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Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

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Crowdfunding
(Release No. 33-9470; 34-70741)
Commission File No. S7-09-13

Dear Ms. Murphy:

Ernst & Young LLP is pleased to comment on the *Crowdfunding* proposal issued by the Securities and Exchange Commission (SEC or the Commission). The proposal would implement Title III of the Jumpstart Our Business Startups Act (JOBS Act) and prescribe rules governing the offer and sale of securities under a new section (Section 4(a)(6)) of the Securities Act of 1933.

This letter discusses our general comments on the proposal. In the appendix, we highlight our recommendations for changes to the proposal in a table.

General

The objective of crowdfunding, as stated in the proposing release, is to give the public an opportunity to invest in an idea or business and to let individuals decide whether to invest after sharing information about the idea or business with other members of the crowd. In designing the crowdfunding provisions of the JOBS Act, Congress intended to give startups and small businesses improved access to capital by making relatively low dollar offerings of securities less costly. In its proposal, the Commission has rightfully noted that rules that are unduly burdensome could discourage participation in crowdfunding and rules that are too permissive may increase the risk for individual investors. While we acknowledge that crowdfunding investments will be highly risky, we believe that the proposed rules include adequate investor protections, the most significant of which is the proposed limit on the amount that an individual can invest annually in securities sold through crowdfunding.

However, we also believe that the proposal would impose disproportionate compliance costs on crowdfunding issuers and could make other available financing alternatives (e.g., using other existing and proposed SEC exemptions, venture capital or private equity investment) more attractive and make crowdfunding less viable. Therefore, we have provided suggestions to scale the requirements differently from the proposal, where statutorily permissible, to bring them in line with the requirements of the range of current and proposed exemptions under existing securities laws as well as registered offerings.

Financial statement requirements

The proposal would require all issuers to file with the Commission and provide to both investors and the relevant intermediary a complete set of financial statements prepared in accordance with US GAAP covering the shorter of the two most recently completed fiscal years or the period since inception of the business. We recommend that companies using the crowdfunding exemption for offerings of more than \$100,000 be required to provide financial statements prepared in accordance with US GAAP covering only the most recently completed fiscal year. Companies could voluntarily provide, and should be encouraged to provide, comparative annual financial statements.

The cost of preparing two years of financial statements and having them reviewed or audited could be disproportionate to the size of the crowdfunding offering and the nature of the issuer's operations. In proposing two years of financial statements, the Commission noted that "requiring a second year will provide investors with a basis for comparison with the most recently completed year, without substantially increasing the burden for the issuer." In the proposing release, the Commission cites as a basis for this view SEC Release No. 33-8876, which amended Regulation S-X to require a second balance sheet for smaller reporting companies. We do not believe that the analysis performed at that time is relevant, because small business issuers were already filing two years of statements of income and cash flows, so requiring a second balance sheet was not a significant burden. In contrast, the burden of preparing a second year of financial statements for a company that may have never prepared GAAP financial statements could be substantial.

We also observe that an emerging growth company, which may have revenue up to \$1 billion, may raise capital through a registered public offering by providing two years of financial statements. We do not believe that companies that use the crowdfunding exemption to offer up to \$1 million in securities annually should have to provide the same number of years of financial statements as emerging growth companies conducting registered initial public offerings of unlimited size. Instead, we believe one year of financial statements would be appropriate for the type of start-up business likely to use the crowdfunding exemption.

Furthermore, we believe that recently formed companies should receive additional relief because a complete set of financial statements generally would not provide meaningful information. In considering the financial statement requirements for newly formed companies, we note that Regulation S-X requires recently formed registrants to provide an audited balance sheet dated within 135 days of the filing date. In most cases, the balance sheet provided is a "seed" balance sheet that communicates little meaningful information to investors. We therefore do not believe that crowdfunding issuers should have to provide complete financial statements if they were formed within 12 months of the offering. In lieu of annual financial statements, we recommend that companies formed within 12 months of a crowdfunding offering be allowed to provide a balance sheet, certified by the principal executive officer (PEO) and dated within 180 days of the offering. Further, we recommend that companies formed within 180 days of the offering not be required to provide any financial statements because the required narrative discussion of financial condition should suffice.

