CONTINENTAL
STOCK TRANSFER & TRUST

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 Continental Stock Transfer & Trust Company ("CST") in response to the Securities and Exchange Commission's ("SEC" or "Commission") request for comment on the recently proposed rulemaking ("Proposed Rules") implementing the Crowdfunding provisions of the Jumpstart Our Business Startups Act ("JOBS Act" or "Act"), and Section 4(a)(6) ("Crowdfunding Exemption") of the Securities Act of 1933 ("1933 Act"). These provisions will expand access to capital for small businesses by reducing some of the regulatory costs associated with raising capital, while also attempting to preserve important investor protections.

Continental has been in business for 50 years and is the 4th largest agent in the United States. Continental is a limited purpose trust company organized under the banking laws of the State of New York and is a transfer agent registered with the SEC under Section 17A of the Securities Exchange Act as well. Because Continental is regulated as a "bank" by New York State and as a transfer agent by the Commission, we are a highly audited and regulated entity; and we are required to meet an ever-increasing number of regulations promulgated by the Commission, the IRS, and the laws of all 50 States, as well as Uniform Commercial Code.

We are pleased to join in and expand upon the comment letter of the Securities Transfer Association filed on or about December 18, 2013. Likewise we echo their comments supporting the goals of the JOBS Act, and the attempts of the Commission to weigh investor protection concerns against the goal of allowing small companies to have cost efficient access to the capital markets.

CONTINENTAL
STOCK TRANSFER & TRUST

Bank Escrow Agents Are Critical

Continental supports the position of Rule 303(e)(2) of the Proposed Rules requiring that a Funding Platform direct investors to transmit funds to a qualified third party bank Escrow Agent. Above all, it is essential that investors' funds be protected. That overarching need is even greater here because it is likely that there will be mostly unsophisticated investors involved in Title III Crowdfunding companies. However, we note that for the past 5 years, the Commission and other regulated entities have been aligned in trying to prevent microcap fraud. This initiative has proven reasonably successful to date. However, we feel that the investment opportunities offered under Title III Crowdfunding provisions, because they will involve unsophisticated investors and inexperienced issuers, could easily engender massive fraud on a scale which would make past microcap fraud seem tame by comparison.

Accurate Issuer Records Are crucial In Profiting Investors

While we understand the Commission's reluctance to step in and regulate in this area as it has done for public companies, we think that it is crucial that the Commission set stringent requirements for issuers who will hold funds and keep shareholder records. In the absence of such rigorous rules and guidelines, investors/shareholders will simply have nowhere to look for protection.

Failure to accurately record or maintain shareholder records (including address changes), or to prevent fraudulent transfers, can have the same devastating effect on an investor as if his or her savings were stolen or obtained through fraud. Congress recognized the importance of assuring that rights of investors were protected when it enacted Section 17A of the Securities Exchange Act of 1934 ("Exchange Act"). This provision of the Exchange Act requires persons who provide transfer agent services, including issuers, to register as transfer agents and therefore become subject to corresponding regulations if they provide recordkeeping and other related services on behalf of public companies that have a class of securities subject to the registration and periodic reporting requirements under Section 12 of the Exchange Act.

The regulations promulgated under Section 17A have an important investor protection function. They assure, among other things, that registered transfer agents maintain accurate records, have adequate backup and recovery systems, respond in a timely fashion to shareholder transfer requests, and otherwise protect the interests of shareholders. In addition, registered transfer agents are subject to examination and inspection by regulatory authorities, including the Commission.

However, issuers relying on the Crowdfunding Exemption potentially may have hundreds -- or even thousands - of small shareholders and will not be subject to registration under Section 12. Thus, they are not required to become registered as a transfer agent or to employ a registered transfer agent. As a result, persons responsible for maintaining the records of an individual's investment, processing transfer requests, or assuring that their securities are properly safeguarded, **may not be subject to any ongoing regulatory oversight**. This presents the possibility that a shareholder's interests will not be adequately protected at all.

It is in this context that a regulatory scheme which provides investor protection under Title III should be of paramount importance. Under the JOBS Act, the definition of companies which can stay private and become essentially unregulated entities has been expanded dramatically. Now issuers having up to 2,000 shareholders will essentially have no regulator. While Title II involves investors who are "accredited investors", Title III issuers could have hundreds or thousands of investors who are totally unsophisticated. For them, the chances of fraud or gross negligence are magnified exponentially.

