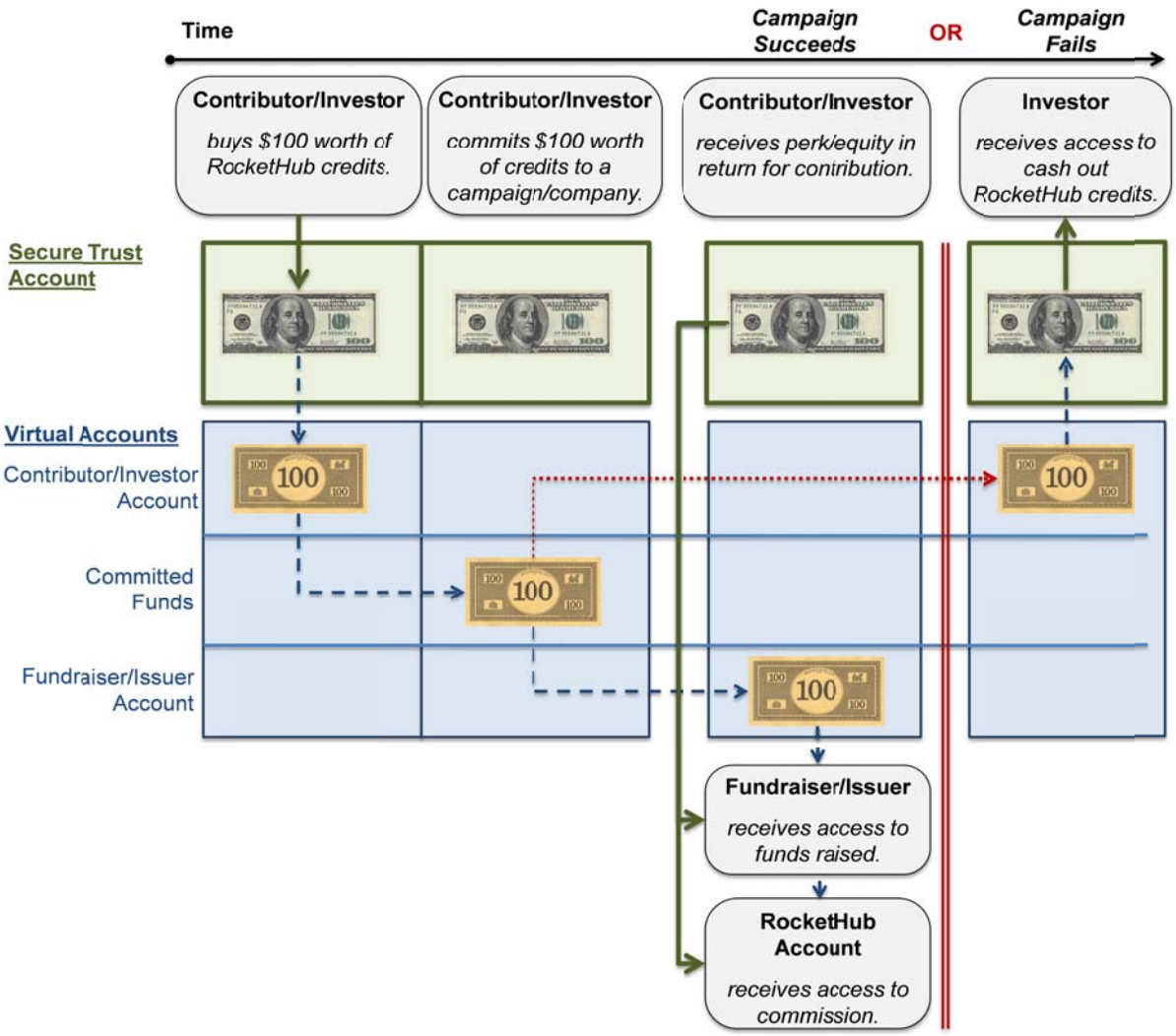
176. Should we expressly incorporate into the rules prior Commission, SRO and staff guidance regarding Exchange Act Rule 15c2-4 on, among other things: (1) the meaning of the phrase "distribution"; (2) the meaning of "prompt transmittal"; (3) the payment mechanics for escrow arrangements; (4) "receipt of offering proceeds" in the context of payment by check; (5) "prompt deposit," as it applies to the use of segregated deposit accounts; and (6) specifics as to who could act as the "agent or trustee" maintaining the segregated deposit account? Why or why not? Should any other specific guidance regarding Rule 15c2-4 be explicitly incorporated into the rules? Please explain.

