January 15, 2014

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Proposed Rules for Regulation Crowdfunding - File No. S7-09-13

Dear Ms. Murphy:

We greatly appreciate the opportunity offered by the Securities and Exchange Commission (the "Commission") to provide comments and recommendations on its proposed rules and regulations for Regulation Crowdfunding reflected in Commission Release Nos. 33-9470, 34-70741, File No. S7-09-13 (the "Rule Proposal").

StartupValley is an online equity funding portal that will allow investors to invest in private companies under Section 4(a)(6) of the Jumpstart Our Business Startups Act (the "JOBS Act"). Our focus from the beginning has always been to be a Title III funding portal. Even with the delay, we have held tight and have not deviated from our mission.

We greatly support and applaud the Commission's efforts in the Rule Proposal. We are excited about the future of securities-based crowdfunding and are delighted to see we are nearing the home stretch to getting the rules passed and live for the industry to participate.

After reading through the Rule Proposal, we believe that it is important to comment on the following questions and we offer recommendations for the consideration of the Commission staff. We understand that much of the proposals are based on the statute, yet others were created based on interpretation of what Congress intended. Please accept our comments and opinions to the below questions; many reflect feasible alternatives to those proposed in the Rule Proposal. Set forth below are Startup Valley's recommendations on selected questions.

13. Should we define the term "platform" in a way that limits crowdfunding in reliance on Section 4(a)(6) to transactions conducted through an Internet website or other similar electronic medium? Why or why not?

The term "platform" should be defined and explained in a way that provides a broad definition to encompass all possible scenarios, whether through client-side or server-side technology, where crowdfunding transactions in reliance on Section 4(a)(6) of the Securities Act of 1933, as amended, (the "Securities Act") can be conducted. One thing to understand is that a platform is not always a visible entity and in many instances transactions can be performed virtually outside the "platforms" website. Examples include: Internet websites, mobile websites, mobile applications, social applications, back-end server technology and infrastructure, cloud computing, and the like. It is important to understand how these various forms of platform mediums work together in the integrated technological world as it currently exists and is likely to exist in the

future. As an example, a mobile application can be developed by StartupValley to operate on a user's mobile device through an application programmable interface (API). The mobile application could authenticate the user and provide a validated user with functionality to fund a deal, which would in essence be processed through the StartupValley "platform", but could be perceived outside the intermediary's website. It is also important to note that technology advances quickly and the definition of "platform" will need to be updated potentially on an annual basis or on another periodic cycle.

14. Should we permit crowdfunding transactions made in reliance on Section 4(a)(6) to be conducted through means other than an intermediary's electronic platform? If so, what other means should we permit? For example, should we permit community-based funding in reliance on Section 4(a)(6) to occur other than on an electronic platform? (fn67) To foster the creation and development of a crowd, to what extent would such other means need to provide members of the crowd with the ability to observe and comment (e.g., through discussion boards or similar functionalities) on the issuer, its business or statements made in the offering materials?

No, the rules should not allow crowdfunding transactions to be conducted through means other than an intermediary's electronic platform because this has the potential to increase fraudulent activities. All transactions should be conducted through an intermediary's platform (our recommended definition described above) and no other means should be allowed. As noted above, the definition of "platform" should be broad enough to define and encompass all possible scenarios of technology infrastructure that are available in today's world. The argument has come up about how to service communities where Internet-connectivity is not prevalent. We would debate and suggest that members of that community have access to libraries where the Internet would be accessible. We would further argue and suggest that the intermediaries could hold offline events where laptops, iPads, and other forms of Internet connected devices can be provided. The intermediaries could guide the members of the community through their registration process and educate them on the process in order to potentially fund an offering.

40. Should we require disclosure of the amount of compensation paid to the intermediary, as proposed? Why or why not? Should we require issuers to separately disclose the amounts paid for conducting the offering and the amounts paid for other services? Why or why not?

This question can be answered in two parts. The first way an issuer can disclose this information is through their "Use of Proceeds" disclosure in their offering materials. The second alternative should be clearly defined and labeled through the intermediary's website as we feel it's important the intermediary provides an easy way to access their "Costs and Fees" page from all pages of the website. We do not believe the issuer or intermediary would need to post this directly on the pitch page, as a "Costs and Fees" link in the footer of the intermediary's website would be accessible from every page on the site. This would clearly define and disclose to the public any amount of compensation paid to the intermediary.