Having 50 years of recordkeeping experience of our own, we can attest to the fact that we have received shareholder records from hundreds of issuers in our history and very often those records are in shambles; they often lack full shareholder information, are often out of balance, and reflect no process for verification of shareholder interests, or replacement of lost securities. In recent years, the job of a registered transfer agent has become much more difficult in light of expanded IRS cost basis rules, as well as abandoned property laws of all 50 states, which have become significantly more aggressive and difficult to comply with. Likewise, federal rules concerning protection of personal information, including Red Flag Rules and Privacy Rules, are a critical component of protecting investors. Against this backdrop, the Commission has proposed only that issuers must certify to their Funding Platforms that they have the requisite recordkeeping expertise and that they will keep accurate records. Such a certification process is simply untenable. Issuers required to make such certifications will likely not even be aware of their regulatory obligations under IRS rules, privacy rules, escheatment laws of all 50 states and the Uniform Commercial Code. While Title III companies are subject to amorphous certification requirements under the proposed rules, the likelihood that these will be informed certifications, and that they will be properly vetted certifications are slim. The funding portals will, we submit, often have little or no interest in verifying whether the certification has any real underpinning. Likewise, FINRA, the regulator of last resort under this regulatory structure, may not be fully cognizant of the regulatory schemes that must be adhered to for adequate recordkeeping. Finally, if inexperienced issuers are allowed to keep their own records, should they not also be required to have Disaster Recovery and Business Continuity Plans in place to ensure investor protection?

Proposed Safe Harbor

Accordingly, it is for these reasons that we agree with the STA comment letter which includes a proposed safe harbor for any issuer who contracts with a registered transfer agent for recordkeeping. For any issuer which does not contract with a registered transfer agent, we suggest that they should have to certify **annually** that they maintain accurate shareholder records which are properly balanced, and that their recordkeeping includes abandoned property/escheatment compliance, IRS tax reporting, investor cost basis reporting, and compliance with rules protecting personal information and privacy. Likewise, issuers should have to certify that they have established adequate policies for Disaster Recovery and Business Continuity.

Annual Statements For Shareholder

We suggest as well that the Commission should require Title III issuers to send annual statements to their shareholders reflecting their holdings. The Commission, in the Proposed Rules, has suggested that book entry recordkeeping should be the norm. We agree. Issuance of certificates will simply lead to greater problems and many more lost securities. An annual statement, particularly for issuers utilizing book entry only recordkeeping, will significantly enhance investor protection.

Question 128:
What would be the potential benefits and costs associated with having a regulated transfer agent for small issuers? Are there other less costly means by which an issuer could rely on a qualified third party to assist with the recordkeeping related to the securities?

Response:
The Commission has rightly focused on the costs associated with these proposed Crowdfunding initiatives. We understand well the delicate balance between the desired objectives of small issuer capital raising against the dangers associated with their essentially unregulated environment. We note with interest that the Proposed Rules have significant auditor requirements, which we applaud. However, a company which is required to issue annual financial reports under the Proposed Rules would likely pay 10 times more for auditing services than they would pay for retaining the services of a registered transfer agent. The stock transfer industry is inhabited by over 100 small transfer agents and is highly competitive. The larger transfer agents are also highly competitive and very price conscious. It appears likely that Crowdfunding issuers could retain the services of a registered transfer agent for as little as $100.00 to $300.00 per month, and perhaps even less. Balancing this modest cost against the risks associated with not having an adequate recordkeeper, one can easily see that the risks far outweigh the projected costs.

Question 129:
Is a "reasonable basis" an appropriate standard for, intermediaries making such determination? Why or why not? Is it appropriate for one determination but not the other? If so, please explain which one and why. What other standard would be more appropriate, and why? What circumstances in the crowdfunding context should not be considered to constitute a reasonable basis? Should we permit an intermediary to reasonably rely on the representation of the issuer with respect to both determinations?

Response:
We have read with interest comments by other parties suggesting that a "reasonable basis" standard is insufficient. We generally agree. It is an undefined term and cannot be applied with any consistency. It has been suggested that a "prudent man" standard should be applied, with issuers certifying to same. This is clearly one alternative we feel would be an improvement over the "reasonable basis" standard currently embodied in the Proposed Rules. However, we think that regardless of which standard is applied, the issuer should be required to recite in its certification that it maintains properly balanced shareholder

CONTINENTAL
STOCK TRANSFER & TRUST

records, that they comply with abandoned property/escheatment laws of the 50 states, that they comply with IRS tax reporting requirements, including cost basis reporting, that they comply with personal privacy regulations, that they have an adequate system for replacing lost shareholder securities and checks, and that they have adequate procedures in place to ensure Disaster Recovery and Business Continuity. These types of specific representations should add substance and real investor protections to whichever standard the Commission adopts.

In closing, let me state again that we sincerely appreciate the efforts of the Commission in trying to balance the competing interests which present themselves in implementing the JOBS Act and Crowdfunding. We commend the Commission for the questions posed and, for the thoughtfulness shown in drafting the Proposed Rules; and we hope that our responses will assist the Commission in arriving at Rules which will allow Crowdfunding issuers to be successful while at the same time serving the best interests of their investors.

Very truly yours,

Steven G. Nelson
Chairman of the Board
And President

SGN/ecs
ENC.