Given the limits on the amounts companies can raise and individuals can invest, we agree that issuers using the crowdfunding exemption should not be required to provide interim financial statements. We also believe that crowdfunding issuers may find it challenging to provide financial statements (especially those that would be subject to audit or review) within 120 days of their most recently completed year-end. We do not believe the proposal to give crowdfunding issuers 30 days more than non-accelerated filers have under Rule 3-01(c) of Regulation S-X is sufficient. We believe that the deadline should be extended to 180 days, which we also believe should be the annual reporting deadline, as discussed further below, subject to certain conditions. For example, it seems appropriate to extend the period to 180 days by which time annual financial statements must be provided in a crowdfunding offering if an issuer presents interim financial statements certified by the PEO covering the first six months of its most recently completed fiscal year. We believe this change would provide greater flexibility to issuers while still meeting the needs of investors.

In connection with the financial statements provided in crowdfunding offering statements and subsequent annual reports, Instruction 9 to paragraph (t) of Item 201 of the proposed crowdfunding rules would require an issuer to “include a discussion of any material changes in its financial condition during any time period subsequent to the period for which financial statements are provided, including changes in reported revenue or net income.” The final rule should clarify whether the SEC expects this discussion to be made within the financial statements or in supplemental narrative disclosures. If the intent is to require more extensive disclosure than that required by Accounting Standards Codification (ASC) 855, *Subsequent Events*, we recommend that the instruction be moved to paragraph (s) of Item 201. Moreover, we question the ability of issuers to determine and assess changes in specific income statement line items such as revenues and net income. Accordingly, we recommend that any required disclosures about a subsequent interim period be limited to material changes in financial condition.

Accounting framework and auditor involvement

We agree with the SEC that financial statements should be prepared in accordance with US GAAP when they require auditor involvement (i.e., for offerings of more than \$100,000). While using a comprehensive basis of accounting other than US GAAP would cost less, we believe that it may not provide investors with a fair representation of a company’s financial position and results of operations. For example, a company reporting under a cash basis of accounting would include in revenue cash received in advance of services not yet provided while a company reporting under US GAAP would defer revenue recognition in that situation.

However, we believe that companies using the crowdfunding exemption to raise \$100,000 or less should be allowed to provide only tax-basis financial statements that correspond to their latest filed tax returns, unless US GAAP-basis financial statements are available. The SEC has proposed requiring crowdfunding issuers conducting offerings of this size to provide both their most recent income tax returns and financial statements for the most recently completed fiscal year prepared in accordance with US GAAP and certified to be true and complete in all material respects by the PEO. We believe it may be challenging for the PEO to provide a reliable certification of US GAAP-basis financial statements without engaging accounting experts. Further, for these small issuers, we recommend that the timing of their financial disclosures correspond to any extended tax filing deadlines.

The proposal estimates costs of \$4,000 for the preparation and filing of the annual report for offerings of \$100,000 or less, \$14,350 for an annual review for offerings between \$100,000 and \$500,000 and \$28,700 for an annual audit for offerings of more than \$500,000. The costs to issuers for an annual audit to undertake a crowdfunding offering, in addition to the costs to comply with the proposed ongoing annual reporting, would represent a significant percentage of capital raised through crowdfunding and will likely discourage use of the crowdfunding exemption. Accordingly, we recommend that the Commission adjust the proposed threshold at which an audit would be required. In the proposal, the Commission observed that raising the threshold to \$1 million would essentially eliminate the requirement because that is the maximum amount that can be offered annually under the crowdfunding exemption. The Commission, however, requested comment on whether it should consider additional criteria to determine when to require an issuer to provide audited financial statements. It is unclear whether the JOBS Act requires the Commission to specify only a dollar threshold based on the size of the offering for an audit requirement or whether the Commission can specify criteria (e.g., total equity outstanding, total assets, total revenue) other than the size of an offering.

