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To: Mary Jo White, Chair
Elizabeth M. Murphy, Secretary
Charles Kwon, Office of Chief Counsel,
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Securities and Exchange Commission
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From: Jason Coombs, Co-Founder and CEO
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Re: File No. S7-09-13, http://www.gpo.gov/fdsys/pkg/FR-2013-11-05/pdf/2013-25355.pdf

This comment is in reply to the Commission's 176-page Proposed Rules for crowdfunding transactions pursuant to the new Section 4(a)(6) of the Securities Act of 1933, Release Nos. 33–9470; 34–70741.

I previously urged the SEC to formally adopt "A Bill of Rights for Securities Issuers Under The JOBS Act" https://publicstartup.com/A_Bill_of_Rights_for_Securities_Issuers_Under_The_JOBS_Act.pdf

See: http://www.sec.gov/comments/s7-09-13/s70913-93.pdf

My comment, above, was censored before publication alongside other comment letters. This is the first time, since I started providing comments in 2012, that such censorship of my letters has occurred. The Commission intentionally disabled hyperlinks contained within my PDF submission, and blacked out portions of my comment letter, in order to make it more difficult for people to contact me. This type of censorship by the SEC is unwarranted and objectionable. American politics has ample room for people to be ignored, marginalized, excluded, discriminated against illegally, persecuted, imprisoned without just cause, deprived of life, liberty and property without due process of law, and harassed or punished through direct or indirect actions of various government agencies or political commissions. Blocking and censoring my speech **on top of all that abusive political power** does not need to be part of your regulatory process. The SEC cannot prohibit use of certain words, and it has no authority to dole out punishments of any kind, nor to make any threats to any person, class of people or political interest.

The singular purpose of the Proposed Rules should be to instantly and unambiguously eliminate any fear of government reprisal or civil or criminal legal action against anyone who speaks publicly about their own unregistered securities offering, and uses the services of a "registered crowdfunding portal" intermediary to effect sales of unregistered securities according to Section 4(a)(6) of the Securities Act. Instead of removing fear of reprisal and dropping its 80-year-long practice of threatening and punishing suspected securities law offenders in order to compel the suspected offenders to hire securities lawyers, guaranteeing full-employment for all securities lawyers including legions of former-SEC staff attorneys who are stereotypical of the revolving door from regulator to private industry and back again, the SEC has devised Proposed Rules that are ridiculous and beyond the ability of anyone to comprehend. In my expert opinion, the SEC should be abolished entirely if it does not immediately develop the capacity to remove itself from the role of political thug on behalf of Congress, doling out threats and accusations.

To illustrate this bad behavior, see: http://www.otcmarkets.com/edgar/GetFilingPdf?FilingID=9681669

The SEC regulates, currently, for purely-historical reasons that are NO LONGER RELEVANT under the JOBS Act legislation, through three primary mechanisms that together create fraud and deception:

1. Impossible-to-comprehend Federal Securities Regulations that turn everyone into SEC's Offenders;
2. Explicit and implicit threats of civil and criminal persecution, prosecutions and punishments; and,
3. Pay-to-play systemic fraud involving payments that are essentially federal extortion payments, or that have the same practical effect as bribes paid to federal employees, in which would-be securities issuers are forced to pay, at minimum, hundreds of thousands of dollars in legal fees, accounting fees, auditor fees and the purchase of other professional services in order to attempt to comply with federal rules which the SEC staff attorneys are OBVIOUSLY CRAFTING FOR THEIR OWN PERSONAL FUTURE BENEFIT WHEN THEY LEAVE THE SEC TO GO TO WORK IN PRIVATE PRACTICE.

Every American should be outraged by the systemic misconduct of the SEC and its staff attorneys. The issue of the self-interested perpetuation of an Impossible-to-comply-with Federal Securities Regulatory Regime (IFSRR) and the ridiculous and economically-self-destructive prohibitions on reasonable acts of lawful communication and efficient, scalable trusted relationship-building that underpins the public financial markets must be the Commission's entire focus of reform. Make no mistake, the JOBS Act has made the SEC irrelevant and unnecessary. No issuer will ever register with the SEC again, pursuant to the 1934 Exchange Act, now that general solicitation and general advertising of new, unregistered securities has been legalized by Congressional action. In order to protect the criminal extortion racket that the SEC has created over the last 80 years, in order to ensure that every securities issuer will be required to pay hundreds of thousands of dollars in fees for utterly useless and ridiculous legal services, auditor opinions and professional services that add no value of any kind to the business operations or the wealth of the investors on whose behalf investment vehicles are created and protected by honest and capable people, the SEC has purposefully created this corrupt, abusive IFSRR.

No issuer will ever use the services of a “registered crowdfunding portal” nor will any issuer ever sell unregistered securities pursuant to Section 4(a)(6) if the SEC Rules essentially require such issuers to behave, and spend money on regulatory compliance, as if the issuers are 1934 Exchange Act-registered.

The SEC staff attorneys are smart criminals, just as any organized crime syndicate is after 80 years of operation. They know that their Proposed Rules are going to eliminate any possibility of unregistered securities sales, in practice, and that they will be able to trick unsuspecting victims into signing up for government abuse, harassment, retaliation, persecution and punishment in order to increase the number of billable hours that THESE VERY STAFF ATTORNEYS THEMSELVES WILL BE ABLE TO BILL TO SECURITIES REGULATION POLITICAL COMBATANTS FOR FUTURE LEGAL SERVICES.

Let me be absolutely clear about this: the SEC must recuse itself, in the entirety, from carrying out the Rulemaking that it has been tasked with by Congress, because the SEC is a systemic fraud and **every single one of its member attorneys and each of its Commissioners has a fatal conflict of interest**.

Joseph McLaughlin, attorney with Sidley, Austin LLP, in his comment letter dated January 29, 2014 makes it clear that the Commission has systematically and KNOWINGLY refused to comply with the Congressional mandate handed down by the JOBS Act. In essence, the legislative and executive branches of the federal government have mandated, they have made it MANDATORY, that the SEC stop interfering with the constitutionally-protected freedoms that allow each one of us to govern our own actions in accordance with the law. The SEC keeps violating the law, itself, by refusing to comply.

See: http://www.sec.gov/comments/s7-06-13/s70613-484.pdf

Furthermore, the SEC has made it clear that it will threaten to imprison anyone it wishes to threaten, for any reason or no reason. It is in fact the preservation of its own political power that motivates the SEC.