177. Should we expand the definition of "qualified third party" to include entities other than a bank? Why or why not? If so, which ones? Please explain how other entities could adequately safeguard customers' funds and securities?

178. Should we require funding Portals to maintain a certain amount of net capital? Why or why not? If so, what would be an appropriate amount, and how should that amount be determined?

179. Should we require or prohibit certain methods of payments for the purchase of securities under Section 4(a)(6)? Why or why not? Are there any particular concerns raised by different methods? Would it depend upon whether a Broker- Dealer or funding Portal is facilitating the transaction? Why or why not?

In its first whitepaper, RocketHub offers a brief overview of its accounting methodologies, and policies pertaining to the processing of users' funds. RocketHub operates on a virtual currency system that allows contributors to purchase RocketHub credits. Those credits are then allocated to support a particular campaign. RocketHub does not handle user funds. When credits are purchased, user funds are maintained in a segregated account throughout the life of those credits. All user activity is registered through movement of virtual currency. RocketHub's ledger states how many credits of virtual currency each user has purchased, or has available, and how they have committed those credits. If a user has a balance of uncommitted credits, they are entitled to a full refund of the value of those credits.



RocketHub suggests extending this methodology to the equity crowdfunding model established under the proposed rules. Currently the proposed rules are non-descriptive to the exact approved mechanisms and dynamics between intermediaries and third parties. Throughout the life of a campaign, funds are maintained in a segregated trust account to prevent the "co-mingling" of RocketHub funds with user funds. They remain untouched until the campaign ends, at which point the investor is either committed, or receives a credit to his/her account balance, with the option to withdraw funds. RocketHub believes this system provides full oversight on flow of funds while providing a high-level of security for the issuer, investor, and Portal. Furthermore, the investor has the flexibility to allocate funds as they see fit, and withdraw funds when they deem necessary.

This system is a prime example of the proper handling of capital, in a manner compliant with the JOBS Act, and directly addresses concerns reflected by the Commission during recent discussions. RocketHub's proposed system has tax compliance, OFAC, AML,

Anti-Terror, Anti-Narcotics compliance, as well as money handling compliance as broken down below.

Tax Compliance

All individuals receiving funds from RocketHub's platform will be required to fill out (and digitally sign) digital versions of tax forms as part of their self-registration with RocketHub. For RocketHub's US based users, a W-9 (Request for Taxpayer Identification Number and Certification) will be required. For Non-US entities, RocketHub will require a declaration from the entities stating that they are not a "US Person" as per the Internal Revenue Services (the "IRS") definitions.

OFAC, AML, Anti-Terror, Anti-Narcotics Compliance

Before a payout is made to a user, RocketHub will automatically crosscheck payee identities against lists of restricted individuals and entities. This will occur before each and every payout cycle. RocketHub leverages a 3rd party database that is updated weekly with the latest information as published by the US Treasury Department's Office of Foreign Assets Control[45] (OFAC) in its SDN (Specially Designated Nationals) List.[46]

Money Handling Compliance

RocketHub has a single bank account used to fund all payments to all users. In partnership with a major bank and a PCI[47] compliant 3rd party, RocketHub has relinquished control of the account to the unaffiliated 3rd party. RocketHub is an owner of the account in writing only, but has no formal rights or ability to access the funds directly. RocketHub has outsourced the mechanics of the pay-out process while maintaining complete control over payment frequency, payment methods, and cost to payees. This system allows RocketHub to reduce costs well below those associated with traditional escrow accounts, pass the savings on to the user, and maintain the same level of protection in handling funds associated with traditional escrow accounts.[48]