To minimize offering costs, unless audited financial statements are otherwise available, we recommend that audits should be required only for issuers that have issued an aggregate of \$5 million in equity securities in crowdfunding transactions or will exceed \$5 million with a proposed offering (i.e., the minimum threshold for which audited financial statements would be required in a Regulation A offering).

While we support requiring US GAAP financial statements when auditor involvement is required, we believe crowdfunding issuers should be able to use private company alternatives available under US GAAP. However, the FASB recently issued Accounting Standards Update (ASU) No. 2013-12, *Definition of a Public Business Entity*, that appears to include crowdfunding issuers in criterion (a)¹ of the definition of public business entities. As a result, crowdfunding issuers would not be able to use alternatives the FASB provides to allow private companies to simplify their accounting. Instead, crowdfunding issuers would have to prepare their historical financial statements under US GAAP applicable to public companies.² This could increase costs for crowdfunding issuers by requiring them to apply more complex accounting and disclosure standards under US GAAP and requiring them to revise previously issued financial statements. We recommend that the Commission consider how the FASB's definition of a public business entity will affect crowdfunding issuers and provide an exemption for crowdfunding issuers. We also observe that Section 107 of the JOBS Act provides that an emerging growth company can take advantage of the extended transition period applicable to private companies for complying with new or revised accounting standards. Thus, as proposed, crowdfunding issuers would be required to adopt new or revised accounting standards sooner than emerging growth companies.

¹ Criterion (a) of ASU 2013-12, *Definition of a Public Business Entity*, states that an entity that "is required by the U.S. Securities and Exchange Commission (SEC) to file or furnish financial statements, or does file or furnish financial statements (including voluntary filers), with the SEC (including other entities whose financial statements or financial information are required to be or are included in a filing)" is a Public Business Entity.

² We also observe that the Accounting Standards Codification includes multiple definitions of the term public entity. ASU 2013-12 only applies to new standards developed in the future and does not affect definitions of the term public entity in current US GAAP. As a consequence, crowdfunding issuers will be required to comply with certain public company disclosures. For example, the term public entity in ASC 280, Segment Reporting, includes a business entity that "is required to file financial statements with the Securities and Exchange Commission."

The auditing standards require that when financial statements are materially affected by a departure from generally accepted accounting principles, the auditor should express a qualified or an adverse opinion or disclaim an opinion,³ and when there is a scope limitation, the auditor must consider whether a qualified report is sufficient or whether a disclaimer is necessary.⁴ We agree with the Commission that a qualified opinion should satisfy the requirement to provide audited financial statements for crowdfunding issuers, while an adverse opinion or disclaimer of opinion should not. We believe the audit standard⁵ provides sufficient transparency for crowdfunding investors to understand the effect of any qualifications included in the auditor's report as well as a framework for the independent accountant to evaluate whether such a report is appropriate given the extent of the departure from GAAP or the extent of the scope limitation.

For offerings of more than \$100,000, but not more than \$500,000, the proposal would require the issuer to file a copy of the public accountant's review report with the Commission, provide the review report to both the investors and the relevant intermediary and make it available to potential investors. The proposal does not address whether modifications to a review report are acceptable to satisfy the requirement to provide reviewed financial statements.⁶ We believe the final rule should more explicitly address the acceptability of certain modifications to a review report.

It also is unclear in the proposal whether and how an issuer would inform the auditor of its intent to include a previously issued audit or review report in a crowdfunding offering statement and whether there are any expectations of a role for the auditor in the offering. For example, would management need to obtain a written acknowledgment from the auditor, or a report signed manually and

³ AU Section 508, Reports on Audited Financial Statements, states that "in deciding whether the effects of a departure from generally accepted accounting principles are sufficiently material to require either a qualified or adverse opinion, one factor to be considered is the dollar magnitude of such effects. However, the concept of materiality does not depend entirely on relative size; it involves qualitative as well as quantitative judgments. The significance of an item to a particular entity (for example, inventories to a manufacturing company), the pervasiveness of the misstatement (such as whether it affects the amounts and presentation of numerous financial statement items), and the effect of the misstatement on the financial statements taken as a whole are all factors to be considered in making a judgment regarding materiality."

