January 30th, 2014

Submission via Web Site

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Improving Regulation Crowdfunding to Attract High-Quality Startups

We appreciate the opportunity to comment on the proposed crowdfunding rules.

Wefunder is a crowdfunding platform for startups. Founded in 2011, we helped Senator Brown, Senator Merkley, and Congressman McHenry during the drafting of the legislation, and were invited to the White House when it was signed into law. Since then, we've helped early-stage startups raise over $2 million from our 25,000+ users via 506 offerings. Startups seed funded on Wefunder have since raised over $20 million in venture capital.

Our mission is to democratize startup investing so that *every* American has the opportunity to invest in *high-quality* startups. As one of the few accredited crowdfunding platforms to raise funds for startups that are highly competitive among professional investors, our comments are focused on improving the rules so that credible startups conside using 4(a)(6). Otherwise, the worst outcome will occur: only companies who are rejected by professional investors – and have no other option - will raise funds from the crowd.

Our letter is divided into two sections. First, we address three of the proposed rules that were wisely crafted, and if modified in the final rules, could destroy the potential of crowdfunding. We conclude with three suggested improvements we hope will be implemented in the final rules to make 4(a)(6) more attractive for high-quality startups.

I. Strengths of the Current Rules

- 1. Reliance on investor representations to calculate investment limits.[1] Requiring a strict standard of verification – such as that required for 506(c) offerings – will dramatically inhibit capital formation. This is not a hypothetical. Wefunder has processed over $3.5 million in investment applications for 506(c) offerings in amounts as low as $100. *About 80% of these potential investors refused to verify their income with documentation.*

  Providing sensitive financial documentation – or even a letter from their CPA – is a burden no investor wants to go through, particularly when investing small amounts. Who wants to upload a tax return just to invest $200? In an era when Target leaks 40 million credit cards, why would investors trust any intermediary with their data?[2] The educational materials, disclosures of risks, and investment limit calculator provide sufficient investor protections when balanced with the goal of capital formation.

[1] Response to Request for Comments #158 & #159
[2] http://techcrunch.com/2013/12/19/target-confirms-point-of-sale-data-breach

- 2. No integration between Rule 506 and 4(a)(6).[3] The $1 million investment limit on 4(a)(6) fundraises should not be integrated with other exemptions. Integration that prevents startups from raising follow-on capital would potentially bankrupt the most successful, rapidly growing startups and harm their investors.

  For example, one startup on Wefunder raised $50,000 seed funding via Rule 506, and six months later, raised an extra $14 million in venture capital to finance their rapid growth. If they had raised via 4(a)(6) and faced integration issues that delayed their next venture round, bankruptcy would have been a likely outcome. Another company, which has already raised $10 million via Rule 506, wants to reward their unaccredited supporters by letting them invest up to $100,000 using 4(a)(6). Isn't it less risky for unaccredited investors to invest *after* professional investors vet and fund the startup?

  Startups must also be able to fundraise in *concurrent* 506(c) and 4(a)(6) offerings. Founders in Silicon Valley are always meeting with potential investors. If they can't *immediately* accept an offer because they have an open 4(a)(6) round, no founder of a high-growth startup will put their venture financing at risk by crowdfunding.

- 3. Flexible Oversubscription.[4] The oversubscription policy in the proposed rules should remain the same. Founders often have multiple plans for how to accelerate growth if they receive additional unexpected funding. They take the advice of Paul Graham, an investor in over 500 startups collectively worth $14.4 billion[5], who wrote, "It's a mistake to have fixed plans in an undertaking as unpredictable as fundraising. The right strategy, in fundraising, is to have multiple plans depending on how much you can raise."[6]

  Further, issuers must be able to decide which investors are accepted. Startups on our platform have seen investment applications from employees of competitors, as well as clearly deranged individuals. Startups will not use 4(a)(6) if they are forced to accept investment from every online stranger in a pro-rata or first-come first-served basis. Prohibiting startups from using their judgment serves no investor protection interest.

II. Suggestions for Improvements

The proposed rules reasonably balance investor protection with expanding capital for *small business*. However, the rules could be improved to better attract high-growth startups with alternate sources of capital. These are the companies investors are most interested in, and the ones who will create many of the jobs the statute was named after.[7]

Our mission at Wefunder is to destroy the "insider's club", so that all Americans, not just the wealthy and well-connected, can participate in high-quality private investments. But for credible startups to consider using 4(a)(6), three improvements must be made.

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[3] Response to Request for Comment #2 & #3
[4] Response to Request for Comment #109, #110, & #111
[5] http://techcrunch.com/2014/01/13/yc-pg-2014-update/
[6] http://paulgraham.com/fr.html
[7] http://www.kauffman.org/newsroom/2013/08/young-hightech-firms-outpace-private-sector-job-creation

- 1. Allow Funding Portals to be compensated with a financial interest.[8] The propose rules assume a business model that is unworkable: no credible startup, with any other option, will pay 5-15% of their fundraising in cash to an intermediary. Only the worst startups rejected by professionals will do so. Good startups will pay a maximum of $0.

