



January 21, 2014

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

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

Dear Ms. Murphy,

I am writing to you on behalf of ClearTrust, LLC in response to the Commission's request for comment on the proposed rulemaking implementing the crowdfunding provisions of the Jumpstart Our Business Startups Act.

ClearTrust, LLC is an SEC-registered stock transfer agent. We provide a broad range of shareholder recordkeeping services for privately held and publicly traded companies. As an active industry stakeholder, we would like to share with the Commission certain concerns related to the recordkeeping requirements in the proposed rules.

The Commission's stated purpose is to "protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation". Section 17A of the Exchange Act of 1934 was specifically intended to protect investors by creating recordkeeping standards for publicly traded securities. Section 17A requires, amongst other things, for transfer agents to be registered with the Commission. Because the Commission recognizes the importance of quality recordkeeping to protect investor interests, it has been diligent in examining registered transfer agents for compliance with the Section 17A rules, and taking enforcement action against agents found in violation. It has performed such regulatory oversight in the interest of protecting investors.

There is no question that the Commission perceives accurate shareholder recordkeeping to be essential to protect investors. It seems to us that the Commission might be undervaluing the role of the transfer agent to protect investors in the proposed crowdfunding rules.

The proposed rules would not require issuers to utilize an SEC-registered transfer agent for shareholder recordkeeping. Our experience as a transfer agent representing small and private issuers is indicative that this could harm both investors and issuers attempting to take advantage of the crowdfunding model.

First, we have experience assuming recordkeeping services for issuers who have, prior to hiring us, maintained their own shareholder records or arranged for a third party to do so. These records are typically kept in a basic spreadsheet form, and stock issuances, transfers, or other changes are recorded by deleting and editing line item entries. This type of rudimentary ledger system lacks any type of quality controls that would detect or prevent errors.¹ In contrast, the software and operational controls of registered transfer agents are specifically designed to prevent erroneous recordkeeping that might otherwise rob investors of record accuracy.

We are also concerned that issuers or other third parties might have limited understanding of stock transfer rules, which could result in shares of dissenting shareholders being arbitrarily cancelled. While this is an extreme measure, it is not impossible that a member of management of a small startup company could subjectively modify shareholder records, either intentionally or unintentionally. Registered transfer agents who are familiar with an issuer's UCC Article 8 obligations and other relevant regulations would safeguard against this risk.

Shareholder recordkeeping covers an extensive range of functions that are indispensable to service investors. Beyond simply issuing stock, a record-keeper must be able to properly transfer shares, replace lost certificates, safeguard against securities fraud and theft, record and report cost basis information, comply with unclaimed property reporting requirements and the Patriot Act, amongst other things. Our experience is that issuers are usually not well-versed in these obligations, and value the expertise that a transfer agent can offer to ensure compliance.

To this end, our experience with issuers that have kept shareholder records themselves indicates that maintaining records properly is burdensome and time-consuming (hence the reason the work gets outsourced to specialized transfer agents). The Commission has commented that it is concerned about the cost of requiring a registered transfer agent for issuers who participate in crowdfunding. The Commission should recognize the value of an entrepreneur's time and the lost opportunity cost of dealing with shareholder issues rather than growing their business, in addition to the costs of potential legal liability an issuer would be exposed to for failure to properly maintain their shareholder records.

Registered transfer agents, in contrast, take advantage of economies of scale and specialized expertise to offer quality, controlled recordkeeping services at minimal costs to issuers. The competition amongst agents for crowdfunding business will also drive costs down to the benefit of small issuers.

If the Commission does not require issuers to use a registered transfer agent under the proposed rules, it may fall short of its mission to "protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation."

¹ Possible recordkeeping errors include but are not limited to failure to properly cancel or issue shares that have been transferred, failure to balance debits and credits during transfers, failure to record issuance and cancel dates, failure to update shareholder address changes, issuing duplicate certificate numbers to multiple shareholders, failure to record or acknowledge restrictions on shares, ambiguously issuing shares ("John or Jane Doe") and even inadvertently *deleting* the entire record of a shareholder's ownership.

Allowing anyone to maintain shareholder records, regardless of qualifications, experience, or quality control will create a wild west in the world of crowdfunding. There will be no assurance that securities are properly safeguarded, deterring investor confidence in the crowdfunding model. This could adversely affect an issuer's capital raising abilities and diminish the success of crowdfunding overall.

Depending on an issuer or non-transfer agent provider to process transfers and record changes could create uncertainty in the marketplace that the Section 17A rules were established to avoid. Investors would have no guarantee of a set transfer turnaround time, no guarantee that their legal rights as a shareholder under UCC Article 8 will be protected, and no basis on which to believe their requests will be properly processed. The absence of stock transfer procedures afforded by regulated transfer agents could harm an investor's ability to resell crowdfunding shares. Again, this risk could deter investor confidence and hinder the success of crowdfunding overall.

Further, it is likely that issuers who participate in crowdfunding may eventually desire to be quoted on OTC Markets. This requires an extensive application to FINRA in which, amongst other things, an issuer would need to demonstrate the pedigree of shares and historical share activity. While such reports can be generated in seconds by a registered transfer agent, it could take weeks for an issuer or other recordkeeper to retrace the history of each outstanding share. Even then the risk of insufficient or erroneous reports could abound due to unsophisticated, unregulated recordkeeping practices. Hence, an issuer with poor records may lose the opportunity to be traded in a secondary market, hindering the growth of the company, harming the resale value of crowdfunding shares, and hurting the company's potential for future capital-raising. Again, this could deter investor confidence and harm the success of crowdfunding overall.

There are several reasons why the Commission should require the use of a registered transfer agent under the proposed rules, and only a few are discussed here. Ultimately, if the Commission desires to protect the interest of investors and instill integrity into the crowdfunding model, we believe it is essential that it adopts our suggestion. We are confident that other quality transfer agents would echo the same.

Thank you for the opportunity to share our views in a frank, open manner. I would welcome further discussion and can be reached at [REDACTED] or [REDACTED]

Sincerely,



Kara Kennedy
Executive Director
ClearTrust, LLC