An attorney for the CalTech Entrepreneurs Forum, Russell Frandsen, commented on January 29, 2014 to advise the SEC of something that the SEC already knows: NOBODY CAN SELL SECURITIES IN PRACTICE IN COMPLIANCE WITH REGULATION D, RULE 506(C) BECAUSE NO ISSUER CAN VERIFY THE "ACCREDITED" STATUS OF PROSPECTIVE INVESTORS USING ANY OF THE REASONABLE STEPS REQUIRED BY REGULATION AFTER GENERAL SOLICITATION AND GENERAL ADVERTISING HAS BEEN USED TO ATTRACT PUBLIC INVESTORS. The reasons are obvious, and are entirely the fault of the SEC. Instead of explicitly affirming everyone's right to be "reasonable" in the "steps" that are taken by issuers and investors to form capital together, the SEC has promulgated Proposed Rules that interfere with capital formation ON PURPOSE, JUST TO PROTECT THE SEC'S CRIMINAL ENTERPRISE AND GUARANTEE FULL-EMPLOYMENT FOR CRIMINAL RACKETEERS WHO FORCE ALL ISSUERS TO PAY PROTECTION MONEY.

See: http://www.sec.gov/comments/s7-09-13/s70913-167.htm

If the SEC does not solve this problem, and solve it immediately, there will be a backlash against this systemic fraud and corruption of our present political system. This is a matter of national security. This is a matter of systemic risk. This is a matter of survival for our federal government. The United States of America will disappear from the face of the Earth, just like the USSR did, if these problems are not solved. A corrupt government that unjustly deprives everyone of basic freedoms and the opportunity for productive participation in a fair and reasonable social order and a just and reasonable economy will not exist for very long before it is overthrown by the people on whose behalf it purportedly governs.

I have personally been threatened with imprisonment by the SEC for doing nothing more than speaking publicly[1] about my unregistered securities offerings[2] in full compliance with Regulation D Rule 506(c).

These threats against me by the SEC[3] occurred just three days after I submitted my December 15, 2013 comment letter[4] in which I urged the SEC to adopt a strong, simple *Bill of Rights for Securities Issuers*.

See: http://www.sec.gov/comments/s7-09-13/s70913-93.pdf

I am not an idiot. I fully understand that the SEC's corrupt practices are impossible to fight. Only an executive order or a further act of Congress can dissolve the SEC, and until it is dissolved anyone who attempts to utilize the new JOBS Act Rules is going to be threatened with imprisonment, civil lawsuits and federal sanctions and penalties under the SEC's Offender Administrative Law proceedings which are designed to ensure that the SEC can investigate and punish anyone at any time for any reason if the SEC's ambiguous and misleading Rules and Regulations are invoked by a would-be securities issuer.

The only way to avoid this regulatory corruption is to rely purely on State securities regulation for the capital formation of a new venture. If this is the SEC's true political objective, ending all federalism in securities law for startup companies, the SEC should simply call a meeting with all State regulators and get THEM to implement State securities regulations, uniformly, that discourage inter-state unregistered securities sale transactions for raising startup capital. The JOBS Act would become the federal backstop to these new State regulations but rather than deceiving individual issuers into believing that a federal law permits them to sell unregistered securities without regard for State regulation, the JOBS Act Rules could instead form the basis of the State-sponsored capital formation transactions that otherwise would have been accomplished using Regulation D Rule 506(c) or Section 4(a)(6) of the Securities Act. States that want startup companies to relocate to their jurisdiction could provide a safe harbor as an alternative to the corrupt practices and threatening, abusive tactics of the SEC's Offender Division of Enforcement.

(1) http://www.pr.com/press-release/532004
(2) http://www.otcmarkets.com/edgar/GetFilingPdf?FilingID=9651212
(3) http://www.otcmarkets.com/edgar/GetFilingPdf?FilingID=9681669
(4) http://www.sec.gov/comments/s7-09-13/s70913-93.pdf

No federal political commission should be threatening anyone with imprisonment merely for speaking.

The fact that the SEC is unable to avoid, due to internal systemic dysfunction and abusive, corrupt bad acts and deceptive practices designed to perpetuate its own political power and to provide employment opportunities to securities lawyers, while doing AS CONGRESS AND THE PRESIDENT MANDATE THAT THE SEC DO: GET OUT OF THE WAY AND LET PEOPLE FORM CAPITAL WITH EACH OTHER WITHOUT BEING REQUIRED TO REGISTER WITH THE SEC OR PAY GATEKEEPERS FOR ACCESS TO PUBLIC FINANCIAL MARKETS, is a problem requiring an immediate remedy.

I hereby call upon the Accredited investors of the world to provide me with the funding required to fight the SEC, and to hire an army of lobbyists to get new federal laws enacted that will dissolve the SEC and to fully repeal the 1933 Securities Act and 1934 Exchange Act for the benefit of all people.

My new companies will do a better job of protecting investors, and will protect all Americans from our enemies, both foreign and domestic, with more loyalty to the U.S. Constitution and with more skill than the SEC has ever done in its history. It is time for a private competitor to the SEC to emerge, one that is not contaminated by political or systemic corruption the way that Bernie Madoff's FINRA has become.

Private competitors who join in the growth of this new forensics and security industry, companies who try to build better technology and provide better forensic services than my companies do, will have a profit motive to seek out and to Pre-Empt fraud. Collectively, this new industry will train the next generation of corporate leaders and equip them with tools and forensic social media platforms that do not have political corruption and threats of imprisonment or threats of political persecution at the core.

The SEC has no more power than any private party does. When funded, my companies will be able to file civil lawsuits against anyone we suspect of engaging in actionable fraud. Where the SEC claims to have legal standing to litigate against anyone it wishes to litigate against, because Congress asserts the authority to delegate that legal standing, my companies will have legal standing to litigate in a more sensible, more reasonable way: we will buy bad investments from the people who are issuing them, or from the third-parties who have already purchased them, and we will assert shareholder rights and file lawsuits under federal and state anti-fraud statutes the way that reasonable people already expect the SEC should be doing. My companies will do a much better job of working with federal, state and international law enforcement agencies compared to the deplorable job the SEC has done since 1934.

Where the SEC has interfered with criminal prosecutions and is known to have ignored or sabotaged its own investigations (such as in the case of Bernie Madoff) for political reasons, my companies will find every single opportunity to produce profit by uncovering fraud even if this profit can only be produced by asserting control over a poorly-managed private company and bringing in new management.

The Commission's authority to regulate comes from the people, the natural persons of this nation not its corporate persons. It is time that the SEC formally acknowledge that both natural persons and corporate persons have inalienable rights that no political Commission can ever be granted authority to infringe. If fraud and deception are not present then the “artifice” of a “security,” a “corporation” or “company” of any kind is merely an instrument of lawful communication and relationship. By its very essence and by legal definition this means that the Commission cannot prohibit either the expressions of speech or the creation of lawful relationships and free associations of the people around which “artifices” of any lawful kind, including unregistered securities, are offered, issued and owned when capital is formed.

As a practical matter, the Commission also cannot expect to criminalize nor to prohibit nor to punish the use of certain words when those words are not used for any fraudulent nor deceptive purpose. My proposed Bill of Rights for Securities Issuers addresses these matters conclusively, in my opinion.