⁴ AU Section 508, Reports on Audited Financial Statements, states that the "auditor's decision to qualify his or her opinion or disclaim an opinion because of a scope limitation depends on his or her assessment of the importance of the omitted procedure(s) to his or her ability to form an opinion on the financial statements being audited. This assessment will be affected by the nature and magnitude of the potential effects of the matters in question and by their significance to the financial statements. If the potential effects relate to many financial statement items, this significance is likely to be greater than if only a limited number of items is involved."

⁵ AU Section 508, Reports on Audited Financial Statements, requires an auditor to disclose "in a separate explanatory paragraph(s) preceding the opinion paragraph of the report, all of the substantive reasons that have led him or her to conclude that there has been a departure from generally accepted accounting principles. The explanatory paragraph(s) should also disclose the principal effects of the subject matter of the qualification on financial position, results of operations, and cash flows, if practicable. If the effects are not reasonably determinable, the report should so state. If such disclosures are made in a note to the financial statements, the explanatory paragraph(s) may be shortened by referring to it."

⁶ Statements on Standards for Accounting and Review Services, AR Section 90, Review of Financial Statements of the AICPA professional standards states that "if the accountant concludes that modification of the standard report is appropriate, the departure should be disclosed in a separate paragraph of the report, including disclosure of the effects of the departure on the financial statements if such effects have been determined by management or are known as the result of the accountant's procedures. The accountant is not required to determine the effects of a departure if management has not done so, provided that the accountant states in the report that such determination has not been made."

contemporaneously with the offering, prior to including a report in a crowdfunding offering? If the financial statements were previously issued or available to be issued under ASC 855, it seems that the inclusion of such financial statements in an offering document would constitute a reissuance of those statements requiring management to evaluate subsequent events for disclosure purposes (and disclose in the financial statements the date through which that evaluation was conducted). Similarly, it seems that the auditor also would need to consider any events that have occurred since its report date and dual date its report accordingly. While a filed consent or similar letter from the independent accountant would not appear necessary, we believe that the auditor's report should be dated (or dual-dated) contemporaneously with the issuance (or reissuance) of the issuer's financial statements to reflect the fact that the report is being issued (or reissued) in connection with an offering of crowdfunding securities. This requirement also will ensure the auditor is informed of management's intent to include the auditor's report in a filing with the SEC and can perform the appropriate procedures prior to the offering. We believe this involvement should be clarified in the final rules.

Audit and independence standards

The proposal allows for reviews of financial statements to be performed in accordance with AICPA standards and audits of financial statements to be performed in accordance with either AICPA or PCAOB auditing standards. The proposal does not require the audit to be conducted by a PCAOB-registered firm. We agree with those determinations because crowdfunding issuers do not meet the definition of "issuers" under the PCAOB rules. We believe that permitting audits of financial statements to be performed in accordance with AICPA standards will increase the availability of accountants that are qualified to perform such services and keep costs to crowdfunding issuers competitive. In proposing that an audit does not have to be performed by a PCAOB-registered firm, the SEC notes that more accountants would be eligible to audit the crowdfunding issuers' financial statements, which may reduce costs.

However, requiring compliance with SEC independence rules, as proposed, would limit the number of accountants that can audit issuers' financial statements and could increase costs for issuers by requiring them to obtain reaudits of financial statements that were used for another purpose and were not audited by auditors that meet SEC independence rules. We also observe that accounting firms that are not registered with the PCAOB may not have controls and processes in place to comply with and monitor certain aspects of SEC independence rules (e.g., affiliate relationships among audit clients and any of their investors). Therefore, when a review or an audit of a crowdfunding issuer is conducted in accordance with the AICPA standards or PCAOB auditing standards, we recommend that the Commission require compliance only with AICPA independence standards. This approach will reduce compliance costs and retain an accepted and recognized independence framework.

Ongoing reporting requirements

We do not believe that the Commission should require ongoing reporting semiannually or quarterly for crowdfunding issuers because such a requirement does not currently exist under Regulation A. In our view, crowdfunding issuers should not have higher compliance costs than issuers that use other public offering exemptions.