Proposed rule 303(e)(3)(ii) requires funds to be returned to an investor if an investment commitment has been cancelled. RocketHub believes that crediting the funds back to an investor's user account, on an intermediary platform's system, is acceptable under the proposed rule. The Commission needs to consider that accepting funds from users comes at a considerable cost to the intermediary, and in the situation of a cancelled investment commitment, the intermediary or issuer may have to potentially bear this unavoidable cost. In order to minimize exposure to this risk, RocketHub intends to withdraw funds from an investor bank account only

[45] http://www.treasury.gov/ofac/
[46] http://www.treasury.gov/sdn
[47] The Payment Card Industry Security Standards Council was founded in 2006 by American Express, Discover Financial Services, JCB International, MasterCard Worldwide, and Visa. https://www.pcisecuritystandards.org/
[48] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 13-14 http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

after the 24-hour rescission period has ended. Those funds will sit in the investors RocketHub account, committed to the offering, until the offering succeeds (and the funds are transferred to the issuer) or fails (and the funds are released to the investor's RocketHub account). As previously mentioned, the rescission period in the proposed rules is not an acceptable practice, and RocketHub has made appropriate recommendations both in this paper, and in its previous whitepapers.

Permitting debt-based payment vehicles, such as credit cards, which have their own rescission policies, (i.e. charge backs) is problematic. Offering Portals discretion in the type of payment mechanisms they choose to process does help protect issuers or Portals. Less experienced Portals may be unaware of the risk to which accepting debt-based payments exposes them and issuers, and may generate serious misperceptions in the market, that will in the long-run jeopardize the viability of the marketplace, as well as expose issuers to significant fees.

If the Commission permits Portals and issuers to accept credit card payments, the Commission should provide clear guidance on how Portals and issuers should handle disallowed or fraudulent charges.[49]

II.C.6: Completion of Offerings, Cancellations and Reconfirmations

II.C.7: Payments to Third Parties

> 187. Should we permit an intermediary to compensate a third party for directing potential investors to the intermediary's platform under the limited circumstances described above? Why or why not? Should any disclosures be required? Why or why not? Please identify reasonable alternatives to this approach, if any.
>
> 188. What other concerns may be relevant in the context of third parties referring others to intermediaries, and how could they be addressed? For example, should compensation be limited in some additional way? Please explain.

Intermediaries should be permitted to compensate third parties for directing potential investors to the intermediary's platform. General business advertising, including through web search engine direction, should be permitted. Rule 305(a) and Rule 305(b) only restrict compensation for personally identifiable information, as well as performance based on securities sold. The Commission defines personally identifiable information to be information that could include "name, social security number, date or place of birth, mother's maiden name, or biometric records."[50]

[49] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 18-19, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

[50] proposed rules Pg. 199

II.D.1: Registration Requirement

189. Is the proposed method for registration appropriate? Why or why not? Are there methods that would be less burdensome to potential funding Portals while not impairing investor protection? If so, what are those methods? 190. Should we impose other restrictions or prohibitions on affiliations of the funding Portal, such as affiliation with a registered Broker-Dealer or registered transfer agent? If so, what are they and why? 191. Should the Commission, as proposed, permit a funding Portal to have multiple intermediary websites under a single registration application? Why or why not?

The Commission's rules should clearly address Portals that register with the Commission, and then subsequently license out or sell their registration. Some entrepreneurs have indicated that they intend to operate a "parent" funding Portal, which allows other sites to operate under its umbrella, (leveraging the parent's systems, architecture, design, infrastructure, etc.). If subordinate Portals are allowed to operate under the umbrella of a registered Portal, either the management team of the parent Portal must be liable for the operations of the subsidiary Portals, or those subordinate Portals must fully register with the SEC and FINRA as independent Portals. The logic applies also to the licensing of any "turn-key" Portal solution. The Commission must make it clear that the operators of each funding Portal must comply with all pertinent SEC and FINRA regulations.[51]

RocketHub believes in a clear registration system, and still strongly encourages the Commission to require Broker/Dealers to register on the same form as Portals, in addition to requiring the SRO to mandate that Broker/Dealers and Portals must follow the same compliance policies. RocketHub maintains a serious concern with Broker/Dealers having an unfair advantage in the market, by already being regulated and registered with the Commission as well as FINRA. Therefore, they may be able to service the market well ahead of Portals. This effectively eliminates the relevance of the Portal designation from the legislation constructed by Congress.