  The three crowdfunding platforms regularly performing 506 offerings – AngelList FundersClub, and Wefunder - have a business model based on "carried interest"[9] typically, a 10% share of profits upon acquisition or IPO. This is no coincidence. It's the only model that can work with credible startups. It's also the one investors prefer.

  For Wefunder's 506(c) offerings, we charge the startup $0. Investors are charged a $25 fee that covers costs, along with 10% carried interest. If we pursued a similar model on our 4(a)(6) offerings, transaction costs would be up to $100,00 less than the amount contemplated in the proposed rules[10]. Our goal is to deliver more capital to startups. We have no interest in being a financial parasite leeching the lifeblood out of the system.

  More importantly, our incentives are perfectly aligned with the investors on our platform; we only earn a profit if they do, and we proudly disclose this fact. Intermediaries should not have better terms – they should earn a share of the profits. Intermediaries should not pick winners – every company on the platform should pay and be treated the same.

  If a financial interest is not allowed, platforms will have perverse incentives. How will they earn a profit? Not by enforcing a high quality standard—for instance, only listing companies with $100,000 or more investment from professionals who have done in-depth due diligence and grilled the founders face to face. Instead, to earn revenue, platforms would be incentivized to dramatically increase the volume of companies that are fundraising, regardless of their chances of business success. These poorly run platforms will then leach their profit from the startup, decreasing the cash that could help them reach profitability. That's a recipe for a lot of investors losing money.

  Further, in addition to decreasing investor protection, disallowing the intermediary to take a financial interest is directly opposed to the intent of Congress. The prohibition against financial stakes in the legislation was purposely not extended to the intermediary itself. When the legislation was drafted, we advised Senators Brown and Merkley of the importance of aligning interests and reducing transaction costs, and our opinion influenced the final language of the JOBS Act. Further, recorded in the Congressional Record by a sponsor of the legislation is the following statement:

  > *"In addition, intermediaries should be allowed to take an equity stake in offerings. This however, does not mean that intermediaries should be able to choose which offerings to participate in but rather it should be a standard process for any offering that the intermediary facilitates. This will incentivize an intermediary to focus on issuer quality over quantity, providing more vetting for investors and greater alignment of interests. Of course, any equity stakes by the intermediary must be fully and meaningfully disclosed…"*[11]

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[8] Response to Request for Comment #122, #123, & #124
[9] http://en.wikipedia.org/wiki/Carried_interest
[10] Assuming a $1 million fundraise with a portal who charges 10 to 15%.
[11] Congressional Record of the 112th Congress http://thomas.loc.gov/cgi-bin/query/z?r112:S29MR2-0027

- 2. Allow Funding Portals that are also Investment Advisors to hold investors' assets through a special purpose vehicle. High-growth startups can't accept hundreds of direct shareholders, as the cost of maintaining records can be enormous, and venture capitalists are wary of investing in startups with "messy cap tables". No startup can take the risk of endangering their follow-on financing. The current standard for 506 offerings – which Wefunder, AngelList, and FundersClub all employ - is to group up to 99 accredited investors into one Single-Purpose Fund, which then invests—as one entity—into the startup. Unfortunately, The JOBS Act prohibits private funds from using 4(a)(6).

  Congressional intent was to block hedge funds, not single-purpose vehicles, which they had not contemplated (the practice became common only after the Commission's no-action letters to FundersClub and AngelList). We propose that the Commission create a special class of single-purpose vehicle - only available for 4(a)(6) offering – that groups an unlimited number of investors into one fund, sponsored by the intermediary, and that may invest as a single shareholder into the issuer.

  Allowing for such a vehicle will attract high-quality startups, reduce transaction costs, and accommodate intermediary compensation in the form of carried interest, which perfectly aligns the incentives between intermediaries and investors. Intermediaries may also advocate for smaller unsophisticated investors during follow-on financing, who individually won't have the power to protect their rights from venture capitalists.