41. Should we require the issuer to include certain specified legends about the risks of investing in a crowdfunding transaction and disclosure of the material factors that make an investment in the issuer speculative or risky, as proposed? Why or why not? Should we provide examples in our rules of the types of material risk factors an issuer should consider disclosing? Why or why not? If so, what should those examples be?

To answer the first part of the question, no, we do not believe the issuer should have to include specific legends about the risks of investing in a crowdfunding transaction, as this information is the responsibility of the intermediary to educate the public about the risks of investing in such transactions. When investing in a deal, the intermediary would present these legends to the investor during the funding process.

To answer the second part of the question, requiring disclosure, of the material risk factors that make an investment in the issuer risky, should be put solely on the responsibility of the issuer and no liability should be passed on to the intermediary, more specifically a funding portal, since the ability to curate deals is out of the funding portal's control. Also, we feel that investing in any deal has risks and providing examples of further material risk factors would never encompass all possible scenarios that could be determined as risk factors in the eye of each investor.

48. Should we exempt issuers with no operating history from the requirement to provide a discussion of their financial condition? If so, why? Should we require such issuers to specifically state that they do not have an operating history, as proposed? Why or why not?

Startup Valley believes that requiring issuers to specifically state on the intermediary pitch page that they do not have an operating history should be sufficient enough to fulfill their financial conditions.

64. Section 4A(b)(1)(D)(iii) requires audited financial statements for offerings of more than $500,000 "or such other amount as the Commission may establish, by rule." Should we increase the offering amount for which audited financial statements would be required? If so, to what amount (e.g., $600,000, $750,000, etc.)? Please provide a basis for any amount suggested. Should we identify additional criteria other than the offering amount, as one commenter suggested, (fn204) that could be used to determine when to require an issuer to provide audited financial statements? If so, what should those criteria be?

From our discussions with nationally recognized accounting firms, the cost and complexity to provide audited financials for startups is costly, time-consuming and not necessary for a company with no financials to audit. Audit fees can exceed $20,000 for companies that have been in business for a few years. It is not unusual for an independent audit to cost $10,000, even for a small startup with no financials. Audits (specifically GAAP audits), which are included in a filing with the Commission are extremely expensive since they generally provide the highest level of assurance that an accountant can provide. The cost of a GAAP audit is typically 25% - 50% higher in cost than and audit performed under OCBOA.

Since there is no solution for a 'watered-down' GAAP audit, which means that GAAP applies to entities regardless of size (even startups), the Commission should consider allowing audits pursuant to Other Comprehensive Basis of Accounting ("OCBOA"), which would cut down the cost significantly, while providing investors significant level of protection.

We recommend a two-step approach:

First, allow audits under OCBOA. This will significantly reduce the cost of an audit, typically 25% - 50%, while providing the same end result. Most startups will be cash basis and forcing them to switch to accrual accounting under GAAP will be extremely burdensome and costly to a startup.

Second, we believe that eliminating audits completely for companies less than two years of age is a realistic and wise move for the companies that are likely to take advantage of the Final Rules. Many startups require $500,000 - $750,000 as seed investment for their first round. Getting locked into the requirement to provide a GAAP audit, just to post on an intermediary, is not realistic and unnecessary if there are no hard numbers to audit.

80. Should we require ongoing annual reports, as proposed? Why or why not? Should we require ongoing reporting more frequently than annually? Why or why not? If so, how often (e.g., semi-annually or quarterly)?

StartupValley does not feel that ongoing annual audits as part of the annual reporting should be mandated. As the Commission is aware, in the startup investing world, audits are not required by the issuer, unless its investors feel it's necessary and worthy of their time, money, and resources. We believe that crowdfunding transaction in reliance under Section 4(a)(6) should be no different. If the investors do not feel an annual audit is necessary at that time, the issuer should not be forced to complete one and invest unnecessary dollars. As in any typical startup investment, the investors should have the say on whether they feel the dollars and resources are necessary to spend at that time. We strongly believe this type of investor-involvement should be translated into the Rule Proposal as well.