200. Is it appropriate for us to require a funding Portal to have a fidelity bond? Why or why not? 201. With respect to the fidelity bond requirement, is the proposed coverage of $100,000 appropriate for funding Portals? If not, what other amount or formula for calculating the required amount would be more appropriate and why?

[51] RocketHub, *Implementation of Crowdfunding: Building on Title III of the JOBS Act*, Pg. 22, http://www.sec.gov/comments/jobs-title-iii/jobstitleiii-179.pdf, October 2012

202. Is it appropriate to require the fidelity bond to cover associated persons of the funding Portal? Why or why not?

203. Are there other specific terms of a fidelity bond that we should consider requiring? If so, what terms and why?

204. Apart from requiring a funding Portal to have a fidelity bond, is there some other requirement that could be imposed on funding Portals, like insurance or something similar to SIPC, which would further protect investors? If so, what type of requirement and why?

RocketHub believes it is appropriate to require funding Portals to have a fidelity bond.

II.D.2: Exemption from Broker-Dealer Registration

212. Is the proposed exemption for funding Portals from Broker registration appropriate? Why or why not?

213. Should the exemption be conditioned on the funding Portal remaining in compliance with Subpart D of the proposed rules? Why or why not?

214. Is it appropriate to propose to require funding Portals to comply with the same requirements for purposes of Chapter X of Title 31 of the Code of Federal Regulations as imposed on a person required to be registered as a Broker or a Dealer? Why or why not?

215. Should the proposed exemption from Broker registration be conditioned upon a funding Portal's compliance with applicable Subpart C and D rules of proposed Regulation Crowdfunding? Why or why not? Should the failure to comply with certain requirements cause a funding Portal to lose its exemption? If so, which requirements and why? Under what circumstances should the Commission consider revoking the exemption of a funding Portal that fails to comply with these requirements?

RocketHub supports the Commissions interpretation of the exemption, and believes that AML compliance is necessary. Portals should be able to avoid liability through clear safe harbors and commercially reasonable efforts.

II.D.3: Safe Harbor for Certain Activities

216. Does the proposed safe harbor appropriately define the actions in which a funding Portal may engage? Are there other activities that should be addressed in the safe harbor? Are there activities included in the proposed safe harbor that should be modified or eliminated? If so, which activities and why?

217. Are there any additional conditions that should apply to the activities covered under the proposed safe harbor? If so, which conditions, and why?

218. Exchange Act Section 3(a)(80) provides that a funding Portal may not offer investment advice, and the proposed rules would provide a conditional safe harbor for certain activities that funding Portals may engage in without violating the statutory

prohibition on providing investment advice. Is the safe harbor sufficient, or should we provide additional guidance regarding the status of funding Portals under the Investment Advisers Act of 1940? Why or why not? Please discuss.

219. Should the proposed safe harbor permit a funding Portal to limit the offerings on its platform? If so, are the criteria set forth in the proposed rules appropriate? Why or why not? If not, what other criteria or conditions would be appropriate?

220. Are there any additional criteria that a funding Portal should be permitted to use when highlighting issuers and offerings on its platform? If so, which ones and why? Should a funding Portal be permitted to highlight issuers and offerings based on criteria that specifically relate to the activities of users on its site, such as offerings that have been viewed by the largest number of visitors to the platform over a particular time period? Why or why not?

221. As a condition of the proposed safe harbor, should we require funding Portals to clearly display, on their platforms, the objective criteria they use in limiting or highlighting offerings? Why or why not?

222. Under the proposed safe harbor, should we permit a funding Portal to post news, such as market news and news about a particular issuer or industry, on its platform? Why or why not? If so, what restrictions, conditions or other safeguards should apply, in particular so that a funding Portal would not be providing impermissible investment advice? For example, are there certain types of news or news feeds that should or should not be permitted, or should we restrict a funding Portal from posting only positive news coverage? Should a funding Portal be able to freely select the news stories it posts, or should there be some objective criteria? Please explain.

