



The Crowdfund Investing Regulatory Advocates  
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By Email ([rule-comments@sec.gov](mailto:rule-comments@sec.gov)) and U.S. Mail

May 15, 2012

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

**Re: Public comments on SEC Regulatory Initiative under the JOBS Act pertaining to General Solicitation in Titles II & Titles III**

Ladies and Gentlemen:

We are the Crowdfund Intermediary Regulatory Advocates (CFIRA, “the Organization”). Our sister organization is the Crowdfunding Professional Association (CfPA, “the Association”). CFIRA consists of 87 crowdfunding industry businesses, and CfPA has 460 members. CFIRA formed as a result of the passage of HR3606 by Congress. A letter was sent from the Organization, then called the Crowdfunding Leadership Group, to President Obama. The letter addressed the interest of the nascent crowdfunding industry in ensuring that a transparent, compliant and efficient market form through active involvement. The President made reference to this letter in his remarks at the bill signing ceremony.

Sherwood Neiss and Jason Best, the two entrepreneurs who crafted the framework for the crowdfunding legislation are founding members of the Association. Given their vision for the crowdfunding industry, coupled with our members’ knowledge and experience - the group consists of intermediaries, securities lawyers, and academics - we wish to share with the Securities and Exchange Commission (“SEC”) how we believe the intent of the General Solicitation Rule should be interpreted within the context of social media and the internet.

**STATUTORY FRAMEWORK**

1. Title II of the Jumpstart Our Business Startups Act (the “Jobs Act”) requires that the Securities and Exchange Commission revise section 230.506 of Title 17 of the Code of Federal Regulations to “provide that the prohibition against general solicitation or general advertising contained in section 230.502(c) of such title shall not apply to offers and sales of securities

made pursuant to section 230.506, provided that all purchasers of the securities are accredited investors.”

2. Title III of the Jobs Act requires that issuers utilizing the exemption set forth in section 4(6) of the Securities Act of 1933 “not advertise the terms of the offering, except for notices which direct investors to the funding portal or broker.”

3. Section 230.502(c) defines a general solicitation to include (but not limited to) “any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio” or “any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.”

## **RULEMAKING PROCESS**

We believe the following questions should be addressed in any rulemaking process:

1. Will issuers offering and selling securities pursuant to section 230.506 be permitted to send notices to potential investors that do not constitute a general solicitation and, as a result, retain their ability to sell securities to up to 35 non-accredited investors?

2. Will the rules require any specific disclosure in a section 230.506 general solicitation?

3. What information may be included in a “notice” directing investors to a funding portal or broker?

4. The rules should contemplate the role of social media (including, but not limited to, Facebook/Twitter/LinkedIn/ Google+). We anticipate that entrepreneurs will solicit from their networks via social media buttons on SEC-regulated funding portals.

## **PROPOSED PERMITTED COMMUNICATIONS**

1. We believe issuers should be permitted to send notices to investors without being deemed to be engaged in a general solicitation. The content of such communication should be regulated in a manner consistent with the notices permitted to be provided by a crowdfunding issuer.

2. Given the developing role of social media, including mandated legends or disclosures in a section 230.506 general solicitation is problematic. For example, twitter only permits 140 characters in any given communication, and a Facebook “Like” has no characters. While we understand and support the information that legends provide, we suggest that the rules permit the use of social media without providing such legends/disclosure, so long as appropriate legends/disclosure are provided in an effective manner. The rules should specify when and in what form appropriate legends/disclosures should be provided (e.g. on the crowdfunding portal, to which the social media is linked, although not necessarily limited to this).

3. Per the legislation, we assume that ,while general solicitation is restricted to the rules for the issuer, any uncompensated communication by other than the issuer, out of the issuers control, would not constitute general solicitation (e.g. someone receiving a solicitation from the

issuer via social media passing it along in their network or in printed form without prompting or request, although not limited to this necessarily).

4. Exemption language should be included which reflects distribution or promotion of offerings via "0 characters" such as one-click buttons for Facebook "Likes", Google+1, Pin It, retweets, etc.

5. We suggest the following information be permitted in a "crowdfunding notice" (and would therefore not constitute a general solicitation in a section 203.506 offering):

- Name of business (e.g.: Joe's Organic farm)
- Amount of offering & type (e.g.: \$50,000 of common stock for 15% ownership or amount, interest rate and terms for debt offerings). Intermediary (e.g.: Launcht.com) Link to offering (e.g.: [www.launcht.com/148061](http://www.launcht.com/148061))
- Informational in nature but no guarantees on rates of return (e.g.: To build Miami Beach's first local organic market to supply produce to 3 local restaurants and community members.)

**0 Character Examples:**

Clicking on a Facebook "Like" link, clicking on a Google "+1" link, clicking "Pin It", clicking to "retweet" a post, and clicking "Share" on a blog or other post.

**140 Character Example:**

"Check out Joe Smith's Crowdfund Offering: Joe's Organic farm \$50,000 of common stock for 15% ownership via Launcht [www.launcht.com/148061](http://www.launcht.com/148061) \$100 minimum investment."

**360 Character Example:**

"Check out Joe Smith's Crowdfund Offering: Joe's Organic farm. Miami Beach's first organic market supplying produce to 3 local restaurants and community members. \$50,000 of common stock for 15% ownership, \$100 minimum investment. Information about Joe, the business and the investment opportunity are available on Launcht, [www.launcht.com/148061](http://www.launcht.com/148061)"

**1,500 Character Example:**

"Hi Charlie,

Your friend Joe Smith here with Joe's Organic Farms. I'm writing to you because I want start my own organic farm. I've been working in the business for 2 years and see an opportunity to start one of my own. Since you know me and my passion for organic food I wanted to extend this offer. If you are interested, come check out my listing. We aim to be Miami Beach's first local organic market. We will supply produce to 3 local restaurants and community members.

In exchange for \$50,000 of common stock we will give up 15% ownership. We are looking for minimum investments of \$100. Information about me, the business model and the investment opportunity are available on Launcht [www.launcht.com/148061](http://www.launcht.com/148061).

Regards,

Handwritten signature of Jason Best in black ink, consisting of stylized initials 'JB' followed by a horizontal line.

Jason Best  
Startup Exemption

Handwritten signature of Candace Klien in black ink, written in a cursive style.

Candace Klien  
Co-Chair CFIRA

Handwritten signature of Vincent Molinari in black ink, written in a cursive style.

Vincent Molinari  
Co-Chair CFIRA

Cc: White House Office of Science and Technology Policy, Executive Office of the President