  We believe that the Commission should consider whether Funding Portals that sponsor such funds should also be registered Investment Advisors or exempt reporting advisors, similar to the arrangements contemplated by the no-action letters issued by the Commission to FundersClub[12] and AngelList.[13]

  If the Commission will not create a special purpose vehicle, we propose that Funding Portals be permitted to act as holder of record, as noted in the Congressional Record:

  > *"Intermediaries should also be permitted to act as the holder of record for offerings that they facilitate to reduce compliance complexity for issuers and to increase the likelihood of subsequent funding from institutional investors. Providing holder of record services will reduce compliance complexity for issuers and place the burden of managing crowd funded investors on the intermediary. Without this mechanism, issuer capitalization tables may become unwieldy, discouraging subsequent funding from institutional investors."*[14]

  Currently, only clearing brokers and banks may act as a holder of record. The costs associated with registering and operating these entities for the purpose of crowdfunding is not economically feasible. However, the risks associated with acting as a holder of record are significantly diminished given the few activities that would be performed by crowdfunding platforms, especially for investments where there is no secondary market. We believe funding portals could perform these activities under a less intrusive regulatory regime, consistent with the Commission's investor protection mandate.

[12] http://www.sec.gov/divisions/marketreg/mr-noaction/2013/funders-club-032613-15a1.pdf
[13] http://www.sec.gov/divisions/marketreg/mr-noaction/2013/angellist-15a1.pdf
[14] http://thomas.loc.gov/cgi-bin/query/R?r112:FLD001:S52230

- 3. Include 'crowd ratings' in the Safe Harbor for sorting offerings on Funding Portals.[15] Founders consider the "signal" that fundraising activities send to venture capitalists. The best startups will only list on an intermediary if there are *other* credible startups alongside them. As such, Wefunder has a high-quality bar: we will only allow startups to fundraise via 4(a)(6) after they raise $100,000 or more from accredited investors.

  The problem is how to sort them? Due to the nature of the web, some investments *will* be more visible for first-time visitors, such as appearing first on the home page. One reasonable way to protect investors and also to direct capital to quality startups is via an objective algorithm that, by default, provides greater prominence to startups that have attracted capital from multiple sources or sources that exhibit certain characteristics.

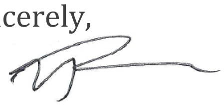
  If the methodology is clearly disclosed to investors, it should be permissible for a Funding Portal to sort offerings with an algorithmic score that takes into account any objective, numeric data that is reasonably likely to provide meaningful and non-misleading information to potential investors, such as numeric ratings by accredited and unaccredited users on the platform, number of commitments from investors (weighted by valuation of their portfolios), and page views.

Thank you for the opportunity to comment on the proposed crowdfunding rules. We hope that our experiences crowdfunding high-growth startups via 506(c) offerings are useful to the Commission as the final rules are drafted.

We are excited for the day when all Americans can participate in the type of private financings that previously were the exclusive domain of the wealthy and well connected.

Please contact me at nick@wefunder.com or 508-308-7226 if I can be of any further help.

Sincerely,



Nicholas Tommarello
CEO, Wefunder

[15] Response to Request for Comment #216, #219, & #220

January 30th, 2014

Submission via Web Site

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Other Comments on Regulation Crowdfunding

We appreciate the opportunity to comment on the proposed crowdfunding rules.

Wefunder is a crowdfunding platform for startups. Founded in 2011, we helped Senator Brown, Senator Merkley, and Congressman McHenry during the drafting of the legislation, and were invited to the White House when it was signed into law. Since then, we've helpe early-stage startups raise over $2 million from our 25,000+ users via 506(c) offerings. Startups seed funded on Wefunder have since raised over $20 million in venture capital.

In our previous comment letter, titled "*Improving Regulation Crowdfunding to Attract High-Quality Startups*", we talk about the critical issues that will "make or break" crowdfunding among high-quality startups. Those are the most important points that concern us, upon which we believe the success or failure of crowdfunding hinges.

In contrast, this letter is focused on providing feedback on more minor points. As the only crowdfunding platform with over a dozen 506(c) offerings that allows accredited investors to invest in amounts as low as $100, we hope our "real world experiences" will provide valuable insight to the Commission.

8. We are proposing to permit an issuer to rely on the efforts that an intermediary takes in order to determine that the aggregate amount of securities purchased by an investor will not cause the investor to exceed the investor limits, provided that the issuer does not have knowledge that the investor had exceeded, or would exceed, the investor limits as a result of purchasing securities in the issuer's offering. Is this approach appropriate? Why or why not? Should an issuer be required to obtain a written representation from the investor that the investor has not and will not exceed the limit by purchasing from the issuer? Why or why not?

The intermediary should take on the responsibility of ensuring an investor has not exceeded their limits. If a startup has to worry about whether hundreds of strangers are complying with their investment limits, they will not raise via 4(a)(6). Startups will not subject themselves to this liability if they have other fundraising alternatives, meaning the crowd will only have access to deals that professional investors pass on. The intermediary is in a better position to track compliance across multiple investments.

9. Should institutional and accredited investors be subject to the investment limits, as proposed? Why or why not?

For accredited investors, we propose to cap an investment into any individual startup raising via 4(a)(6) at $100,000, but not impose investment limits on aggregate investments.