While crowdfunding issuers should be encouraged to disclose material events on as timely a basis as possible, the limited reporting resources of crowdfunding issuers should be considered in setting reporting expectations. In recognition of the illiquid nature of crowdfunding securities, it would seem reasonable to scale any reporting requirements related to material events and transactions. Also, we recommend that the final rule acknowledge that Regulation FD and Regulation G do not apply to crowdfunding issuers. However, all crowdfunding issuers should be encouraged to broadly report material nonpublic information on a timely basis after its disclosure by other means (i.e., selective disclosure by crowdfunding issuers should be discouraged).

If the SEC adopts ongoing reporting requirements, we recommend that it consider the following in crafting a reporting framework:

- ▶ Reporting deadlines should be extended beyond those required by Form 8-K (e.g., crowdfunding issuers should report events within 30 days of the end of the month in which they occurred).
- ▶ Reporting should be scaled for various crowdfunding issuers rather than a one-size-fits-all approach (e.g., reporting expectations would be greater for crowdfunding issuers that are required to provide annual reports with audited financial statements than those that provide PEO-certified financial statements).
- ▶ Types of events and transactions that must be reported should be much more limited than those required by Form 8-K (e.g., only those that would be important for investors regarding the recoverability of their investment), such as the following:
 - ▶ Defaults on indebtedness secured by material assets of the company
 - ▶ Dilution of existing shareholders' interest (i.e., sales and issuances of securities at a price less than that paid in crowdfunding offerings)
 - ▶ Material modifications to the rights of security holders
 - ▶ Bankruptcy or receivership
 - ▶ Change in control of the issuer
 - ▶ Non-reliance on previously issued financial statements
 - ▶ Departure of executive officers

We also believe that the ongoing reporting requirements for crowdfunding issuers should not be more onerous than those required by other exemptions such as Regulation A and certainly not more burdensome than for issuers that conduct registered offerings. It would seem reasonable under the crowdfunding exemption to scale ongoing financial statement requirements based upon cumulative offerings to date. For example, crowdfunding issuers could provide a tax return and tax basis financial statements for the corresponding year certified by the PEO for aggregate offerings of \$500,000 or less (unless reviewed or audited financial statements are available); financial statements reviewed by

an auditor, unless audited financial statements are available, for aggregate offerings of more than \$500,000 but not more than \$5 million; and audited financial statements for aggregate offerings of more than \$5 million.

The proposal requires ongoing reporting in perpetuity unless one of these events occurs: (1) the issuer becomes a reporting company required to file reports under the Exchange Act, (2) the issuer or another party purchases or repurchases all of the securities issued pursuant to the crowdfunding exemption or (3) the issuer liquidates or dissolves its business in accordance with state law. The requirement to file annual reports in perpetuity is a significantly higher burden than requirements for other exemptions under the Securities Act of 1933 (i.e., Regulation A and Regulation D), where securities in excess of \$1 million may be offered and sold. Furthermore, we observe that an issuer can terminate its Section 15(d) Exchange Act reporting after only one annual report if the company has fewer than 300 shareholders regardless of its registered offering size. Therefore, we believe that the SEC should change the termination provisions in the final rule to make them no more onerous than current Exchange Act Rules (i.e., following one annual report and 300 or fewer security holders). Issuers could voluntarily undertake to report for longer periods or could be required to do so by the portal through which they offer securities.

Issuer's financial condition

The JOBS Act Section 4A(b)(1)(D) requires that the issuer provide “a description of the financial condition of the issuer.” A literal interpretation of this requirement would suggest that the intent is to give investors information about the issuer’s financial condition at a point in time, which may indirectly include a discussion of liquidity and capital resources. We observe that the proposed rules have expanded this requirement to include a discussion of the issuer’s historical results of operations: financial milestones and operational, liquidity and other challenges if an issuer does not have a prior operating history and, for issuers with an operating history, whether historical earnings and cash flows are representative of what investors should expect in the future. We believe that these proposed requirements would be challenging for issuers at an early stage of development. We also believe that these proposed disclosures could duplicate others provided in response to the description of the issuer’s business and anticipated business plan, as well as the material investment risk factors.