223. Are the proposed limitations on a funding Portal advertising its past offerings appropriate? Should we consider other advertising limitations? Should the proposed advertising rules be modified in any other way?

224. Should we permit a funding Portal to receive transaction-based compensation for referring potential investors to a registered Broker-Dealer? Why or why not? If so, should we impose disclosure requirements or other measures to mitigate potential conflicts? What should those requirements be and why? Should we permit a funding Portal to receive transaction-based compensation from an affiliate? Why or why not?

225. In addition to transaction-based compensation, are there other types of compensation that we should prohibit funding Portals from paying to persons who are not registered Broker-Dealers? Should we permit, as proposed, funding Portals to enter into compensation arrangements with registered Broker-Dealers or with any other regulated entities? Why or why not? If so, what types of regulated entities should be included? Please explain.

226. Are there circumstances in which a funding Portal could provide transfer agent services without handling investor funds or securities? If so, please describe.

227. Should the proposed safe harbor permit a funding Portal to engage in any other activities in connection with the required communication channels? Why or why not? If so, which activities and why?

228. Should the proposed safe harbor include other types of activities that potentially could be construed as investment advice? If so, which ones and why? Would an exemption from the Investment Advisers Act of 1940 or other regulatory relief be appropriate in connection with such activities? Are there types of advice an issuer may seek from a funding Portal that would not be considered advice about the structure or content of the issuer's offering? Please explain.

229. Should the agreed-upon terms of an arrangement with a funding Portal be required to be documented in a written agreement with the issuer? Are there certain terms that should be included?

230. Should the proposed safe harbor permit funding Portals to provide a mechanism by which investors can rate an issuer or an offering? If so, what safeguards, if any, should be required? Should the Commission, as a condition of the safe harbor, limit the ability to rate to persons who have opened an account with the funding Portal?

Proposed rule 402 of Regulation Crowdfunding had the potential to provide the necessary protections for good-actor intermediaries operating as Portals. However, as previously mentioned throughout this paper, the safe harbor does not provide sufficient protection for Portals:

- Material misstatements and omissions by issuers
    - The nature of crowdfunding does **not** permit Portals to handle the due diligence necessary to accept this form of liability. It directly contradicts both the nature of crowdfunding, including the "wisdom of the crowd," and how Portals currently operate under perks-based crowdfunding. Congress used the current perks-based platforms, such as RocketHub and a few select others, as a model in crafting the JOBS Act. A lack of Portal protection from material misstatements and omissions by issuers ignores a fundamental tenant that informed the JOBS Act.
- Misrepresentations by investors
- Limit offerings: Merit is too broadly defined.
    - Certain Portals may only choose to permit issuers who have been in business for a certain period of time, specialize in types of issuers or industries, or have a certain type of corporate structure. This should be permitted under the safe harbor. For example, certain classes of securities require a business to be a registered C-Corp with the IRS.
- Ambiguity of Rule 402(b)(10)
    - The Commission must outline clear criteria that a Portal can reference justifying a rejection under 402(b)(10), and thereby allow the Portal to obtain the safe harbor.
- E-mail notifications
    - Rules 402(b)(3) and 402(b)(2)(ii) permit automated e-mail notifications. However, they do not address the method by which the e-mail is sent out. For example, RocketHub currently sends out newsletters that feature certain campaigns. Under Section 4(a)(6) it would instead look to submit newsletters based on criteria defined by members. For example, members may select to only receive notification of offerings based in the North East of the United States. The Commission needs to provide guidance on what information the e-mail

notification can include or exclude. Furthermore, certain issuances may not esthetically fit the e-mail notification template of a Portal. A Portal may choose to omit that offering due to lack of the necessary media. This should be permitted and protected under the safe harbor.