I don't believe that the SEC can prohibit my exercise of free speech, nor my freedom to associate with others. I am not alone in holding this viewpoint. Thank you for your attention to this important matter.

Quoting from: **Federal Register** /Vol. 78, No. 214 /Tuesday, November 5, 2013 / Proposed Rules **66515 –**
"Similarly, other studies suggest that startups and small businesses financed by venture capitalists also tend to have high failure rates. One study finds that for 16,315 VC-backed companies that received their first institutional funding round between 1980 and 1999, approximately one-third failed after the first funding round.[871] Additionally a recent study of more than 2,000 companies that received at least $1 million in venture funding, from 2004 through 2010, finds that almost three quarters of these companies failed.[872]
These failure rates are high, despite the involvement of sophisticated investors like VCs that are likely better equipped than the average retail investor to deal with uncertainty and risk associated with investments in startups and that generally specialize in selecting firms with good prospects, have direct access to management, have board representation and have at least some degree of control over operating decisions.
Because we expect that issuers that would engage in offerings made in reliance on Section 4(a)(6) would potentially be in an earlier stage of business development than the businesses included in the above studies, **we believe that issuers that engage in securities-based crowdfunding may have higher failure rates than those in the studies cited above**.[873]" [emphasis added]

If the SEC honestly believes that more than three out of four issuers that engage in Section 4(a)(6) crowdfunding transactions will fail, then that explains why the SEC has a habit and practice of treating everyone who tries to raise capital as a suspected criminal who must be presumed guilty.

However, this prejudiced bias against issuers who are in an "earlier stage of business development" does **NOT** explain why the SEC staff attorneys believe that imposing hundreds of thousands of dollars in unnecessary costs upon public startup companies is honestly a reasonable way to solve the problem of high failure rates during the early stages of business development. In fact, the decision that the SEC is making when it attempts to impose such costs is literally to ensure that securities lawyers, auditors, accountants, and other "helpers" (as Warren Buffett has famously referred to money managers who claim to help clients with choosing good investments but who as a group are notoriously unable to do better than the S&P 500) will be paid a large percentage of the capital that is invested in these failing businesses DESPITE THE FACT THESE PAYMENTS DO NOTHING TO HELP AVOID FAILURE!

"In 2011, there were almost 5 million small businesses, defined by the U.S. Census Bureau as having fewer than 500 paid employees.[874] In the same year, FDIC insured depositary institutions held approximately $626 billion in small business loans,[875] and VCs contributed an additional $30 billion of capital to startups and small businesses.[876]" [Ibid]

These market analysis statistics presented on page 66515 of the Federal Register make it perfectly clear that venture capital, and for that matter equity investing of any kind, is a profoundly destructive activity (or at least extremely deflationary) in real economic terms. Whereas venture capital equity investments totaled $30 billion in 2011, the FDIC insured depositary institutions, which are permitted to make loans using fractional reserve banking rules, had twenty times as much funding outstanding to small business ventures which on a 10% fractional reserve requirement for lending institutions may be accomplished with as little as $62.6 billion in paid-in equity bank capital. This suggests that **venture capital firms are actually employing a venture capital business model in order to arbitrarily pick winners and losers and to monopolize the supply of startup funding so they can deprive potential competitors of $270 billion in funding each year**, given that this is the differential between the total amount of funding the VCs actually deployed compared to the amount they could have deployed using the same equity capital to invest in local banks that would have made startup loans using bank capital. If the SEC holds the opinion that the only socially-acceptable form of funding is a bank loan, then it should say so.

All of the SEC's Proposed Rules appear to heavily penalize and discourage private equity investing, VC investing, angel investing, general solicitation of unregistered securities, crowdfunding and any form of venture finance other than bank lending and listed, exchange-traded registered securities offerings. This bias and prejudice against the potentially-deflationary, un-leveraged or "shadow banking-leveraged" micro investments that are contrary to the public policy objectives and the political views of the SEC is not reasonable. The SEC should not be engaging in a political deception surrounding the true nature of money in the economy while attempting to centralize control over manufactured inflationary pressures that other policymakers and politicians believe to be helpful to further concentrating political power.

A core premise underpinning the idea of the United State of America is economic freedom, even within each individual's limitations every participant in the economy is supposed to be free to choose how to use their resources to produce growth and prosperity for themselves. It is peculiarly un-American for the SEC to help cover up inter-generational theft, false economic promises such as Social Security, and unsustainable military and other federal spending that accumulates impossible-to-repay national debts, while simultaneously taking every opportunity to undermine individual liberty and real freedom of our economic choices. If the SEC does not immediately adopt a different policy concerning these matters then there will be no regulator in our present system that is even capable of being institutionally-aware of the fact that the federal government is hopelessly-insolvent as a direct result of the Great Depression which prompted the federal programs and the political economy that cannot function without systemic fraud and deception in order to endlessly manufacture inflation. This systemic fraud can only end badly, either with hyperinflation or with a structural deflationary downward spiral, because there is no freedom of choice for participants in the economy and thus no competitive alternatives that balance the one-way markets that are predetermined, politically-manipulated, and even bailed out, to always go up.

If the fiscal mismanagement of the federal government cannot be reigned in and corrected unless false inflation and corrupt manipulation of the money supply for benefit of the establishment are removed from the system, if economic justice and social justice cannot be achieved while artificial inflation is required in order to avoid a default on the national debt, if environmentally-destructive unsustainable energy policy with its associated market inefficiencies continue to obscure the truth about which of the products and services in our global economy are valuable to the long-term interests of humanity and other life on earth and which are destructive to our biosphere, then the SEC's offending against the new ideas for better ways for our economy to function that startup companies attempt to pioneer every day could contribute to the long-term decline of all life on Earth. People who care about the viability of the natural world and who perceive problems that appear to be exacerbated by rampant inflation and who also perceive solutions to those problems that may be deflationary must be afforded equal access to the financial markets in order for all potentially-important economic value to be discovered and brought to consumers. The alternative is a marketplace that is unable to adapt smoothly to changes in supply and demand of natural resources, technology and business processes that are vulnerable to disruptions and abrupt change in conditions such as water supply, climate change, political instability or food security. It is obviously not the job of the SEC to interfere with the development of new markets in order to help protect the established markets against changes that are beyond human control, yet that looks like it has been part of the dogma of federal securities regulation for 80 years. The time has come for real change.

To the extent that fractional reserve banking is a necessary component of the transition from securities markets that are designed to oppress the many for the benefit of the few to markets that are truly free and open to innovation from competitors, the SEC is the ONLY agency empowered to call this need to the attention of legislators and to regulate honestly and transparently so that reasonable bank leverage and appropriate involvement of banks in primary unregistered securities markets are part of the system. Banks should be able to become routine direct investors in any public startup's unregistered securities. Challenges to implementing such policy without creating unreasonable systemic risk are worth solving.

In the following pages I respond to the first 137 of 284 Requests for Comment published by the SEC.