121. The proposed rules do not independently establish licensing or other qualification requirements for intermediaries and their associated persons. The applicable registered national securities associations may or may not seek to impose such requirements. Should the Commission consider establishing these requirements? Should the Commission consider establishing requirements only if the associations do not? Would licensing or other qualifications for intermediaries and their associated persons be necessary, for example, to provide assurances that those persons are sufficiently knowledgeable and qualified to operate a funding portal? Why or why not? If so, what types of licensing or other qualifications should we consider?

We do not feel that the Commission should impose any separate licensing or other qualification requirements for intermediaries or their associated persons, other than the rules governing such intermediaries proposed by the Financial Industry Regulatory Authority. Intermediaries, specifically funding portals, will all have various business models and will leverage many third-party service providers to accomplish specific goals as it relates to the regulations and requirements of the rules. Having a license requirement might not even relate to their business model and would be something that wouldn't help accomplish or prove anything as it relates to their knowledge in running their portal. Furthermore, the responsibilities of a funding portal are extremely limited as no curation or investment advice can be offered.

130. The proposed rules incorporate a "reasonable basis" standard for intermediaries to determine whether an issuer would be subject to a disqualification. In contrast, there is no reasonableness standard for intermediaries' requirement under the proposed rules to deny access to an issuer if it believes the issuer or the offering presents potential for fraud or otherwise raises concerns regarding investor protection. Is it appropriate to have these two different standards under the proposed rules? Why or why not? If one of these standards is not appropriate, please explain what would be a more appropriate standard and why.

Yes, we feel that having these two sets of standards, to be used in different scenarios, is needed and gives the industry some structure. It also provides the intermediary with some level of control to determine a basis for disqualification, potential for fraud, or otherwise.

132. Should we require intermediaries to make the results of the proposed background checks publicly available? Why or why not? Would doing so raise privacy concerns?

No, we believe that background checks being posted publicly should not be mandated and left to the choice of the intermediary whether or not they want to display the results of a background check. We believe that this is more of a choice as it relates to security and how public they want their member's most private information to be.

133. Should we specify the steps that an intermediary must take in obtaining background and securities enforcement regulatory history checks on the issuer and its officers, directors (or any person occupying a similar status or performing a similar function) and 20 Percent Beneficial Owners? Should we require, for example, an intermediary to check publicly-available databases, such as FINRA's BrokerCheck and the Commission's Investment Adviser Public Disclosure program? Why or why not? Are there third parties who would be in a position to provide these types of services? Please discuss.

Again, we do not feel the Commission should specify the steps that an intermediary must take in obtaining background checks or searching and checking publicly-available databases. There are going to be various third-party service providers that an intermediary can integrate and work with that will help fulfill the various ways to perform these highly important tasks. This also ties back into the business model offered by the intermediary and funding portals and should be left to their determination to decide what is right for them.

137. Should the intermediary be required to report to the Commission (or another agency) issuers that are denied access? Why or why not?

The only way this would be helpful is if the Commission (or another agency) created a database, stored these reports, and provided a way for intermediaries to search the database and check for any past reports made by other intermediaries. If this will not be possible, we do not feel there should be a need to provide this data to the Commission, unless of course the Commission requests information on a particular issuer from the intermediary.

145. Should we require intermediaries to submit the educational materials to us or FINRA (or other applicable national securities association) for review? Why or why not? If we should require submission of materials, should we require submission before or after use, when they are first used, when the intermediary changes them or at some other point(s) in time? Please explain.

Startup Valley expects that most intermediaries will make their educational materials publically available on their website. Accordingly, we do not feel intermediaries should be required to submit these materials to the Commission or FINRA. Furthermore, we believe that educational materials will most likely change from time to time and that it would be best if potential investors are required to check directly with their intermediary's website.

150. Is the requirement for an intermediary to disclose how it is compensated an appropriate requirement? Why or why not? Would a time other than at account opening be more appropriate for this disclosure? Please explain.

Startup Valley believes that the best way for the intermediary to disclose how it is compensated is via a "Costs and Fees" page on their website. Having a link in the footer of the intermediary's website, is more transparent and readily accessible than merely during the account opening process. Users in the Internet world are accustomed to searching the footer of the website for things like FAQs, support, contact information, fees and pricing so we feel this is the best place to disclose this type of information.

155. Instead of, or in addition to, requiring that intermediaries make issuer information available on their platforms, should we require that intermediaries deliver this information to investors? Why or why not? If so, should we specify a particular medium, such as email or a screen the investor must click through?