- Inconsistencies in communication channels
    - The Commission states that investors looking to comment must to have accounts with the funding Portal prior to posting a comment, a critical step identified by Sen. Scott Brown.[52] The negotiation space discussed by the proposed rules should not be viewable by the general public. However, Section 5(a) of the proposed rules potentially contradicts this by mandating that all information is made available to the public. The Commission should clarify the potential inconsistency by acknowledging that if membership in a Portal is generally publicly available, then such "negotiation space" will be disclosed to the public.
- Advising issuers on offering structure
    - Commission has already implicitly stated within the proposed rules that Portals may permit offerings under a particular offering structure as dictated and constructed by the Portal. RocketHub requests the Commission to clarify this under the safe harbor.
- Paying for referrals & advertising
    - As previously mentioned, Portals can only instruct and require third parties to be in compliance with the proposed rules, but should not police compliance or be held liable for the compliance, or lack thereof, of third parties. A Portal should merely be notified of lack of compliance and subsequently attempt to prevent any future use by the third party for a period of time defined by either the Commission or the SRO.
- Compensation agreements with registered Broker-Dealers
    - This allows for the possibility that registered Broker-Dealers would create companies, registered as Portals, in order to handle certain tasks without full FINRA oversight as a Broker-Dealer. RocketHub strongly recommends that the Commission require the relationship between Portals and Broker-Dealers to be arms-length. If the relationship is not at arms-length, then the activity must be operated under the Broker-Dealer designation, not Portal.
- Denying access based on potential fraud or investor protection concerns
    - The Commission must establish clear criteria to provide appropriate protection from access denials under proposed Rule 301(c). At the moment the proposed rules are nebulous, and the lack of specificity unnecessarily exposes Portals to liability, and requires Portals to be highly subjective, which contradicts the legislative ban on providing Investment Advice.
- Accepting investor commitments

[52] 158 CONG. REC. S2231

- In both of RocketHub's previous whitepapers, RocketHub highlighted the Portal's ability to ***assist*** issuers in handling a direct registration system (DRS) between Issuer and Investor. The Portal is merely holding a ledger based on the direct registrations held, and is only virtually identifying and organizing the securities. At all times the securities are managed by the Issuer. The Commission, in the proposed rules, has discussed RocketHub's comments on this topic, however it appears to miss-categorize it as a handling and management of securities. RocketHub is highly concerned with the significant increases in cost, friction, formatting, and anti-competitive market trends that could form from a lack of oversight in the reporting and visibility of the securities. Issuers and Investors will both consult the Portal in regards to the nature and status of the securities. The Portal should be permitted to provide this support to the Issuer and Investor. It may choose to use a transfer agent, but under a DRS this should not be necessary.

VI: Initial Regulatory Flexibility Act Analysis

The Commissions objective was to design proposed regulation to "help alleviate the funding gap and accompanying regulatory concerns faced by small businesses by making relatively low dollar offerings of securities less costly and by providing crowdfunding platforms a means by which to facilitate the offer and sale of securities without registering as Brokers, with a framework for regulatory oversight to protect investors."[53] The Commission notes that the small entities subject to the proposed rules will most likely have total assets of $5 million or less.

Smaller entities tend to be more volatile and more illiquid than larger entities. This illiquidity needs to be considered when crafting regulation for small entity intermediaries and small entity issuers. Regardless of whether an intermediary has internal compliance personel, or uses a third-party, these compliance costs ultimately will have to be borne by the investors and issuers using the intermediary service.

While the Commission "does not believe it would be necessary to establish different compliance requirements for small issuers,"[54] RocketHub believes that this response paper has made clear that the proposed regulations are cost prohibitive and restrictive. The Commission adopted a heavy-handed regulatory approach, exemplified by the audit requirement, instead of taking advantage of the cost efficiencies available through a social media driven, web-based fundraising system. The proposed regulations will force small businesses to seek out an excessive amount of outside expert advice. This is not appropriate for the size of the market and issuer, will required the issuer to absorb an inordinate expense. Furthermore, Portals are saddled with misplaced liability hindering their ability to operate in the market alongside other intermediaries.

[53] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 464, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013

[54] Securities and Exchange Commission, Release Nos. 33-9470; 34-70741; File No. S7-09-13, Pg. 468, http://www.sec.gov/rules/proposed/2013/33-9470.pdf, October 23, 2013

RocketHub will continue to push for legislation which will help support the market, however the Commission should utilize the flexibility it was given under the JOBS Act, and alter the proposed rules to be more cost-sensitive, less burdensome, and more realistic. Doing so will allow for the development of a vibrant, effective, sustainable, and scalable securities crowdfunding market, and for the JOBS Act to have the intended effect.