#1. Q. Should we propose that the $1 million limit be net of fees charged by the intermediary to host the offering on the intermediary's platform? Why or why not? If so, are there other fees that we should allow issuers to exclude when determining the amount to be raised and whether the issuer has reached the $1 million limit?

#1 A. There should not be a $1 million limit, but if there is then it should clearly be a limit imposed in any non-integrated 12-month offering period. The SEC already knows that it will not be possible for very many issuers to successfully raise capital, and that there is a practical limit (the market demand) for every issuer, and that there is already a distinction, under the prior regulatory regime, between shares held in "street name" with a broker (which do not count toward the mandatory registration threshold) and shares held in certificate form (which do count toward that registration threshold). It makes no sense to allow investors to buy hundreds of millions of dollars of shares through a broker, in the prior regulatory regime, in secondary transactions that do not benefit the issuer in any way at all but that do enrich the broker-dealers while diverting capital to those selling investors who are exiting their investments with a profit, but to limit the amount that the issuer themselves can receive by way of a registered crowdfunding portal. Furthermore, the JOBS Act Rule that broker-dealers appear to actually care about is Regulation A+ which will allow up to $50 million per year to be sold in free-trading securities. See: http://www.gpo.gov/fdsys/pkg/FR-2014-01-23/pdf/2013-30508.pdf

Up to $50 million worth of securities, annually, will be able to be distributed to the public through broker-dealers so how can it possibly make any sense to limit Regulation Crowdfunding to only $1 million? The SEC offers rationale based on backwards-looking failure rate analysis during the period of time when the federal securities regulations were obviously designed, on purpose, to prohibit new capital formation so that new capital could only be formed through corrupt practices by paying extortion money and bribes to the SEC's offending gatekeepers.

I suggest that the issuer be permitted to deduct all federal and state taxes paid during the Regulation Crowdfunding offering period when determining whether the issuer has reached the $1 million limit.

I suggest that the issuer be permitted to deduct all salary and health insurance benefit costs incurred during the offering period, in addition to all legal and administrative fees, not just the fees charged by the registered crowdfunding portal intermediary to host the Regulation Crowdfunding offering. In this way, the $1 million limit will be net of new jobs created and will end up being in essence a limit only on the amount of capital spending (capex) that an issuer is allowed to raise and reinvest for investors.

#2. Q. As described above, we believe that issuers should not have to consider the amounts raised in offerings made pursuant to other exemptions when determining the amount sold during the preceding 12-month period for purposes of the $1 million limit in Section 4(a)(6). Should we require that certain exempt offerings be included in the calculation of the $1 million limit? If so, which types of offerings and why? If not, why not? As noted above, at this time the Commission is not proposing to consider the amounts raised in nonsecurities-based crowdfunding efforts in calculating the $1 million limit in Section 4(a)(6). Should the Commission propose to require that amounts raised in non-securities-based crowdfunding efforts be included in the calculation of the $1 million limit? Why or why not?

#2. A. No other exempt offerings should be included in the determination of the Section 4(a)(6) limit. No amounts raised in nonsecurities-based crowdfunding efforts should be required to be included in the calculation of a $1 million limit. Crowdfunding efforts that do not sell restricted unregistered securities

are not resulting in new holders of securities in “street name” with a broker-dealer intermediary, so the federal securities laws obviously do not apply and should not be regulating those relationships. In the case where a registered crowdfunding portal is the intermediary in Regulation Crowdfunding sales, the intermediary should be required to work with a clearing/custodial broker-dealer who will hold the new securities in customer accounts opened on behalf of investors who created accounts using the portal.

Issuers should also be allowed to operate their own self-hosted crowdfunding portal without registering as a crowdfunding portal intermediary with the Commission. In this case, where the issuer is its own intermediary but does not offer intermediary services to third-party issuers, the issuer should also be required to work with a clearing/custodial broker-dealer who will hold the resulting Regulation Crowdfunding-issued securities in “street name” analogous to practices already extant in the markets.

#3. Q. As described above, we believe that offerings made in reliance on Section 4(a)(6) should not necessarily be integrated with other exempt offerings if the conditions to the applicable exemptions are met. How would an alternative interpretation affect the utility of crowdfunding as a capital raising mechanism? Are there circumstances under which other exempt offers should be integrated with an offer made in reliance on Section 4(a)(6)? If so, what are those circumstances? Should we prohibit an issuer from concurrently offering securities in reliance on Section 4(a)(6) and another exemption? Why or why not? Should we prohibit an issuer from offering securities in reliance on Section 4(a)(6) within a specified period of time after or concurrently with a Rule 506(c) offering under Regulation D involving general solicitation? Why or why not? Should we prohibit an issuer from using general solicitation or general advertising under Rule 506(c) in a manner that is intended, or could reasonably be expected, to condition the market for a Section 4(a)(6) offering or generate referrals to a crowdfunding intermediary? Why or why not? Should issuers that began an offering under Section 4(a)(6) be permitted to convert the offering to a Rule 506(c) offering? Why or why not?

#3. A. Issuers should not be prohibited from conducting simultaneous Rule 506(c) exempt offerings and Regulation Crowdfunding exempt offerings. Furthermore, it should be made clear that Rule 506(b) exempt offerings can be conducted in parallel with Rule 506(c) exempt offerings and offerings that use the new Regulation Crowdfunding exemption, whether the issuer uses a registered crowdfunding portal intermediary or whether the issuer serves as its own unregistered crowdfunding portal and works with a broker-dealer for clearing and custodial services for the newly-issued securities held in “street name”.

All JOBS Act-regulated offerings should be interchangeable and non-integrated. That is to say that when a sales and marketing effort, when the limited advertising or general advertising of an offering, produces a sales lead, the issuer should be empowered to close a transaction with the buyer using any required, applicable exemption from registration or even, if the issuer wishes to do so, by submitting an Emerging Growth Company accelerated registration filing in order to register securities that can be sold to the buyer or buyers. This flexibility alone will create new jobs in the millions, and it will refocus all of the broker-dealer and intermediary activities on seeking out potential buyers of securities and the best, most seasoned issuers who need those buyers in order to mobilize capital for a particular purpose.

The current system is so inefficient, unfair, politicized and unreasonable that, according to the SEC, one study found **almost 75% of all issuers who raised over $1 million from 2004 to 2010 failed**.

Permitting pre-registration pre-sales of soon-to-be-registered securities in Regulation Crowdfunding transactions, whether those transactions are facilitated by a registered crowdfunding portal intermediary or a licensed broker-dealer, would dramatically improve Emerging Growth Company capital formation. There is no rational reason for the SEC to codify rules that interfere with transactions, provided that the

issuers and any third-party intermediaries are not engaged in any fraud or deception, and provided that the regulatory compliance burdens imposed by the SEC rules are satisfied before securities are issued.

