

MEMORANDUM

FROM: Sebastian Gomez Abero
Special Counsel
Office of Chief Counsel, Division of Corporation Finance
U.S. Securities and Exchange Commission

RE: Meeting with representatives of the American Sustainable Business Council

DATE: December 3, 2012

On December 3, 2012, Commission staff met with representatives of the American Sustainable Business Council to discuss issues regarding the implementation of Title III of the Jumpstart Our Business Startups Act.

The following Commission representatives were present: Joseph Furey, Joanne Rutkowski, Timothy White, Daniel Gien and Troy Stoddard from the Division of Trading and Markets; Lillian Brown and Sebastian Gomez Abero from the Division of Corporation Finance; Robert James and Tracey McNeil from the Office of Minority and Women Inclusion; and Owen Donley from the Office of Investor Education and Advocacy.

The following representatives of the American Sustainable Business Council were present: Frank Knapp, Richard Eidlin, Bryan McGannon and Jenny Kassan (Cutting Edge Capital).

The information provided by the representatives of the American Sustainable Business Council is attached.

Attachment

Agenda:

- Update on ASBC crowdfunding best practices model
- Discuss ASBC's two-tier proposal for smaller, local offerings
- Integration - we request that crowdfunding under the new exemption not be integrated with offerings under the intrastate exemption and Rule 504 (and if possible all of Reg D)
- Restricted securities - we request that securities sold under the crowdfunding exemption be freely tradeable after one year

Comments on the Crowdfunding Exemption
American Sustainable Business Council and Cutting Edge Capital
June 7, 2012

Diversity

The crowdfunding exemption should be available for all kinds of issuers and all kinds of securities. Issuers may be sole proprietors, LLCs, cooperatives, nonprofits, etc. Securities offerings may be bonds, notes, common stock, preferred stock, convertible notes, revenue sharing agreements, etc. The rules should accommodate this diversity.

Transparency

The following are some suggestions to maximize transparency:

- Require intermediaries to collect data on transactions and provide regularly updated reports on such measures as number of offerings, percentage of offerings that reached their target, average offering size, types of issuers, etc.
- Require the intermediary to be transparent about its business structure, ownership, geographic location, backgrounds of its principals, and financial performance.

Value and support the “wisdom of the crowd”

Intermediaries should be required to host open, public communications channels to allow potential investors to communicate with the issuer and each other.

All communication between the issuer and potential investors should be required to be publicly displayed on the portal. The system should allow for tracing online comments to prevent gaming the open comments system.

Allow intermediaries to use screens and ratings

Intermediaries should be legally allowed to use objective criteria (i.e. geography, type of business, etc.) to screen issuers.

Intermediaries should also be free to impose other criteria and rating systems on issuers. For example, some intermediaries may want to require all issuers to meet certain environmental sustainability standards and to achieve some minimum score on a rating system that measures sustainability.

The rules should make it clear that such screening and rating is permissible for both brokers and non-broker portals.

Geographic Data

Intermediaries and issuers should be required to provide information on geographic location of headquarters and branches so that investors can choose to target issuers located in or near their own communities.

Integration

The statute does not address the issue of integration with other securities offerings. The rules should clarify that offerings under the crowdfunding exemption will not be integrated with private offerings.

Less onerous requirements for smaller offerings

The rules should add a second, less onerous tier for offerings in which each investor invests no more than \$100 and the maximum raised is \$100,000. These small offerings should be permitted to use a "short-form" process for complying with exemption, similar to the IRS' practice of creating "EZ" forms for smaller taxpayers. Intermediaries who only focus on small offerings should also be exempted from the heavier regulatory requirements for other intermediaries.