
EquityNet, LLC
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January 28, 2014

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

Re: File Number S7-09-13; Securities and Exchange Commission call
for comments pertaining to 17 CFR 200, 227, 232, 239, 240 and
249.

Ladies and Gentlemen:

We appreciate the opportunity to comment on the proposition of new regulation concerning Crowdfunding to implement the requirements of Title III of the Jumpstart Our Business Startups Act as called for by the Securities and Exchange Commission on October 23, 2013.¹ The purpose of this letter is to: 1) draw attention to the unintended contradiction and ambiguity created by the use of the term *assessment* as proposed in § 227.402(b)(3)(ii); 2) ask that the drafters correct the use of the phrase *objective criteria* in § 227.402(b)(3)(ii); and 3) ask that the drafters carve out an exemption in the safe harbor allowing portal user feedback which is user sortable, subject to § 227.402(b)(4), in light of the rewrites proposed to solve the issues posed by points 1 and 2.

The key issue at hand in § 227.402(b)(3)(ii) is the prohibition of investment advice by parties not registered as Investment Advisors in concert with now-existing federal law and rules.² The proposed rule, as drafted, appears to be structured to bar portals from creating sorting

¹ H.R. 3606 enacted April 5, 2012; In this letter, we refer to the Securities and Exchange Commission as “the SEC” or “the Commission”.

² Investment Advisors are categorized as intermediaries under § 227.300 et. seq. While similar issues may exist for intermediaries, this letter is strictly concerned with the safe harbor provisions applicable to portals as addressed in § 227.400 et. seq. of SEC publication 33-9470.

features for investor users as a mechanism to filter or sort search results based on the advisability of investing in the underlying issuer or its offering, or from sorting based on any derived opinion based on any characteristic of same issuer. While we fully support the SEC's stringent safeguarding of consumer welfare in the spirit of this section, we wish to draw your attention to important practical issues that result as a consequence of certain word choices and omissions, including the potentially crippling inability for investors to use objective criteria to navigate through thousands of offerings on a platform.

First, the broadness of the word *assessment* leads to ambiguity in what search or sort mechanisms might be considered investment advice.³ By definition, an assessment does not necessarily render or involve an opinion. While it is somewhat common in the finance arena to use the term assessment from a risk analysis perspective, the common-use form of the word in technology can vary greatly.⁴

For instance, in the simplest of circumstances, a sorting mechanism assesses the value held by a variable in order to return either true or false. If one were to limit the search and sort functionality of a simple search to businesses in the state of Washington, the portal would query databases that contained the data the portal maintained, and for each business, a value would be stored in a variable which either marked that business as belonging to the group "in the state of Washington" (true) or not belonging to the group "in the state of Washington" (false). From here, the portal would systematically assess the values stored in the variables and print only those members which had a value of true, indicating that they belong to the group "in the state of Washington".

Because programming language architecture requires the assessment of values stored in variables in order to provide return sets, this creates a contradiction between § 227.402(b)(3)(i), and § 227.402(b)(3)(ii). By example, in § 227.402(b)(3)(i), it is clearly established that objective search and sort criteria such as geographic location, the type of securities being offered, and the industry or business segment of the issuer are allowable. However, because each of these factors must be assessed computationally and are characteristics of the issuer, while permissive under § 227.402(b)(3)(i), they are expressly barred under § 227.402(b)(3)(ii).

In light of the above, the ambiguity of the word *assessment* can be further highlighted in situations where an objective sorting mechanism can be created using the criteria barred from assessment in § 227.402(b)(3)(ii). For instance, those utilizing a portal may be interested in sorting issuers by years of experience of key management, among other things, which can easily be quantified objectively without portals rendering any advice or opinion. As illustrated above,

³ *Assessment* in this context refers to the use of the word in § 227.402(b)(3)(ii) and in subsequent notes on safe harbor provisions in SEC publication 33-9470.

⁴ "Assess" is defined by Merriam Webster as "to determine the importance, size, or value of". Where in both mathematics and technology variables are assessed to determine their size or their value, where for instance $x = 6$, 6 is the value of x , it becomes obvious that using the word assess to imply an opinion can cause issues.

assessment is so substantially vague as used when applied to technology that the effect of using it here would be to bar any sorting algorithm that could, at the user's direction, sort by management experience.

We believe this issue can easily be remedied by changing the term *assessment* in the section as written, to *opinion*, which better characterizes the policy intentions of the section, and removes from doubt the possibility that the Commission intended to impede the technological processing of the information, as above.

Turning to the use of the phrase *objective criteria* in § 227.402(b)(3)(ii), it is clear from the drafting of the section and the subsequent notes released by the SEC that the Commission is seeking to remove from safe harbor provisions any disillusion that portals may have that they are free to inject their opinions into the decision making process of their users. However, and as we are sure the Commission is aware, *objective criteria* are necessarily free of opinion and bias. The result of the language appears to be the banning of *objective criteria* that are subjective in nature, which confuses the subject and raises a question as to whether or not objective criteria which are not subjective in nature are banned from use, as well.

Here, too, we believe the issue can easily be remedied by removing the term *objective criteria*, and replacing it with the verbiage: "search and sort functionally may not be based on subjective criteria such as [...]" which better illustrates the policy intentions in the section and removes from doubt the intentions held by the drafters.

