

August 15, 2012

Securities & Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Ladies and Gentlemen:

Thank you for the continued opportunity to comment during the rulemaking process for the JOBS Act. This letter requests confirmation of a provision of Regulation E as it may apply to the CROWDFUND Act.

It seems clear that the process that investors will use to purchase securities under the provisions of the CROWDFUND Act will involve electronic transfer of funds; either utilizing ACH to transfer funds from a demand deposit account to a trust account at a holding institution or to convey funds from a credit or debit card to that same account. With regard to these transfers, §205.3 of Regulation E, Electronic Fund Transfer, defines the term *electronic funds transfer* as “any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer’s account.” The term *account* is defined in the previous section as “a demand deposit (checking), savings, or other consumer asset account (other than an occasional or incidental credit balance in a credit plan) held directly or indirectly by a financial institution and established primarily for personal, family, or household purposes.” Clearly, this regulation applies to transfers from individual checking or savings accounts to a holding account for purposes of later investment in a crowdfund securities offering.

However, in subsection (c)(4) of §205.2, *Exclusions from coverage*, it states in part that “The term electronic fund transfer does not include:

(4) *Securities and commodities transfers*. Any transfer of funds the primary purpose of which is the purchase or sale of a security or commodity, if the security or commodity is:

(ii) Purchased or sold through a *broker-dealer* regulated by the Securities and Exchange Commission or through a futures commission merchant regulated by the Commodity Futures Trading Commission;

While the crowdfunding exemption under the JOBS Act applies to both brokers and funding portals, this exclusion provision of the Electronic Fund Transfer Act applies only to broker-dealers and does not specifically include “funding portals” as presently defined in the securities regulations.

Requiring compliance with the requirements of Regulation E by funding portals would put them in an untenable position with respect to regulated broker-dealers. Among other things, the 60-day time period after transmittal of a statement during which a consumer can report an “unauthorized” electronic transfer and limit his or her liability places a great deal of risk with the

funding portals that would necessitate maintenance of large reserve accounts with financial institutions or others initiating the transactions and holding the funds.

It is clear that the Commission intends to place funding portals on par with broker-dealers for purposes of equity crowdfunding. I feel it is imperative that the Commission add language to the securities regulations that will make equivalent broker-dealers and funding portals with respect to Regulation E and any other regulations that are implicated in the type of transactions anticipated by the CROWDFUND Act.

Thank you for your consideration of this matter.

Respectfully,

Marshall Neel, Esq.
Co-Founder at Crowdfunding Offerings, Limited