On Wefunder, some startups will be fundraise via a 4(a)(6) while others will choose 506(c). These will be displayed side by side on the platform for accredited investors. This is allows the crowd to see the full range of startups that are raising capital, and gives them a better understanding of the opportunities they have access to.

It does not make sense to allow accredited investors to invest any amount they desire in some deals, but have to calculate annual investment limits on all their startup investments based on their current year's income or net worth for others. The investment caps outlined in the statute were intended to protect unaccredited investors. Accredited investors are accustomed to current regulations. Imposing these restrictions on them will be confusing, make them less likely to invest in 4(a)(6) deals, and contribute to the possibility that unaccredited investors will only be able to access second tier deals.

For additional context: while most startups will fundraise concurrently with both a 506(c and a 4(a)(6) offering, they should be able to forgo the cost of organizing a single purpose vehicle to hold small dollar accredited investors by making it easy to include those investors i the 4(a)(6) offering. Making this difficult by subjecting accredited investors to aggregate investing limits will cause many startups to choose between paying to organize a single purpose vehicle or conducting a 4(a)(6) offering, and many of them will choose the former, removing the opportunity for unaccredited investors to invest.

10. Should we adopt rules providing for another crowdfunding exemption with different investment limits (e.g., an exemption with a $250 investment limit and fewer issuer requirements), as one commenter suggested,52 or apply different requirements with respect to individual investments under a certain amount, such as $500, as another commenter suggested?53 Why or why not? If so, should the requirements for issuers and intermediaries also change? What investment limits and requirements would be appropriate? Would adopting such an exemption be consistent with the purposes of Section 4(a)(6)?

We recommend creating a special crowdfunding exemption with reduced disclosure requirements when individual investments are <=$500. Creating an exemption with fewer disclosures – including no annual reporting requirement - would encourage startups with many other funding sources to consider crowdfunding. The primary motivation for rapidly growing startups raising via 4(a)(6) will not be the capital - which they can easily get from institutional investors - but rather to reward their most passionate customers and widen their base of support prior to an IPO. Otherwise, the system will remain the same: only accredited "insiders" will be able to invest in the best IPO-track companies.

24. Are these proposed disclosure requirements relating to the issuer and its officers and directors appropriate? …

The existing disclosure requirements are appropriate, and properly take into account investor protections. Disclosures on non-officer employees and non-securities related civil litigation would be a needless burden that is invasive of privacy and adds insignificant value to potential investors.

25. The proposed rules would require disclosure of the business experience of directors and officers of the issuer during the past three years. Is the three-year period an appropriate amount of time? …

Disclosing the business experience of directors and officers for the past 3 years is an appropriate requirement. Those who have relevant experience will have an incentive to share it on order to make their offering more attractive, so a requirement by the commission does not seem necessary. The commission should note that many high growth startup founders are so young that they do not have three years of work experience, and in those cases should be required to disclose whatever work experience they do have instead of a “no work experience” line item for 1 or 2 years which might unreasonably prejudice investors against them.

29. Are these proposed disclosure requirements appropriate? Why or why not? Should we require any additional disclosures? Should we prescribe specific disclosure requirements about the business of the issuer and the anticipated business plan of the issuer or provide a non-exclusive list of the types of information an issuer should consider disclosing? Why or why not? ….

The proposed disclosure requirements regarding the “business plan” of the issuer are perfect as is. We recommend no changes. The proposed rules understand that companies at different stages have a very different idea of what a “business plan” is, and should have flexibility in presenting the material that investors demand. Formal business plans are obsolete.

38. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? If so, how and why?

While a minor point, we recommend not requiring the disclosure of the number of full-time employees each company has. This metric is not useful for investors evaluating early-stage startups, and is likely to meaningfully increase during the course of a 4(a)(6) fundraise where the company is concurrently conducting a 506(c) offering.   Further, many early-stage startups spend the majority of their initial funds on consultants, before hiring them full-time.

45. Is it appropriate to require a description of any prior exempt offerings conducted within the past three years, as proposed? Why or why not? Would another time period (e.g., one year, five years, etc.) or no time limit be more appropriate?

To reduce the amount of manual data entry, while still providing relevant and appropriate information to investors, we recommend a simpler solution.

We recommend that the total amount of funding in all prior exempt transactions be disclosed, as well as the date, terms, security, and valuation of the *last offering*. One company on Wefunder has dozens of exempt offerings over the past few years. There is not much benefit in detailing out every historical exempt offering over the last three years when an aggregate amount will do.

49. In the discussion of the issuer's financial condition, should we require issuers to provide specific disclosure about prior capital raising transactions? Why or why not? Should we require specific disclosure relating to prior transactions made pursuant to Section 4(a)(6), including crowdfunding transactions in which the target amount was not reached? Why or why not?