* * * * * * *

If you have any questions or would like to discuss aspects of this comment letter, please contact:

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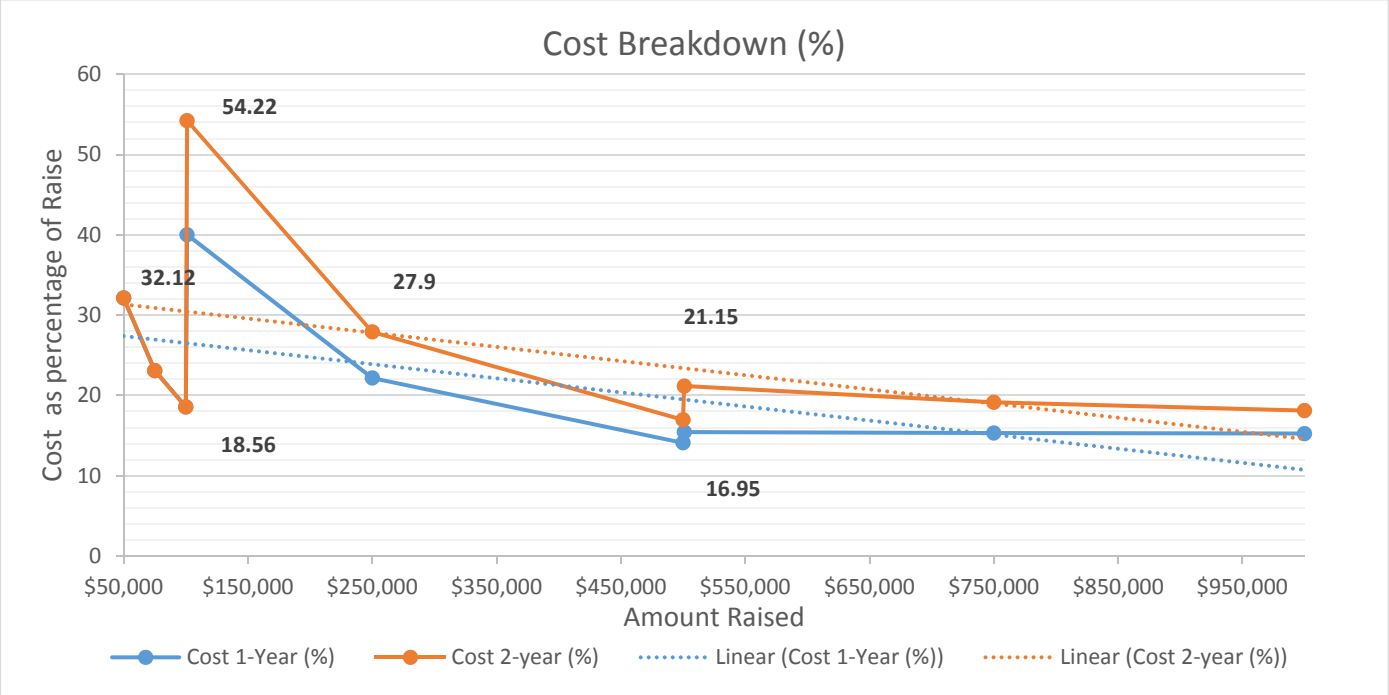
Appendix

I – Definitions

A = Compensation to the intermediary
B = Costs per issuer for obtaining EDGAR access codes on Form ID
C = Costs per issuer for preparation and filing of Form C for each offering
D = Costs per issuer for preparation and filing of the progress updates on Form C-U, E = Costs per issuer for preparation and filing of annual report on Form C-AR
F = Costs for annual review or audit of financial statements per issuer
G = Costs per issuer for preparation and filing of Form C-TR to terminate reporting
H_1 = Total cost as percentage of amount raised (%)
H_2 = Total cost as percentage of amount raised including two years' worth of financial statements/audits (if applicable)
T_1 = Total cost as dollars
T_2 = Total cost as dollars, including two years' worth of financial statements/audits (if applicable)
X = Amount raised

II – Diagrams & Tables

A.