Lastly, and in concert with § 227.402(b)(4), investors will have the ability to provide feedback via comments and discussions on portal sites. We believe investor generated information and due-diligence can have a profound impact on fraud deterrence. Where an investor may be local to an issuer or have in the past dealt with an issuer, or where an investor may just be zealous in their due-diligence, they would be in a better position to offer their independently-derived opinions than the average investor.

While not directly addressed in the text of § 227.402(b)(4), it follows from allowing investors the ability to collect their thoughts and comment on any underlying issuer, that portals allow investors to assign a quantifiable indicator to each other's comments, and even to quantify their own thoughts on the issuer. Examples of this can be seen in marketplaces throughout the internet, from product markets such Amazon and Overstock, to personal information sites such as Yahoo Answers. Allowing investors the ability to sort through each other's comments or opinions becomes an integral part of any site where commenting is allowed on products. It empowers the users to search out the best and the worst of the comments and research their claims, and gives the sellers – or in this case issuers – a chance to respond to claims in an open forum.

Because sorting comments would require a technological assessment of subjective data, we believe an explicit carve out in the safe harbor provisions is necessary, especially in light of the considerations enumerated above.

We therefore propose a change of language in § 227.402(b)(3)(ii) to replace the term *assessment* with *opinion*, ask that you remove the inference that matters of opinion fall within the realm of objective criteria, and ask that you carve out an exception for user generated peer review sorting in the safe harbor provisions as below.

Modified reading of § 227.402(b)(3)(ii):

Except in the instance of peer review and feedback generated by users subject to § 227.402(b)(4), search and sort functionally may not be based on subjective criteria such as, among other things, the advisability of investing in the issuer or its offering, or an opinion of any characteristic of the issuer, its business plan, its key management or risks associated with an investment, generated exclusively by the portal.

We appreciate the opportunity to comment on the proposed rules, and understand that you are tasked with a monumental challenge in drafting new rules to cover this ever expanding realm of the internet. Should you have any further questions or wish further comment, please do not hesitate to contact us at (866) 542 - 3638.

Very truly yours,

A handwritten signature in black ink, reading "Judd E. Hollas". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Judd E. Hollas, Founder and CEO

Encl: Letters of support.



Pandesa Corporation dba ShareVault
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Los Gatos, CA 95032
408-717-4955
www.sharevault.com

January 21, 2014

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

Re: Letter in support of EquityNet's response to the Securities and Exchange Commission's request for comments regarding File Number S7-09-13; Securities and Exchange Commission call for comments pertaining to 17 CFR 200, 227, 232, 239, 240 and 249.

Dear Elizabeth M. Murphy:

After a careful and thorough review of EquityNet's response to the Security and Exchange Commission's request for comments regarding the above referenced matter, I firmly believe their letter not only raises valid issues for your consideration, but that the solution provided by EquityNet to modify the text in § 227.402(b)(3)(ii) to read:

Except in the instance of peer review and feedback generated by users subject to § 227.402(b)(4), search and sort functionally may not be based on subjective criteria such as, among other things, the advisability of investing in the issuer or its offering, or an opinion of any characteristic of the issuer, its business plan, its key management or risks associated with an investment, generated exclusively by the portal.

is beyond reproach. I therefore ask that you adopt the modified text as rule.

Please include this letter in the filing of EquityNet's comments, and should you have any questions about this or any other matter, please do not hesitate to contact me at (408) 335-0544.

Very truly yours,

A handwritten signature in black ink that reads "Richard Andersen".

Richard Andersen
Chief Executive Officer
Pandesa Corporation dba ShareVault



January 16th, 2014

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

Re: Letter in support of EquityNet's response to the Securities and Exchange Commission's request for comments regarding File Number S7-09-13; Securities and Exchange Commission call for comments pertaining to 17 CFR 200, 227, 232, 239, 240 and 249.

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Please include this letter in the filing of EquityNet's comments, and should you have any questions about this or any other matter, please do not hesitate to contact me at (310) 310 - 2534.

Very truly yours,

Howard J. Leonhardt

Howard J. Leonhardt

State Spokesperson The JOBS ACT &
Crowdfunding – Startup California

www.startupcalifornia.org

Chairman – Leonhardt Ventures

CEO – Cal-X Crowdfund Connect

www.calxcrowdfund.com

1531 6th Street, Unit 401, Santa Monica, CA 90401



January 17, 2014

Ms. Luan A. Cox
Chief Executive Officer
37 W. 17th Street, Suite 4E
New York, NY 10011

Attn: Elizabeth M. Murphy
U.S. Securities and Exchange Commission
100 F Street North East
Washington D.C. 20549-1090

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is a practical and acceptable alternative and therefore ask that you adopt the modified text as rule.

Please include this letter in the filing of EquityNet's comments, and should you have any questions about this or any other matter, please do not hesitate to contact me at 917-633-4347.

Very truly yours,

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

Luan A. Cox

America's CrowdFunding
1945 South Ocean Drive
Suite 2303
Hallandale Beach, FL 33009

1/20/14

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

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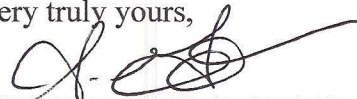
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is beyond reproach. I therefore ask that you adopt the modified text as rule.

Please include this letter in the filing of EquityNet's comments, and should you have any questions about this or any other matter, please do not hesitate to contact me at (561) 213-0299.

Very truly yours,



Sandy Goldman
CEO

sandy@americascrowdfunding.com