Startups move so fast that prior failed fundraising attempts offer no informational value to potential investors: the context six months later, such as when the company has actuall delivered a product and obtained a million users, can completely change.

Further, founders should not feel like they are being penalized for failing to raise funding in the past. Startup founders try to raise funds from the moment they have the idea, although they don't often succeed until they have a prototype and initial traction.

If fundraising fails, it's not because there's something inherently wrong with the idea, it only means more progress had to be made to validate the business.

51. Should we exempt issuers with no operating history or issuers that have been in existence for fewer than 12 months from the requirement to provide financial statements, as one commenter suggested?

Full financial statements are not relevant for early-stage investments when it's little more than a team and an early prototype. Professional angel investors don't need or want financials from a three-month-old startup. Therefore, credible startup founders do not waste their valuable energy or money putting together useless financial statements with lots of zeros. Far more useful is a disclosure of how much cash is in the bank, their current monthly loss (i.e., 'burn rate'), and how much anticipated "runway" the startup has until more capital is required.

56. Should we require some or all issuers also to provide financial statements for interim periods, such as quarterly or semi-annually? Why or why not? If so, which issuers and why? Should we require these financial statements to be subject to public accountant or auditor involvement? If so, what level of involvement is appropriate?

Annual financial statements are sufficient. Most early-stage startups do not have quarterly financial statements, as they add little value.

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.)?

We strongly recommend that the limit for audited financial limits be increased.

If the current proposed rules remain in effect, *Wefunder will not allow any company to raise more then $500,000 on our platform*.

Audited financial statements, particularly for ongoing reporting requirements, are so cost-prohibitive for startups that they make absolutely no sense as an appropriate use of funds. We do not want first-time founders to unknowingly underestimate these costs, thereby threatening the livelihood of their business and harming their investors.

75. Should we exempt issuers from the requirement to file progress updates with the Commission as long as the intermediary publicly displays the progress of the issuer in meeting the target offering amount? Why or why not? If so, should the Commission establish standards about how prominent the display would need to be?

Issuers should be exempt from filing progress updates with the commission on the status of their offering. Intermediaries exist to help issues navigate the complicated process of offering securities, and should be allowed to handle this process for them. Intermediaries can file quarterly reports on all offerings they have facilitated, addressing the concern of having a single repository for all offering information.

76. Should we specify that an amendment to an offering statement must be filed within a certain time period after a material change occurs? Why or why not? What would be an appropriate time period for filing an amendment to an offering statement to reflect a material change? Why?

While we encourage issuers to update their investors on a timely basis, we don't believe in a legal requirement, other then to properly disclose any potential issues five days before the round closes.

The world of startups is by nature ambiguous and chaotic – problems occur every single day. Some of these problems are solvable with time and effort – it's not always immediately clear what is a permanent material change, and what can be fixed with a little time. The only legal requirement should be proper disclosure of all outstanding potential material changes before the fundraise closes.

81. Two commenters noted that compliance with the exemption would not be known at the time of the transaction if the annual reports are a condition to the exemption under Section 4(a)(6). .... Should the requirement to provide ongoing annual reports be a condition to the exemption under Section 4(a)(6)? If so, for how long (e.g., until the first annual report is filed, until the termination of an issuer's reporting obligations or some other period)? Please explain.

The proposed rules that condition raising further funds via 4(a)(6) on the filing of the required annual reports is fair and reasonable.

It is important that the proposed rules are not modified to cause startups to lose their ability to take advantage of 506 or other exemptions by accidently neglecting to file an annual report. This would destroy some startups, and make the community as a whole more reluctant to risk conducting 4(a)(6) offerings.

94. In what format would the information about an issuer be presented on an intermediary's platform? Will there be written text, graphics, charts or graphs, or video testimonials by the founder or other key stakeholders? Will the information be presented in a way that would allow for the filing of the information as an exhibit to Form C on EDGAR? If not, how should the rules address these types of materials?

There will be text, videos, interactive graphics, charts, and graphics. Our goal is to enable a beautiful online presentation in rich HTML and give investors as much relevant information about an issuer as possible. Some examples on our platform include 506(c) offerings such as:

http://wefunder.com/wefunder

https://wefunder.com/freightfarms

It will not be practical to embed videos and interactive graphics (such as the Freight Farms container) in Form C filings, nor will the visual presentation be the same. More practical will be including a URL to the source material. While a video may be linked to directly, for technical reasons, some interactive exhibits will only work if loaded within the profile.

96. Should we allow issuers to refer investors and potential investors to the information on the intermediary's platform? Are the proposed methods (website posting or e-mail) to refer investors effective and appropriate? Would issuers have access to the investors' e-mail addresses? Are there other methods we should consider? If so, what methods and why?

