



August 16, 2012

U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090
Attn: Ms. Elizabeth M. Murphy, Secretary

Re: Title III – Intermediaries’ Financial Interest In Issuers Using Their Services

Thank you again for allowing EarlyShares the opportunity to comment and assist the SEC with the rulemaking process for Title III of the JOBS Act. We acknowledge that the SEC will be tackling a multitude of issues during this process. As an Equity Based Crowdfunding platform, EarlyShares supports the SEC in its promulgation of rules and policies that will allow crowdfunding to flourish, which will ultimately allow American small businesses to flourish. In this comment, EarlyShares suggests that the SEC establish rules that clearly define an intermediary’s ability to have a financial interest in an issuer using its services.

Rules that specifically allow for intermediaries to have a financial interest in an issuer using its services will benefit the issuer and the intermediary alike. The issuer will be that much closer to having a successful crowdfunding investment round by way of the intermediary’s interest and the intermediary will be able to strengthen its financial assets by way of the new interest in the issuer.

Section 4A(a)(11) of the Securities Act of 1933, as amended, provides that an intermediary shall “prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services.”¹ On its face, this language does not expressly prohibit an intermediary from having any financial interest in an issuer using its services. The inclusion of “directors, officers, or partners” coupled with the exclusion of the intermediary itself tends to support the presumption that an intermediary is permitted to have at least some ability to have a financial interest in an issuer using its services.

EarlyShares supports rules that will permit an intermediary to have a financial interest in issuers using its services. At the same time, EarlyShares understands the potential issues that may arise and appreciates the need to ensure that each transaction promotes investor protection and transparency. The following principles are suggested for SEC consideration in order to effectuate the successful execution of the former and latter objectives listed above. First, in order to prevent any potential unfair advantage, the intermediary should only be able to invest on the same terms that the crowd invests under. Another potential issue that may arise is that the intermediary may inadvertently be exposed to material nonpublic information when dealing with an issuer. Any material nonpublic information that the intermediary (or any person acting on behalf of the intermediary) possesses prior to and/or after taking a financial interest in an issuer using its services must be disclosed on the platform in a secure manner consistent with the

¹ 15 U.S.C. 77a et seq. (2012).



disclosure of other material nonpublic information that investors will receive on the issuer's profile page on the intermediary's website. Of course, the intermediary could refrain from taking such an interest and disclosures would be made with respect to any applicable duty to disclose the material nonpublic information as required by rule.

Additionally, because an intermediary will be bound by the same one-year restriction on sales period as any other investor under Section 4A(e) of the Securities Act of 1933, as amended,² there will be no risk of investors being misled by a "false start" or "pump and dump" scheme. Further, the intermediary's interest should remain anonymous throughout the investment campaign period so that any financial interest taken by the intermediary will not be construed as an offer of "investment advice or recommendation" under 3(a)(80)(A) of the Securities Exchange Act of 1934,³ as amended. Anonymity requirements and rules that will set an objective criterion for an intermediary's display of issuers on its website will ensure fairness to all parties involved.

The JOBS Act was implemented to "Jumpstart Our Business Startups." The adoption of some form of this proposal will provide an efficacious vehicle to support the heart of the Act.

Please contact EarlyShares if there is anything we can do to assist the SEC with this process.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "M. Lopes", written over a horizontal line.

Maurice Lopes,
CEO
EarlyShares.com, Inc.

² 15 U.S.C. 77a et seq. (2012).

³ 15 U.S.C. 78c(a) (2012).