The market for unregistered securities will be able to develop sophistication under the JOBS Act Rules to a degree that is superior to that which was achieved by the previous market promulgated from the previous regulatory regime implemented since 1933. If buyers of unregistered securities issued by way of Regulation Crowdfunding transactions are required to hold those securities for a minimum 12-month holding period prior to resale, but insiders are eligible for Rule 144 resales or Regulation A+ issuances that are able to benefit the insiders materially (such as by enabling payment of their salaries) during the period of time when restricted securities holders are prohibited from reselling their securities, it is the existence of this unusual and unnatural risk factor (the SEC's restriction) that unsophisticated buyers cannot possibly comprehend. The SEC's offenders who take advantage of unnatural counter-intuitive SEC rules to legally (and in full compliance with the SEC's regulations) deprive investors of value in a complex fraudulent scheme would be unable to commit the offenses about which the SEC is concerned if the SEC's regulations did not include any barriers to free-trading securities resales at any time, for any actor (bad or good) involved in a given security. If everyone is aware that the issuer can steal value from securities holders with the click of a mouse and the flick of a pen then the SEC will stop creating the appearance that it is capable of regulating honesty in these equity or debt investing relationships.

The SEC is not able to regulate honesty. People who do not want to be honest will find a way not to be.

It does profound harm to the securities market that the SEC is supposed to be protecting for the SEC to be creating impossible-to-understand Rules and Regulations that contain bizarre restrictions and more than one straight-forward process for issuers and investors to form their investment relationships.

The SEC should, in my opinion, simply warn the buyers of securities that the issuer has the legal right to take the value of the investment and keep it all for themselves so the only real rule is *caveat emptor*. The SEC could then refocus its limited resources on investor education and facilitating rapid discovery of new relationships between skilled, honest issuers and the sophisticated investors that support them.

It should not be necessary, under the new JOBS Act Rules, for an issuer to convert an entire offering from one Rule to another Rule (such as a Section 4(a)(6) effort converting to a Rule 506(c) offering) because the JOBS Act very clearly **mandates** that the SEC get out of the way and allow reasonable people to form material relationships with each other without old 1933 Securities Act prohibitions. The reasonable regulatory requirements imposed by the JOBS Act legislation will ensure that issuers and buyers are required to be honest with each other and with themselves, provided the SEC makes it clear that there are a small number of easy-to-understand, easy-to-comply-with honesty requirements, that issuers and buyers must each honestly try to create economic value together when securities are sold.

The elimination of prohibitions and the elimination of hidden barriers to honest, accurate valuation and the market sophistication that is required for anyone to accurately forecast future valuations hinges entirely on the implementation of the SEC's reform **mandated** by the JOBS Act. The SEC does not appear to be taking its **mandatory** reforms seriously, and the SEC should therefore be held liable when its impossible-to-comprehend and impossible-to-implement market regulations fail to achieve the fundamental increase in sophistication that is necessary for the honest sharing of a venture's value with public investors who do not have a meaningful, substantive pre-existing relationship with the issuer.

#4. Q. Under the proposed rules, whether an entity is controlled by or under common control with the issuer would be determined based on whether the issuer possesses, directly or indirectly, the power to

direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise. This standard is based on the definition of ‘‘control’’ in Securities Act Rule 405. Is this approach appropriate? Why or why not? Should we define control differently? If so, how?

#4. A. The legal concept of control should not have any relevance to JOBS Act Rules and Regulations.

It should not matter who controls any entity involved in a JOBS Act-compliant capital formation event. The SEC's overly-complex and misleading Rule language is never going to capture cases where a bad actor uses a proxy or puppet placeholder person or entity in order to commit fraud. Nobody ever has any way to know what is happening in unseen space and time if criminals are trying to defraud victims. After the fraud has occurred it is relatively easy, by comparison, to discover previously-concealed acts or forms of fraudulent control or deceptive misrepresentation. That's why it's relatively easy, today, for everyone to see that the SEC itself is part of a systemic fraud and that the SEC itself is guilty of bad acts on a massive scale. After 80 years, the fraud and deception becomes clear because of the results.

It is time for the SEC to get itself out of the business of deceiving investors into thinking they are better off because of expensive, complex regulations promulgated by the SEC's Rulemaking procedures. Why should the SEC prohibit any form of common control among issuers, portals, broker-dealers, or anyone who is being honest and transparent about potential conflicts-of-interest or risk factors that every single honest person feels compelled to comprehensively disclose? If investors are happy to do business with, and through, groups of people who are known to them to be trustworthy and capable of creating value for others, then attempting to prohibit those trusted people from creating value in ways that the SEC's offensive industry of financial professionals currently has a monopoly just creates inefficiency and lack of transparency by forcing effectively-anonymous third-parties into the middle of transactions that have nothing to do with them, where there **should be only two parties** – a willing buyer and willing seller.

If false or misleading statements are made, and if conflicts of interest exist that should have been disclosed, the buyer has the right to file a lawsuit against the party whose bad act caused them harm. This is a reasonable system of self-regulation, the system that requires self-governance and awareness of risk factors when people who do not know each other attempt to create economic value together.

In the past, the SEC's Rules which pertained to control persons or control securities or common control have resulted in structural features of implied trustworthiness (e.g. Bernie Madoff) and outrageous, stupid, irrational and unreasonable mental narratives that cause real people to misunderstand the risks they are taking because they presume that there are regulations that prevent objectionable forms of hidden control. Just like no regulation can ever prevent crime, no regulation can ever prevent hidden features of complex human systems – it should be the primary objective of the SEC's Regulations to avoid creating complex structural features of the market for securities because any structural feature that adds cost or complexity decreases the ability of the issuers to produce economic value for the holders of securities and increases the likelihood that the issuers will be able to conceal features of the business or dynamics of value creation that benefit control persons and cooperating entities while taking value away from securities holders.

The SEC should revise its Proposed Rules to eliminate any concept of control or common control, and instead flatten the market and regulatory regime so that every holder of securities can be certain that they hold a predictable and easily-understood amount of control based on the amount of securities they hold and the rights afforded to them by the class of securities and corporate law of a given jurisdiction. Disqualifying bad actors from JOBS Act offerings could then be achieved using the proposed 20% rule.

#5. Q. Under the proposed rules, the definition of issuer would include any predecessor of the issuer. Is this approach appropriate? Why or why not? Should an issuer aggregate amounts sold by an affiliate of the issuer when determining the aggregate amount sold in reliance on Section 4(a)(6) during the preceding 12-month period? Why or why not? If so, how should we define affiliate?

#5. A. Including “predecessor of the issuer” is acceptable provided that “parent of the issuer” is not considered to be a “predecessor” – even in a case where multiple issuers are under common control of the same principals, any limits on capital raised during a given time period and any calculation of any threshold, such as a mandatory registration threshold, should be separate for each issuer legal entity.