The question and section in the Rule Proposal opens a big concern for StartupValley as it relates to the potential for fraud. We feel it is critically important that the Commission not mandate that all information regarding a deal is made publicly available on the intermediary's website, without a potential investor being a registered member of that intermediary. We agree with making certain information on the pitch page publicly available and visible to all users, regardless of membership level, if it relates to information such as company information and description, pitch video, executive team, type of securities being offering, terms of the deal, etc. But as it relates to disclosure documentation and financial information such as financial statements, use of proceeds, legal disclosures, certification of incorporation, etc., we believe that it is important to allow the intermediary to put these documents behind a membership registration process to gain access and view this type of information.

The concept of Data Scraping

Before we go and address the issue of data scraping and how we feel it will potentially lead to increased fraud, we feel it's important to first define what it is. Data scraping (sometimes referred to as screen scraping or web scraping) is a technique in which a computer program extracts data from human-readable output coming from another program (e.g. a website). The program is not visible to the human eye and it works behind the scenes to navigate a website, copy its contents, and store that information in another location outside of the original database. Not only can data of a website be scraped and copied, but visual elements as well.

A popular and accepted use of scraping on the web is when a search-engine crawler, like the Google crawler (Googlebot), navigates the Internet to copy and store data from websites across the globe. The Google crawler will copy this information and store it in a centralized database, building the index for the Google search engine. When a user performs a search on Google's platform, it calls the Google search index and returns a set of relevant data, based on Google's pre-determined set of algorithms.

Another popular, but not accepted use of scraping, is when a program is developed to crawl and scrape a website to copy the contents of the site with a malicious strategy or intent in mind. Sometimes this activity is done to steal data or replicate a website for its own

purposes. It's specifically this example that opens a great area of concern and we feel can lead to the potential of increased fraud.

As with all membership-based websites, it is critically important that certain information be hidden behind a registration wall. Forcing users to simply register for a basic account and verify their email address (by clicking a link in their email) to gain access to this information is very important to the entire industry and can greatly reduce the potential for fraud. We are not suggesting the user needs to "open a full account" with the intermediary, but merely a basic membership account to enter their name and verify their email address.

Having all information made publically available on an intermediary, without a basic member account, will open up the ability for people to develop programs to run against the intermediary and scrape its data and documents. This information can then be copied over to an un-registered and non-approved funding portal where the potential for securities fraud can happen. Simply forcing users to verify that they are a physical person, and not a malicious program, can eliminate this from happening and give the intermediary greater control over the security of their website.

The argument arises that this information will be submitted to EDGAR and will already be publically available; however, this is not the same. EDGAR is not capable or setup to receive and display all types of documents, videos, PowerPoint presentation, etc., the way such documents or other information will be viewable on an intermediary's website. Scraping the EDGAR system is not the same as being able to scrape an intermediary, copy their code and visual elements, copy all information as it appears in the format on an intermediary, and then creating a replica of that intermediary.

We highly recommend allowing the intermediaries to provide a multi-tiered member registration process on their platform and not mandating that everything be made public. A multi-tiered registration process would provide two levels of access: Member and Investor. A Member would have access to all information once they have completed a simple registration process. The Investor would be the same as a Member but has provided the necessary information and credentials required to "open an account" with an intermediary and be ready to make an investment in an offering.

This is the right of the intermediary; their security and back-end data management should be of the responsibility of the intermediary.

170. Should we require the intermediary to maintain the communication channels of its platform during the post-offering period, in order to permit communication between investors and the issuer after the offering has completed? Why or why not? If so, for how long after the offering is completed (e.g., for one month, for six months, for one year, or longer) should the intermediary be required to maintain the channels?

We do not feel that the intermediary should be required to keep the same communication channels open during the post-offering period, which was used during the pre and/or funding offering periods, as it will allow non-investors to be able to view private information that should only be viewable to the issuers and their shareholders. We feel that it is better suited for the issuers, investors, and the entire industry to allow intermediaries to keep those original communications viewable, but close the gateway of being able to make new posts once a

campaign closes. Then, the intermediary can open up a private channel (for the issuer and their shareholders) to be able to make new posts and communicate in a closed-door environment during the post-offering period. If the concern is just having a communication channel available to investors during the post-offering period, then yes, we do agree with this, just do not require the intermediary to use the same public communication channel that was used during the pre and funding offering periods.