B.

	Offerings of $100,000 or less	Offerings of more than $100,000, but not more than $500,000	Offerings of more than $500,000
Compensation to the intermediary. **A**	$2,500 - $7,500	$15,000 - $45,000	$37,500 - $112,500
Costs per issuer for obtaining EDGAR access codes on Form ID. **B**	$60	$60	$60
Costs per issuer for preparation and filing of Form C for each offering. **C**	$6,000	$6,000	$6,000
Costs per issuer for preparation and filing of the progress updates on Form C-U. **D**	$400	$400	$400
Costs per issuer for preparation and filing of annual report on Form C-AR. **E**	$4,000	$4,000	$4,000
Costs for annual review or audit of financial statements per issuer. **F**	Not Required	$14,350	$28,700
Costs per issuer for preparation and filing of Form C-TR to terminate reporting. **G**	$600	$600	$600

III – Issuer Cost Calculations

A.

X = $501,000
Audit is required
Minimum anticipated compensation to intermediary, A = 37,500

$\therefore$ A $= 37{,}500, B = 60, C = 6{,}000\ , D = 400, E = 4{,}000, F = 28{,}700, G = 600$

$T_1 = (A + B + C + D + E + F + G) = 77{,}260$

$H_1 = \frac{77{,}260}{501{,}000} \times 100 = \mathbf{15.42}\%$

*When including two years' worth of audits, 2*F = 57,400

$$T_2 = (A + B + C + D + E + F + G) = 105{,}960$$

$$H_2 = \frac{105{,}960}{501{,}000} \times 100 = \mathbf{21.15}\%$$

B.

X = $50,000

No audit or accounting requirement

Median anticipated compensation to intermediary, A = 5,000

$$\therefore \mathrm{A} = 5{,}000, B = 60, C = 6{,}000\ , D = 400, E = 4{,}000, F = 0, G = 600$$

$$T_1 = (A + B + C + D + E + F + G) = 16{,}060$$

$$H_1 = \frac{16{,}060}{50{,}000} \times 100 = \mathbf{32.12}\%$$

C.

X = $101,000

Accountant reviewed financial statements

Minimum anticipated compensation to intermediary, A = 15,000

$$\therefore \mathrm{A} = 15{,}000, B = 60, C = 6{,}000\ , D = 400, E = 4{,}000, F = 14{,}350, G = 600$$

$$T_1 = (A + B + C + D + E + F + G) = 40{,}410$$

$$H_1 = \frac{40{,}410}{101{,}000} \times 100 = \mathbf{40.01}\%$$

*When including two years' worth of accountant reviewed financial statements, 2*F = 28,700

$$T_2 = (A + B + C + D + E + F + G) = 54{,}760$$

$$H_2 = \frac{54{,}760}{101{,}000} \times 100 = \mathbf{54.22}\%$$

D.

X = $1,000,000

Audit is required

Maximum anticipated compensation to intermediary, A = 112,500

$$\therefore \mathrm{A} = 112{,}500, B = 60, C = 6{,}000\ , D = 400, E = 4{,}000, F = 28{,}700, G = 600$$

$$T_1 = (A + B + C + D + E + F + G) = 152{,}260$$

$$H_1 =$$

$$H_1 = \frac{152{,}260}{1{,}000{,}000} \times 100 = \mathbf{15.23}\%$$

*When including two years' worth of audits, 2*F = 57,400

$$T_2 = (A + B + C + D + E + F + G) = 180{,}960$$

$$H_2 = \frac{180{,}960}{1{,}000{,}000} \times 100 = \mathbf{18.10}\%$$

E.

$x \leq 100{,}000$

Using the function $ax + by + c = 0$

$$y = 0.05x + 13{,}560$$

F.

X = $501,000

Upfront costs only

$T_1 = (B + C + G) = 34{,}760$

G.

X = $101,000

Upfront costs only

$T_1 = (B + C + G) = 20{,}410$