



## PUBLIC STARTUP COMPANY, INC.

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To: [Mary Jo White](#), Chair  
[Brent J. Fields](#), [Secretary](#) and Elizabeth M. Murphy,  
Associate Director, and [Charles Kwon](#), Office of Chief  
Counsel, [Division of Corporation Finance](#)  
[Securities and Exchange Commission](#)  
100 F Street, NE, Washington, DC 20549-1090

From: Jason Coombs, Co-Founder and CEO  
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CC: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Re: File No. 4-692 <https://www.sec.gov/comments/4-692/4-692.shtml> Review of “Accredited Investor”  
Report: <https://www.sec.gov/corpfin/reportspubs/special-studies/review-definition-of-accredited-investor-12-18-2015.pdf>  
Re: File No. S7-06-13 <https://www.sec.gov/comments/s7-06-13/s70613.shtml> Amendments to Regulation D  
JOBS Act legislation URL <http://www.gpo.gov/fdsys/pkg/BILLS-112hr3606enr/pdf/BILLS-112hr3606enr.pdf>

This review of the “Accredited Investor” definition is extremely important. It is fundamental to the structure of the American economy, and has dramatic influence over what the American way of life is for everyone.

In [my previous Comment](#), I called attention to changes made to the 1933 Securities Act after it became law:

**“Our constitutional rights seem to have been stolen from us over time through revision and administrative actions by the SEC. The original Act language makes very clear, in each area where our constitutional rights have been unreasonably infringed, that the Act was not meant to infringe rights but was meant to regulate markets and public offerings with or through an underwriter.”**

I also urged the SEC to keep the rules consistent for all issuers, not to create a bias for or against any group. A proposed law known as the Micro Lending Safe Harbor Act sponsored by Representative [Tom Emmer](#) is presently being advanced in Congress, and it [already has the support of both the National Small Business Association and the Small Business & Entrepreneurship Council](#). The Micro Lending Safe Harbor Act is an excellent way for our constitutional rights to be restored, and I believe it should be passed into law and that the impact of the Act may be profound because it would apply equally to large companies as to startups. By restoring our currently-infringed constitutional rights, this proposed law could encourage large companies to routinely launch new experimental initiatives or to sponsor fund-raising for useful social benefit purposes through the efficient sale of equity or debt securities. The amount of such “Micro Offering” would be under \$500,000.00 or else only 35 investors would be accepted, each of whom could invest more than \$14,285.71 on average, which allows the issuer's “non-public” Micro Offering to exceed \$500,000.00 in total. This may become the standard of practice for existing “C Corp” issuers to operate more like “B Corp” public benefit corporations while the C Corp issuers still retain their existing legal and capital structures. Sponsors of the experimental projects or social benefit activity, those investors who fund such non-public Micro Offerings, could receive shares of the issuer regardless of issuer size or [Well-Known Seasoned Issuer](#) (WKSI) status.

I want issuers of all sizes to be free to launch “public startups” without regulation that prohibits this activity in violation of the U.S. Constitution. It is *not always* the case that backers of new “public startups” demand newly-created securities in a class of securities which did not exist previously, nor do backers always expect direct voting rights to govern the new economic activity itself. Any existing corporate structure, technically a “corporate person” in accordance with the legal principle of “[corporate personhood](#),” is already allowed to issue additional securities held by an existing class of investors to reward new backers who may not expect control over a new experimental or social benefit project but who do need securities for accounting reasons.

I see nothing wrong with issuers selling securities at prices which are not intended to provide buyers with a high probability of future capital gains, or any return on capital through dividends, etc. – if and when buyers are informed that they are buying the securities as a mechanism to properly account for the financial impact of providing funding support to a speculative or social benefit undertaking whose primary purpose is other than creating financial return for the buyers. I strongly believe that accounting for social benefit in this way, when an existing company creates a “public startup” as a means to attract crowdfunding backers, is entirely consistent with the stated and implied purpose of the JOBS Act and is fully-compliant with all applicable accounting rules and regulations. In my opinion, many social benefit “public startups” and most speculative undertakings created by established companies in this way *actually will* produce a return on investment for the backers thereof, just not on a time horizon that is usually expected by Wall Street and very likely not a true return on investment at all when returns (after decades-long holding periods) are adjusted for inflation. The potential for return on investment at any point, or a capital loss useful for offsetting other capital gains, together with ownership and voting rights, make crowd-funded public offerings by well-established issuers a natural mechanism for investors and issuers to use to guide deployment of new capital to specific types of activities with a high degree of confidence there will be accountability and transparency. I view this use of Regulation D Rule 506(c) as an ideal for-profit complement to existing tax-exempt non-profit fund-raising.

Given the choice between funding never being allocated to social benefit projects by for-profit companies organized and operating under the old rules for corporations, and funding being allocated in this way, newly raised to contribute to some social benefit purpose, I choose the latter and I believe everyone else will, too. What I am advocating is that issuers be encouraged to consider social benefit to be a source of actual profit. Being supported, by regulation and modern accepted “best practices” in cyber finance and crowdfunding, to sell their securities at prices that “take money off the table” from the perspective of buyers, even at prices higher than the buyers could have purchased the same class of securities from a different seller, or from the issuer themselves in a different securities offering, effectively locks-in immediate accounting profits for the issuer. This is the inverse of charges issuers must recognize when issuing securities at below-market prices, such as when compensating employees via advantageously-priced stock options and other equity incentives.

According to the Census Bureau there were [5,756,419 firms in the USA with under 500 employees but only 606,933 firms with 20+ employees](#) as of 2013. If only firms with 20+ employees were to launch new social benefit “public startups” each year by allowing members of the general public to purchase their securities to accomplish a specific social benefit or in order to set in motion something new or experimental that requires crowdfunding with new backers to support or to justify attempting in the first place, then over \$303 billion in new capital would be created and deployed each year while only modestly reducing the concentration of ownership and control over the 10% of companies that hold nearly all wealth but that provide 82% of all employment. Considering the importance of these policy changes, which are certain to usher in a new era of cyber literacy through online social and impact investing not just in America but globally, the “Accredited Investor” definition should matter deeply to *everyone*. Despite this, [there have not been many comments in response to SEC's publication of the report](#) to review these rules. The SEC has been tasked with the review and possible Rulemaking to revise this regulatory definition by the [Dodd-Frank Act](#). I hope executives and investors from every part of our country discover the importance of this structural revision to regulation of American corporate finance and provide suggestions that request official support for forensic transparency. When everyone becomes accustomed to being as transparent and cooperative as crowdfunding platforms in practice already achieve, bringing backers and creative leaders together to form capital will be understood in the context of constitutional freedoms. It is my firm belief that forensic transparency enables anyone who wants to attract financial backers to do so in a way that is legitimate and worthy of regulatory support. Not offering to produce a profit for backers should never disqualify an issuer or a crowd-funded project from the benefit of safe harbors or market regulation intended to facilitate capital formation or protect basic freedom. The SEC should ensure anyone is eligible to qualify as “accredited” and all issuers can conduct new “Micro Offerings” through Regulation D Rule 506(c) and the SEC should encourage “forensic transparency” by the issuers of all unregistered securities in accordance with best practices in crowdfunding and cyber finance.