Further, the proposal suggests that the SEC expects the discussion to “inform investors about the financial condition of the issuer in a manner similar to the management’s discussion and analysis of financial condition and results of operations (“MD&A”) required by Item 303 of Regulation S-K for registered offerings.” We believe that any expectation for a crowdfunding issuer to provide the equivalent of MD&A extends well beyond the statutory requirement and would raise costs and create impediments for issuers that could discourage the use of the crowdfunding exemption. Accordingly, we suggest that the adopting release avoid any implication that the description of the financial condition of a crowdfunding issuer would satisfy the requirements of, or be as extensive as, MD&A under Regulation S-K.

We suggest that the required disclosures about the financial condition of a crowdfunding issuer not mandate any discussion of operating results. Instead, to supplement other proposed disclosures about the business and related risk factors, a crowdfunding issuer should be encouraged to discuss, to the extent material, any historical operating results, focusing on the underlying causes of material



changes in revenue, margins and net income. We would expect that many crowdfunding issuers would voluntarily provide such a brief commentary about, and analysis of, their operations. To the extent the Commission concludes that a discussion of operating results is necessary, we believe that such a requirement should be coordinated with, and no more onerous than, the corresponding disclosure requirements in Form 1-A for Regulation A offerings.

To encourage issuers to voluntarily provide forward-looking disclosures without the fear of litigation if the expectations do not materialize, we believe the final crowdfunding rules should provide a safe harbor for forward-looking statements, written or oral, made by the issuer following its initial crowdfunding offering and in ongoing reporting, consistent with the Commission's exemption authority under Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934.

Certain start-up companies may be reluctant to use the crowdfunding exemption due to the potential adverse consequences of publicly disclosing certain information (e.g., unpatented technology or intellectual property, key customers or target markets). In order to promote capital formation by start-up companies, the Commission should consider allowing a crowdfunding issuer to omit information that it has a reasonable basis to believe could cause economic or competitive harm, provided that it makes disclosure to that effect.

Disclosure overload

The proposal would require a description of the material terms of any indebtedness of the issuer, including the amount, interest rate, maturity date and any other material terms. The proposal also would require the issuer to include disclosure of certain related-party transactions. We believe some of the proposed disclosures would most likely be addressed in multiple places in the offering memorandum, resulting in unnecessary duplication.

We do not believe that disclosures included in the financial statements should be duplicated in other sections of the offering statement or ongoing reports. We believe this view is consistent with recent comments about disclosure overload from the SEC Commissioners and the staff. As a result, final rules should explicitly address an issuer's flexibility in providing disclosures to avoid redundancies.

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We would be pleased to discuss our comments with the Commission or its staff at your convenience.

Yours sincerely,

Comparison of the crowdfunding proposal and our recommendations

This table outlines some of our suggestions on the requirements on issuers for offerings of crowdfunding securities relative to the SEC's proposal.

Provision	SEC proposal	EY recommendation
Financial statement requirements and basis of presentation for offerings of \$100,000 or less	The most recently filed income tax return (if any) would be required, along with financial statements for the most recently completed year in accordance with US GAAP certified by the principal executive officer to be true and complete.	The most recently filed income tax return (if any) should be required, along with tax-basis financial statements for the corresponding period, unless US GAAP-basis financial statements are available, certified by the PEO to be true and complete.
Basis of financial statements for offerings of more than \$100,000	US GAAP	US GAAP
Use of private company accounting alternatives provided by the FASB	Not specified.	The SEC should explicitly exempt crowdfunding issuers from the FASB's new definition of a public business entity. This is necessary for crowdfunding entities to use accounting alternatives the FASB provides for private companies.
Number of periods of financial statements	Financial statements would cover the shorter of the two most recently completed fiscal years or the period since inception.	Financial statements should cover only the most recently completed fiscal year, but comparative annual financial statements should be encouraged. In lieu of annual financial statements, a company formed within 12 months of an offering should be able to provide a balance sheet dated within 180 days of the offering and certified by its PEO. Companies formed within 180 days of the offering should not be required to provide any financial statements. They should be required to provide only a discussion of their financial condition.