Issuers should be able to refer investors to the intermediary's web site for all materials, such as ongoing annual reports and company updates. On Wefunder, issuers will not have email addresses for investors; however, there are communication channels that allow the issuers to send messages to all investors, which are also e-mailed to the investor's inbox.

102. Should we limit the issuer's participation in communication channels provided by the intermediary on the intermediary's platform? Why or why not? If so, what limitations would be appropriate?

Our goal is to encourage as much participation as possible from the issuer (properly disclosed) in all communication channels. One of the most important criteria for startup investments is the quality of the team, and their ability to answer critical questions.

On Wefunder, we have two main communications channels, of which the most important and active is "Ask a Question". Potential investors ask questions which can only be answered by the issuer. The answers are viewable by all other potential investors who view the offering.

Limiting the issuer from interacting in these public communication channels would only lead to less informed investors. The only requirement should be that the relationship with the issuer is properly disclosed.

114. Is it anticipated that issuers may want to conduct crowdfunding offerings of securities under Section 4(a)(6) alongside non-securities-based crowdfunding, such as a crowdfunding campaign for donations or rewards? If so, please describe how these offerings may be structured. Are there any issues in particular that our rules should address in the context of such simultaneous crowdfunding offerings? Please explain.

We intend to allow an issuer the option of listing *one* reward perk alongside their securities offering. For instance, investors who invest $500 or more in a restaurant may also receive a lifetime 10% discount card when dining.

We believe this method will increase the amount of capital available for small, local businesses where acquisition or IPO is unlikely. Small businesses benefit not only from additional capital, but also by forming a base of customers prior to their store opening. And investors are more adequately compensated for the risk they are taking, rather then charging an exorbitant interest rate that would put the business at risk by decreasing their cash flow.

115. Should we require or prohibit a specific valuation methodology? If so, what method and why? Should we specify a maximum valuation allowed as suggested by one commenter?305 Why or why not?

Other then market value, there is no valuation method that will work across the diverse types of companies – at very different stages in their life cycle - that will take advantage of crowdfunding. We've already had 506(c) offerings from startups ranging from two guys in a garage with a prototype to companies with a dozen employees and $10 million in funding.

The best way to determine a fair market value is to match the terms of a startups last financing round from accredited investors. For this reason, we will only allow startups to raise funding via 4(a)(6) offerings after they have received funding from an independent accredited investor that sets the price.

As for a maximum valuation, that makes little sense. Why shouldn't a company destined to be as big as Facebook do a 4(a)(6) fundraise several years before their IPO, as a way of rewarding their users?

138. Should we specify the types of information that an intermediary must obtain from an investor as part of the account-opening process? If so, what information and why?

152. While the proposed rules do not specify the types of information that an intermediary must obtain from an investor at the account opening stage, we recognize that this stage provides an opportunity for intermediaries to collect certain demographic information about investors... Should we require intermediaries to collect and provide some or all of this information to us and the applicable national securities association?

Wefunder does not intend to collect any additional data during account creation that is not legally required by AML, CIP, or FINRA rules. No one likes filling out long forms; each additional input box on a form decreases the likelihood that it will be filled out. Or, in other words, each additional input decreases cash available to startups.

Of course, making an investment online should not be as easy as backing a project on Kickstarter or making a "one click" purchase on Amazon. We understand we'll need to require an SSN, birthday, address, an investment limit calculator, a review of educational materials, and such. But requiring even more data – such as professional affiliations or educational level – serves no immediate purpose for investor protection, and can only decrease the amount of capital that will be available to companies.

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.

Currently, we intend to have a full-time team of writers constantly updating educational materials based on feedback and questions from our users. We take our responsibility to educate seriously.

If we're required to submit such materials for review, we will not update the legally required materials as often. The likely outcome is having inferior and slightly outdated "legally mandated and reviewed" materials that are sent to investors upon account creation, while we place our true efforts at investor education on a "not legally mandated" educational blog that does not require a bureaucracy to review or approve.

147. Should the proposed rules require intermediaries to take any different or additional steps to help achieve compliance with the requirement for promoters to disclose the receipt of compensation? If so, what other steps would be appropriate and why? .... 148. Should the proposed disclosures to investors be required to be made at some time other than at account opening?

We strongly recommend that the SEC not mandate the exact method by which the intermediary achieves compliance with the requirement for promoters to disclose their relationship. Product designers whose profession and expertise is information design can come up with superior solutions that will achieve better results than what is currently envisioned in the proposed rules.

For instance, we believe the disclosure obligation regarding promoters should be not be made at account opening (where they will be ignored). Instead, they should appear as soon as a user clicks on the text field to make a comment in the communication channels. The sudden appearance of text underneath the comment box as they are typing will draw the eye of the commenter so they can't miss it. Further, if they are a promoter, they can simply click a link - right in the text that just appeared - to properly disclose their relationship.