A company is a subdivision of the economy, and of private property rights, that exists in fictitious form with the consent and authority of a secretary of state who is the true source of all legal structure for the issuers who are not natural persons. If a secretary of state authorizes the existence of a legal entity, that entity cannot be deemed to be less worthy of rights and legal protections than any other entity merely because of how and where and under what circumstances the legal entity was conceived or controlled.

When legal entities merge, previously-separate divisions of the economy are combined and the merged surviving entity should be possessed of all rights and responsibilities of the predecessor entities. However, legal entities that are merely acquired or under common control with another entity remain separate subdivisions of the economy and their rights and responsibilities must be separate, or else each distinct combination of stakeholder interests in each distinctly-subdivided portion of the economy will be disadvantaged by market structure and function which can and should frequently result in changes of control. There is no regulatory purpose, other than deterring fraud and prohibiting bad actors from being involved in JOBS Act public offerings, for the SEC's Rules that attempt to impose obligations on groups of natural persons or individual natural persons whose influence is asserted across multiple legal entities. If there is a legitimate business purpose to the existence of multiple legal entities, and the legal entities exist for a reason other than simply to evade the SEC's Regulations, then each entity should be free to govern itself and its capital formation efforts without being grouped together with other entities.

This is an area in which the SEC's Rules should carefully avoid imposing any market structure features because nothing the SEC could devise will ever be superior in practice to demanding that the market be a sophisticated market that develops its own ability to make wise choices and to manage its own risks. It is not appropriate for the SEC to be attempting to protect people from themselves. It is necessary for every participant in the markets to become capable of understanding the dynamics of capital formation and valuation of investments, and nothing the SEC could ever do will replace that necessity with Rules.

No “affiliate” of any issuer should be required to account for past, or parallel, offerings as integrated with the issuer's present offerings. Eliminating this proposed limitation makes the regulatory definition of “affiliate” irrelevant. I believe the SEC should be eliminating Regulatory language such as “affiliate” because it is detrimental to the ability of law enforcement to investigate and prosecute criminal fraud, and it causes extreme uncertainty of compliance with the SEC's Rules and Regulations. Nobody's real interests are served by Rules that require intermediaries, auditors or securities lawyers to attempt to discover hidden affiliate relationships or hidden sources of common control among distinct issuers. When the SEC attempts to position, politically, to be able to bring enforcement action against anyone, anywhere, at any time, for any reason or for no reason, the SEC becomes the problem not the solution to the problem of capital formation and sophisticated economic growth by burdening honest issuers and simultaneously not burdening dishonest ones (who will not comply with the SEC's Rules in any case).

#6. Q. While we acknowledge that there is ambiguity in the statutory language and there is some

comment regarding a contrary reading, we believe that the appropriate approach to the investment limitations in Section 4(a)(6)(B) is to provide for an overall investment limit of $100,000 and, within that limit, to provide for a ‘‘greater of’’ limitation based on an investor’s annual income or net worth. In light of ambiguity in the statutory language, we are specifically asking for comment as to the question of whether we should instead require investors to calculate the investment limitation based on the investor’s annual income or net worth at the five percent threshold of Section 4(a)(6)(B)(i) if either annual income or net worth is less than $100,000? Similarly, for those investors falling within the Section 4(a)(6)(B)(i) framework, should we require them to calculate the five percent investment limit based on the lower of annual income or net worth? Should we require the same for the calculation of the 10 percent investment limit within the Section 4(a)(6)(B)(ii) framework? If we were to pursue any of these calculations, would we unnecessarily impede capital formation?

#6. A. I recommend that the SEC send this question back to Congress, and in the interim while revised statutory language is pending the SEC should enact a Rule that permits the investor to decide how they wish to set up their account with an intermediary, or how they wish to participate in a self-hosted Regulation Crowdfunding offering by an issuer. Provide investors with a choice between self-certifying an annual income or net worth below $100,000.00 in which case the issuer should not be allowed to sell the investor greater than five percent of the self-certified amount, or self-certifying that the investor will comply with the JOBS Act limit on annual aggregate investing and thereafter the issuer should be allowed to sell the investor up to $5,000.00 worth of securities. Until and unless Congress clarifies the legislative intent behind aggregate and individual investment limits for non-accredited investors, this two-tier self-certification process will make it difficult for any investor to over-invest in a single issuer because of any misjudgment on the part of the investor or deception on the part of the issuer, while also avoiding unnecessarily impeding capital formation as clearly is intended by the JOBS Act legislation.

Although the JOBS Act legislation clearly intends to limit the aggregate investment by a given investor through Section 4(a)(6) it is obviously reasonable for the SEC to implement Rules that require each investor to govern themselves in accordance with the spirit and the letter of the law. Requiring issuers and/or registered crowdfunding portals to police investor aggregate investment limits is wrong, won't work, was clearly not intended by the JOBS Act legislation, and would impede capital formation.

#7. Q. The statute does not address how joint annual income or joint net worth should be treated for purposes of the investment limit calculation. The proposed rules clarify that annual income and net worth may be calculated jointly with the annual income and net worth of the investor’s spouse. Is this approach appropriate? Should we distinguish between annual income and net worth and allow only one or the other to be calculated jointly for purposes of calculating the investment limit? Why or why not? Should the investment limit be calculated differently if it is based on the spouses’ joint income, rather than each spouse’s annual income? Why or why not?

#7. A. I do not think this approach is appropriate. Whenever possible the SEC should be implementing Rules that require everyone who is in effect an investor in a security to be aware that they are invested and to have decision-making power over whether they wish to be, or remain, so invested. There is no reason for a spouse to be able to invest more in crowdfunding offerings because they are married. If both spouses both wish to invest in the same offering, the effort required to accomplish that will be very small and may be as little as a few mouse clicks and key presses on a mobile device keyboard. It serves no rational regulatory purpose to encourage thoughtless passive investing. Spouses can open a single account and hold securities jointly, but they should be required to execute purchases in two steps if they both wish to buy the same securities. One spouse might be behind the keyboard, driving the mouse, causing both steps without the knowledge of their spouse, but this is a risk of being married!

#8. Q. 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?

#8. A. Reliance on an intermediary is acceptable, but I would prefer to receive a written statement from the investor that the investor has not and will not exceed the limit on their purchasing power under the JOBS Act by purchasing from my company. I prefer this self-certification from each investor because it encourages the increase of sophistication in the marketplace and emphasizes personal responsibility.

#9. Q. Should institutional and accredited investors be subject to the investment limits, as proposed? Why or why not? Should we adopt rules providing for another crowdfunding exemption with a higher investment limit for institutional and accredited investors? If so, how high should the limit be? Are there categories of persons that should not be subject to the investment limits? If yes, please identify those categories of persons. If the offering amount for an offering made in reliance on Section 4(a)(6) is not aggregated with the offering amount for a concurrent offering made pursuant to another exemption, as proposed, is it necessary to exclude institutional and accredited investors from the investment limits since they would be able to invest pursuant to another exemption in excess of the investment limits in Section 4(a)(6)?