Provision	SEC proposal	EY recommendation
Audit requirement in offering document	Offerings of more than \$500,000 would require audited financial statements.	Audited financial statements should be provided if available. Otherwise, an issuer should provide financial statements that are reviewed by an independent auditor for offerings of more than \$100,000 unless the issuer has offered an aggregate of \$5 million of securities in crowdfunding transactions or will exceed \$5 million with the proposed offering.
Type of audit report	Unqualified or Qualified Opinion, but not Adverse or Disclaimer	Same
Type of review report	Not specified.	Standard report or modifications for departures from GAAP should be allowed.
Timely auditor association with crowdfunding offering	Not specified.	The auditor's report should be dual-dated to reflect the fact that it and the financial statements are being reissued in connection with a crowdfunding offering.
Auditor independence standards	Rule 2-01 of Regulation S-X would apply.	AICPA independence standards should apply.
Age of financial statements in crowdfunding offering	If more than 120 days have passed since the end of the issuer's most recently completed fiscal year, the issuer would provide annual financial statements for its most recently completed fiscal year.	If more than 180 days have passed since the end of the issuer's most recently completed fiscal year, the issuer would provide annual financial statements for its most recently completed fiscal year. If more than 120 days have passed since the end of the issuer's most recently completed fiscal year and financial statements are not provided for that year, the issuer should have to provide PEO-certified financial statements for the first six months of its most recently completed fiscal year.

Provision	SEC proposal	EY recommendation
Ongoing annual reporting requirements	<p>The requirements would depend on the highest amount offered and sold in any 12-month period:</p> <ul style="list-style-type: none"> ▶ For offerings of \$100,000 or less, tax return and US GAAP financial statements certified by PEO ▶ For offerings of more than \$100,000 but less than \$500,000, reviewed financial statements ▶ For offerings of more than \$500,000, audited financial statements 	<p>The requirements should depend on the total amount offered and sold.</p> <ul style="list-style-type: none"> ▶ For total offerings of \$500,000 or less, tax return and tax-basis financial statements for the corresponding year certified by PEO ▶ For total offerings of more than \$500,000 but less than \$5 million, financial statements reviewed by an independent auditor ▶ For total offerings of more than \$5 million, audited financial statements
Quarterly or semi-annual reporting requirements	None	None
Termination of ongoing annual reporting	Ongoing reporting would be required in perpetuity unless the issuer becomes a reporting company, crowdfunding securities are repurchased or the issuer liquidates or dissolves its business.	The termination provisions should be no more onerous than current Exchange Act Rules (i.e., following one annual report and 300 or fewer security holders). Issuers could voluntarily undertake to report for longer periods or could be required to do so by the portal through which they sold securities.
Deadline to file ongoing annual financial statements	Annual financial statements would be due 120 days after the end of the fiscal year covered by the report.	<p>Annual financial statements should be due 180 days after the end of the fiscal year covered by the report.</p> <p>The deadline for issuers providing only tax returns and tax-basis financial statements for the corresponding year, certified by PEO, should be 180 days, or the filing or due date of their tax return if longer.</p>

Provision	SEC proposal	EY recommendation
Description of financial condition of the issuer	<p>An issuer would have to provide a discussion, to the extent material, of its historical results of operations, liquidity and capital resources.</p> <p>For issuers with no prior operating history, the description should include a discussion of financial milestones and operational, liquidity and other challenges. For issuers with an operating history, the discussion should address whether historical earnings and cash flows are representative of what investors should expect in the future.</p> <p>Issuers should discuss how the proceeds from the offering will affect their liquidity and the necessity of receiving those funds, and any other funds, to the viability of their business.</p> <p>Issuers should describe other available sources of capital such as lines of credit or required contributions by shareholders.</p>	<p>An issuer should be required to provide a discussion, to the extent material, of its financial condition, including liquidity and capital resources.</p> <p>To supplement the required disclosures about its business, business plan and the related investment risk factors, a crowdfunding issuer should be encouraged to discuss, to the extent material, any historical operating results, focusing on the underlying causes of material changes in revenue, margins and net income.</p> <p>Same</p> <p>Same</p>