There is a drawback to including this disclosure in the account opening process. The more text that appears on a screen, the less likely users will actually read it. As .01% of our users at the account opening stage are likely to be promoters, and 99.9% potential investors, we believe the text at the account opening stage is better devoted to discussin the risks of startup investing. We don't want to have a lot of fine print that no one reads.

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.

For our 506(c) offerings, Wefunder currently discloses our compensation on the company profile itself and in the subsequent email transactions. We don't believe account opening is an appropriate time to mention compensation, particularly as it may differ between 4(a)(6) and 506(c) offerings, both of which we support. Moreover, the account opening stage is better dedicated to discussing the risks of startup investing. The more text that is mandated to be on this page, the more likely it will be fine print that no one reads.

154. Section 4A(a)(6) requires an intermediary to make available the information that an issuer is required to provide under Section 4A(b). Should we require an intermediary to make efforts to ensure that an investor who has made an investment commitment has actually reviewed the relevant issuer information?

This is impossible to implement in practice in a reliable way. From our current experience running 506(c) offerings and interviewing investors afterwards, we know potential investors can spend weeks thinking about funding the company, while perusing the offering materials available and doing due diligence on their own, *without creating an account.* Investors usually decide to open an account – or log in- if they decide to fund the company.

Requiring investors to spend X minutes re-reading the offering materials after they've decided to invest is not only technically unreliable, but a very poor experience that will reduce the total investment received by startups.

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 e-mail or a screen the investor must click through?

Offering materials are displayed on Wefunder as interactive HTML. There are movies, interactive exhibits, links to educational materials that explain obscure terms, and real-time questions and answers from the founders. A web page is the only medium possible that will appropriately display this content in a format readable by the investor.

160. Should we require an intermediary to avail itself of readily available information concerning investor limits, such as a centralized database containing information relating to whether particular investors were in compliance with the investment limits, should one become established? Why or why not?

This rule should only considered after such a centralized database is established. We are skeptical that any third-party service other then a dominant crowdfunding platform (which will take a couple years to establish) will have the power to create such a centralized repository with the majority of startup investors in America. We think it more likely many third parties with inferior platform technology, high costs, or a poor user interface will try to become centralized providers, but fail. The high cost of conducting 4(a)(6) offerings is already concern, adding this additional requirement that would likely have an associated cost adds to the likelihood that startups will not take advantage of the exemption.

161. Should we require intermediaries to request other intermediary accounts that an investor may have before accepting an investment commitment? Why or why not?

There will potentially be hundreds of intermediaries. Since they will not have a standardized API (application programming interface) for requesting or authenticating data, requiring an investor to input (and continually update) all of their other accounts serves no practical purpose. Humans cannot affordably review and confirm the data. More elegant and useful is one text box that requires the investor to input the dollar amount invested on other platforms.

162. Should we require intermediaries to have investors acknowledge issuer-specific or security-specific risks as part of the transaction process? Why or why not? If so, to what extent?

We strongly agree that intermediaries have a responsibility to ensure that investors acknowledge risks. We do this at Wefunder even for accredited investors in 506(c) offerings.

However, counter-intuitively, we are concerned that requiring acknowledgements for every commitment – even those made on the same day – actually decreases investor safety.

At Wefunder, we encourage our accredited investors to employ a diversified investment strategy by investing in a portfolio in startups, not to "put all their eggs in one basket. " For example, if an investor wants to invest $1000, we encourage them to make 10 $100 investments instead of one $1000 one. With our current 506(c) offerings, we see investors take this advice. They will often invest in up to 10 companies in one day after spending a week or two reviewing all the opportunities on the platform.

If investment commitments feel laborious because investors are forced to constantly re-acknowledge the risks (even when they already did it several other times that day), we are concerned that investors will "get tired" of filling out forms and not finish diversifying their investments in a portfolio. Less diversification leads to more risk.

Instead, we recommend that the rules not require re-acknowledgement for each commitment, but instead *one re-acknowledgment for each day* that a commitment is made.

165. Should we provide a recommended form of questions and representations? Why or why not? If so, should the Commission provide the form as a starting point, and not a safe harbor, so that intermediaries can adapt the questions and representations to particular offerings? Why or why not?

Wefunder would prefer the flexibility to adapt our own form of questions and representations to the particular needs of our community of investors. We are concerned a starting point would be seen as an effective safe harbor and constrain our effectiveness.

168. Under the proposed rules, we limit the ability to post in the communication channels to only those persons who have opened accounts with the intermediaries and thereby identified themselves to the intermediaries. Is this restriction adequate? Why or why not? Would it be appropriate to permit anyone, including persons who have not identified themselves in any way, to post comments in intermediaries' communication channels? Why or why not?