#9. A. No, institutional and accredited investors should not be subject to the investment limits, as proposed. It does not seem necessary for another Regulation Crowdfunding exemption to be adopted. Every crowdfunding portal, and every self-hosted Regulation Crowdfunding offering effort conducted by an issuer who is working with a broker-dealer for clearing/custodial services in connection with the self-hosted Regulation Crowdfunding offering, could automatically be deemed to have complied with any filing requirements imposed by the final revised Rule 506(c). Institutional and accredited investors could be deemed to have purchased under Rule 506(c) rather than pursuant to the Regulation Crowdfunding exemption. Only if there is a compelling reason to permit such investors to buy shares in "street name" such that the purchases don't count toward the holders of record threshold for mandatory registration would it make any sense to consider these purchases to be Crowdfunding exemption sales. However, when the sales occur by way of a Regulation Crowdfunding-compliant portal (or self-hosted mechanism by the issuer with the support of a broker-dealer, as I have suggested, above) it does make sense for the institutional and accredited investors to automatically receive the equivalent of a Rule 144 opinion letter that grants them the automatic right, like every other Regulation Crowdfunding investor, to resell the restricted securities after the applicable minimum holding period for the issuer in question.

I believe, also, that the restricted holding period should be determined by the reporting and registration status of the issuer and the security – in the case of a registered, fully-reporting issuer who is current in their filing requirements under the 1934 Exchange Act, a holding period for Regulation Crowdfunding investors should be 6 months not 12 months, to bring this restriction period in line with Rule 144.

Furthermore, I recommend that the SEC revise Rule 144 to eliminate the prohibition on "former shell company" issuers relying on Rule 144 now that under these new JOBS Act Rules any private company will have the right to issue securities that are eligible for resale after the equivalent of an old Rule 144 holding period. To continue to prohibit former shell company issuers from lifting resale restrictions on restricted securities while allowing arbitrary private companies to do so is prejudicial and wrongful.

Any officer or director of the issuer should be affirmed to be "accredited" by way of this new Rule.

#10. Q. 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, or apply different requirements with respect to individual investments under a certain amount, such as $500, as another commenter suggested? 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)?

#10. A. Exemption should be automatic in the case of any investment below a threshold such as $500 and in the case of such small amounts there should be no regulatory compliance burdens or limits, other than self-certification by the investor that they are complying with aggregate investment limits under the JOBS Act. This does not require a separate Regulation Crowdfunding exemption in addition to the currently-pending Proposed Rules, it merely needs to be added to the existing Proposed Rules when the final rules are published. Issuers should be required to contract with a broker-dealer clearing/custodian who will hold investor securities in "street name" to streamline future resale after restrictions are lifted.

This lightweight exemption will benefit ultra-microcap issuers who have an offering that is compelling to a large number of people who wish to be invested and who can afford to lose their entire investment but who may participate in the offering for reasons other than because of expectations of a capital gain.

#11. Q. Should we consider additional investment limits on transactions made in reliance on Section 4(a)(6) where the purchaser's annual income and net worth are both below a particular threshold? If so, what should such threshold be and why?

#11. A. No, anyone who is able to borrow or steal money should be eligible to invest freely just like in the current regulatory regime the SEC has created over the last 80 years for registered, listed securities.

I would like the SEC to grant purchasers who self-certify that they are low-income investors the right to resell their securities without a restricted holding period, so these are less likely to become victim of circumstance forced sales at urgent sale prices in private party transactions such as by contract for sale.

In cases where initial public offering demand for a Regulation Crowdfunding issuer exceeds supply, low-income purchasers would have the ability to realize a short-term profit if they wish and then to redeploy their capital to other opportunities faster than wealthier investors are allowed. This extra advantage for low-income investors would help such investors to build wealth faster and would be a reasonable regulatory benefit to provide. Perhaps this special investor right to resell without holding period restriction could impose the extra requirement that the rapid resale not result in a capital loss.

#12. Q. The proposed rules would prohibit an issuer from conducting an offering or concurrent offerings in reliance on Section 4(a)(6) using more than one intermediary. Is this proposed approach appropriate? Why or why not? If issuers were permitted to use more than one intermediary, what requirements and other safeguards should or could be employed?

#12. A. Issuers should be allowed to host their own Regulation Crowdfunding offering, provided that they are working with a broker-dealer as the clearing and custodial agent. No prohibition on using more than one intermediary should be imposed by the final rule, but instead the investors should be required to self-certify that they are complying with the aggregate limits for their personal income or net worth.

#13. Q. Should we define the term ''platform'' in a way that limits crowdfunding in reliance on Section 4(a)(6) to transactions conducted through an Internet Web site or other similar electronic medium? Why or why not?

#13. A. No, a registered crowdfunding platform should be able to take whatever form the platform operator can imagine and implement in compliance with the Rules. Furthermore, the "platform" and the "intermediary" requirements of the JOBS Act legislation should be interpreted to be separate from each other – that is, it should become part of the final Rule that any issuer can self-host the Regulation Crowdfunding offering through their own means of direct investor communication, provided that the issuer is working with a licensed broker-dealer for clearing and custodial services on behalf of the crowd investors. It is the combination of these functions that truly represents the "registered portal" and in my opinion the licensed broker-dealer is already "registered" with the Commission as prescribed by the JOBS Act legislation so this does not actually require the introduction of a brand-new "registration" for the functionality and safeguards intended by legislation to be created by the new "portal" entities.

#14. Q. Should we permit crowdfunding transactions made in reliance on Section 4(a)(6) to be conducted through means other than an intermediary's electronic platform? If so, what other means should we permit? For example, should we permit community-based funding in reliance on Section 4(a)(6) to occur other than on an electronic platform? To foster the creation and development of a crowd, to what extent would such other means need to provide members of the crowd with the ability to observe and comment (e.g., through discussion boards or similar functionalities) on the issuer, its business or statements made in the offering materials?

#14. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#15. Q. Should we allow intermediaries to restrict who can access their platforms? For example, should we permit intermediaries to provide access by invitation only or only to certain categories of investors? Why or why not? Would restrictions such as these negatively impact the ability of investors to get the benefit of the crowd and its assessment of an issuer, business or potential investment? Would these kinds of restrictions affect the ability of small investors to access the capital markets? If so, how?

#15. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#16. Q. As noted above, the proposed rules would not require intermediaries' back office or other administrative functions to be conducted exclusively on their platforms. Do the proposed rules require any clarification? Are there other activities in which an intermediary may engage that would not be considered back office or administrative functions and that should be permitted to occur other than on a platform? If so, what activities are they, and why should they be permitted to occur other than on a platform?