216. Does the proposed safe harbor appropriately define the actions in which a funding portal may engage? Are there other activities that should be addressed in the safe harbor? Are there activities included in the proposed safe harbor that should be modified or eliminated? If so, which activities and why?

Startup Valley feels the proposed safe harbor broadly defines the actions in which a funding portal may engage. However, we believe there needs to be further clarification and guidelines set forth under each of these actions to clearly define the functions in which a funding portal may engage. As an example, funding portals are allowed to highlight offerings based on objective criteria but this still leaves much room for interpretation – e.g. is the term "trending" objective, since it relates to the progress of that offering in relation to other offerings? Or is the term "Most Investment Interest" objective, as it relates to the amount of investment commitments of the other available offerings? We recommend that further guidelines are needed in these areas to help a funding portal understand the breadth of the actions within the safe harbor.

222. Under the proposed safe harbor, should we permit a funding portal to post news, such as market news and news about a particular issuer or industry, on its platform? Why or why not? If so, what restrictions, conditions or other safeguards should apply, in particular so that a funding portal would not be providing impermissible investment advice? For example, are there certain types of news or news feeds that should or should not be permitted, or should we restrict a funding portal from posting only positive news coverage? Should a funding portal be able to freely select the news stories it posts, or should there be some objective criteria? Please explain.

We agree with allowing portals to post news on its platform about a particular industry or issuer, as long as the news is properly labeled. News is a critical piece to the puzzle when it comes to doing research on a particular industry or issuer when deciding on whether to make an investment. Whether the news gets pulled in through the intermediary, or the investor does it on his or her own through Google News, it will be a viable option. Having a centralized place to view news about a particular industry or issuer can help consolidate and streamline the process for the investor. We are in agreement of allowing news to be displayed though the intermediary, as long as the intermediary properly labels the news as it relates to the different scenarios of categories.

Page 280, Section II/E/5 – Scope of Statutory Liability

The final item Startup Valley would like to address relates to the topic of funding portal liability. The Rule Proposal reviews the liability provision for crowdfunding transactions under Section 4(a)(6) set forth in Section 4A(c) of the Securities Act which provides, in pertinent part, that an issuer will be liable to a purchaser of its securities sold pursuant to the proposed crowdfunding rules if the issuer "in the offer or sale of the securities, makes an untrue statement of material fact, or omits to state a material fact required to be stated or necessary in order to make the statements, in light of the circumstances under which they were made, not misleading" - unless the purchaser

knew of the untruth or omission, or the issuer did not know, and in the exercise of reasonable care could not have known, about the untruth or omission. The Rule Proposal then states that because an "issuer" is defined to include "any person … that offers or sells a security" in a crowdfunding offering, "intermediaries … would be considered issuers for purposes of [the] liability provision." As a result, under the Rule Proposal, a funding portal will be subject to a liability regime that imposes a private right of action which is nearly identical to that provided in Section 12(a)(2) of the Securities Act. Thus, intermediaries would need to consider the extent of any due diligence required in order to sustain a defense that, if a material misstatement or omission occurred and is contained in posted offering materials, the intermediary did not know it and reasonably could not have known it.

We believe that the level of liability reflected in the Rule Proposal would have an extreme chilling effect on the willingness of intermediaries to undertake the goals of Section 4(a)(6) of the JOBS Act. As a result, we believe that the Commission should expressly undertake one or more of the following recommendations: (a) exempt a funding portal from liability under Section 12(a)(2) of the Securities Act so long as the portal follows the requirements of the final crowdfunding rules adopted by the Commission, (b) provide a safe-harbor for activities that can be taken by a funding portal in posting offering materials on behalf of issuers relying on the final crowdfunding rules adopted by the Commission, or (c) provide a list of reasonable steps that can be undertaken by a funding portal to preclude liability under Section 12(a)(2) of the Securities Act.

Thank you for taking the time to consider our comments and recommendations. It is important that the industry works together to develop an ecosystem that is efficient, without jeopardizing or harming the startup community.

We are excited by the opportunity to help entrepreneurs and small businesses gain access to startup capital, thus fostering job growth and stimulating the U.S. economy. We want to help in any way possible, so please do not hesitate to reach out if you would like to discuss our comments in further detail.

Respectfully submitted,

Daryl H. Bryant
Founder and CEO
StartupValley
Board Member, CFIRA