Requiring intermediaries to allow anonymous comments will be a recipe for chaos. Message forums that do not require authenticated accounts to post comments always devolve into meaningless and vulgar banter. It's reasonable to say that not a single anonymous forum is effective at providing intelligent critiques.

From a practical standpoint allowing anonymous comments makes it extremely difficult for the intermediary to design a system that protects investors from more devious issuers promoting their stock through multiple fake accounts endorsing their offering. Unethical issuers can easily use "incognito" browsers combined with IP tunneling to post hundreds of "sock puppet" comments that would drown out commentary from legitimate users. Requiring registration increases the odds an intermediary can spot – and block – such activity.

183. Should an investor be required to reconfirm his or her commitment to invest when a material change has occurred? Why or why not? Is the five business day period for reconfirmation after material changes appropriate? Would another time period be more appropriate? If so, what time period and why?

We recommend *allowing the investor to decide* how to handle material changes. For an early stage startup, changes are practically guaranteed to happen during a fundraise. Given the ambiguity of what is "material", we expect startups to be conservative, and nearly always toggle material changes requiring a re-confirmation.

From our current experience with 506(c) offerings, we believe a large segment of investors would prefer not to have to re-confirm their investment. In the past, we've had investors upset when they missed a deadline and had their investment cancelled. They assume they are confirmed investors when funds hit escrow, and they are not happy to find out otherwise, if they were too busy to read their emails on a timely basis.

The best solution is to give investor the option of automatically re-confirming investments on material changes.

187. Should we permit an intermediary to compensate a third party for directing potential investors to the intermediary's platform under the limited circumstances described above? Why or why not? Should any disclosures be required? Why or why not? Please identify reasonable alternatives to this approach, if any.

We agree with the proposed rules that allow intermediaries to compensate third parties for directing investors to the platform. Paid advertising and referral programs are standard practice and integral to any well functioning web platform. While intermediaries should not be allowed to pay for investor's personal information, they should be able to use standard Internet marketing techniques to inform investors of companies they may be interested in. For instance, an ad for a new medical device should be able to be displayed next to a Google search for "Invest in medical device startups." Interested investors can then click through and see the publicly available offering information. Disclosing this process does not seem to be pertinent information for investors since this is standard internet marketing practice, and thus should not be required.

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? …

As a service to our investors, Wefunder currently posts all news articles we can find to a fundraising profile, and then, after the round closes, continue to send news updates to investors. If this were perceived to threaten our safe harbor because we accidently missed a couple of articles, we would have to stop. Investors would have less information upon which to make a decision.

251. Should the Commission permanently exempt securities issued pursuant to an offering under Section 4(a)(6) from the record holder count under Section 12(g), as proposed? Why or why not? Should the Commission exempt securities issued under Section 4(a)(6) only when held of record by the original purchaser in the Section 4(a)(6) transaction, an affiliate of the original purchaser, a member of the original purchaser's family or a trust for the benefit of the original purchaser or the original purchaser's family? Why or why not? Are there other ways to implement Section 303 that may be more appropriate? Please explain.

The commission should keep the proposed rule that securities issued pursuant to a 4(a)(6) offering be permanently exempt from the holder of record count. As one of the most active intermediaries conducting 506(c) offerings we have had the chance to speak with hundreds of first time investors, many of whom have never before invested in a private placement. One of the primary concerns we hear from these new investors is the fact that they may not be able to gain liquidity for upwards of 7 years or longer.

This is generally the reality when investing in startups, but were the commission to require sold or transferred securities to be included in the holder of record count, issuers would surely contractually prevent 4(a)(6) investors from doing so. 4(a)(6) investors should where possible have the same rights as accredited investors, and causing sold or transferred securities to be included in the holder of record count would more than likely reduce their chances for liquidity.

Page 280: Intermediaries should "conduct a review of the issuer's offering documents, before posting them to the platform, to evaluate whether they contain materially false or misleading information."

We agree with the points raised by the Milken letter that the strict limits on funding portal activities make them "technology-based platforms that are in many respects more akin to a bulletin board or eBay than they are to a registered broker/dealer" This is such a great example because eBay could not exist were it required to internally verify all seller claims about their items.

Funding portals should not be saddled with liability for issuer statements. If the commission elects to prevent portals from establishing criteria for the kind of offerings they list, the cost associated with verifying every statement made by hundreds of small issuers would destroy the possibility for portals to make enough money to survive. If Portals are permitted to establish such criteria, they will not list issuers seeking small amount of capital to get off the ground because by definition they will lose money on them. This is not the statute's intent.

Thank you for the opportunity to comment on the proposed crowdfunding rules. Please contact me at nick@wefunder.com or 508-308-7226 if I can provide any further help.

Sincerely,

Nicholas Tommarello
CEO, Wefunder