#16. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#17. Q. Section 4A(b)(4) requires that, ''not less than annually, [the issuer] file with the Commission and provide to investors reports of the results of operations and financial statements of the issuer. . . .'' Should an issuer be excluded from engaging in a crowdfunding transaction in reliance on Section 4(a)(6), as proposed, if it has not filed with the Commission and provided to investors, to the extent required, the ongoing annual reports required by proposed Regulation Crowdfunding during the two years immediately preceding the filing of the required offering statement? Why or why not? Should an issuer be eligible to engage in a crowdfunding transaction in reliance on Section 4(a)(6) if it is

delinquent in other reporting requirements (e.g., updates regarding the progress of the issuer in meeting the target offering amount)? Why or why not? Should the exclusion be limited to a different timeframe (e.g., filings required during the five years or one year immediately preceding the filing of the required offering statement)?

#17. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#18. Q. Is the proposed exclusion of issuers who fail to comply with certain ongoing annual reporting requirements too broad? If so, how should it be narrowed and why? Should the exclusion cover issuers whose affiliates have sold securities in reliance on Section 4(a)(6) if the affiliates have not complied with the ongoing annual reporting requirements? If so, should this encompass all affiliates? If not, which affiliates should it cover? Should we exclude any issuer with an officer, director or controlling shareholder who served in a similar capacity with another issuer that failed to file its annual reports? Why or why not?

#18. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#19. Q. What specific risks do investors face with ''idea-only'' companies and ventures? Please explain. Do the proposed rules provide sufficient protection against the inherent risks of such ventures? Why or why not?

#19. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#20. Q. Does the exclusion of issuers that do not have a specific idea or business plan from eligibility to rely on Section 4(a)(6) strike the appropriate balance between the funding needs of small issuers and the information requirements of the crowd? Why or why not? Are there other approaches that would strike a better balance among those considerations? If the proposed approach is appropriate, should we define ''specific business plan'' or what criteria could be used to identify them? How would any such criteria comport with the disclosure obligations described in Section II.B.1.a.i.(b) (description of the business) below?

#20. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#21. Q. Are there other categories of issuers that should be precluded from relying on Section 4(a)(6)? If so, what categories of issuers and why?

#21. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#22. Q. Rule 306 of Regulation S–T requires that all electronic filings made with the Commission, including the filings that would be required under the proposed rules, be in English. Some startups and small businesses, and their potential investors, may principally communicate in a language other than English. Should we amend Rule 306 to permit filings by issuers under the proposed rules to be filed in the other language? Why or why not? If we retain the requirement to make filings only in English, will this impose a disproportionate burden on issuers and potential investors who principally communicate in a language other than English? What will be the impact on capital formation for such issuers?

#22. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#23. Q. Under the proposed rules the definition of the term ''officer'' is consistent with how that term is

defined in Securities Act Rule 405 and in Exchange Act Rule 3b–2. Should we instead define ‘‘officer’’ consistent with the definition of ‘‘executive officer’’ in Securities Act Rule 405 and in Exchange Act Rule 3b–7? Why or why not? Which definition would be more appropriate for the types of issuers that would be relying on the exemption?

#23. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#24. Q. Are these proposed disclosure requirements relating to the issuer and its officers and directors appropriate? Why or why not? Should we only require the disclosures specifically called for by statute or otherwise modify or eliminate any of the proposed requirements? Should we require any additional disclosures (e.g., disclosure about significant employees)? Is there other general information about the issuer or its officers and directors that we should require to be disclosed? If so, what information and why? For example, should we require disclosure of any court orders, judgments or civil litigation involving any directors and officers, including any persons occupying a similar status or performing a similar function? Why or why not? If so, what time period should this disclosure cover and why?

#24. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#25. Q. 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? Why or why not? If not, please discuss what would be an appropriate amount of time and why. Should the requirement to disclose the business experience of officers and directors include a specific requirement to disclose whether the issuer’s directors and officers have any prior work or business experience in the same type of business as the issuer? Why or why not?

#25. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#26. Q. The proposed rules would require disclosure of the names of persons who are beneficial owners of 20 percent or more of the issuer’s outstanding voting equity securities, calculated on the basis of voting power. Is this approach appropriate? Why or why not? Should the proposed rules require disclosure of the names of beneficial owners of 20 percent or more of any class of the issuer’s voting securities, even if such beneficial ownership does not exceed 20 percent of all of the issuer’s outstanding voting equity securities? Why or why not? Should the proposed disclosure requirement apply to the names of beneficial owners of 20 percent or more, as proposed, or to more than 20 percent of the issuer’s outstanding voting equity securities? Why or why not?

#26. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#27. Q. The proposed rules would require that beneficial ownership be calculated as of the most recent practicable date. Is this approach appropriate? Why or why not? Should beneficial ownership be calculated as of a different date? For example, should the reported beneficial ownership only reflect information as of the end of a well-known historical period, such as the end of a fiscal year? Please explain. Should there be a maximum amount of time from this calculation date to the filing to ensure that the information is current? If so, what maximum amount of time would be appropriate?

#27. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#28. Q. Should we provide additional guidance on how to calculate beneficial ownership on the basis of voting power? If so, what should that guidance include? Should the proposed rules require disclosure

of the name of a person who has investment power over, an economic exposure to or a direct pecuniary interest in the issuer's securities even if that person is not a 20 Percent Beneficial Owner? Why or why not?

#28. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#29. Q. 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? If so, what specific disclosures about the issuer's business or business plans should we require or include in a nonexclusive list? For example, should we explicitly require issuers to describe any material contracts of the issuer, any material litigation or any outstanding court order or judgment affecting the issuer or its property? Why or why not?

#29. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#30. Q. Would more specific line item disclosures be more workable for issuers relying on Section 4A or provide more useful guidance for such issuers? Would such disclosures be more useful to investors? Why or why not? For example, should we require issuers to provide a business description incorporating the information that a smaller reporting company would be required to provide in a registered offering pursuant to Item 101(h) of Regulation S–K? Why or why not? Should we require issuers to provide information regarding their plan of operations, similar to that required by Item 101(a)(2) of Regulation S–K in registered offerings by companies with limited operating histories? Why or why not?

#30. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#31. Q. Are these proposed disclosure requirements appropriate? Why or why not? Should we require any additional disclosures, including specifying items required to be disclosed? Is the proposed standard sufficiently clear such that it would result in investors being provided with an adequate amount of information? If not, how should we change the disclosure requirement? Should the rules include a non-exclusive list of examples that issuers should consider when providing disclosure, similar to the examples discussed above?

#31. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#32. Q. Under what circumstances, if any, should an issuer be required to update the use of proceeds disclosures?

#32. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#33. Q. Is there other information regarding the purpose of the offering and use of proceeds that we should require to be disclosed? If so, what information? Should any of the examples above be included as requirements in the rules? Why or why not?

#33. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#34. Q. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify

or eliminate any of the proposed requirements? Should we require any additional disclosures?

#34. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#35. Q. The proposed rules would require an issuer willing to accept investments in excess of the target offering amount to provide, at the commencement of the offering, the disclosure that would be required in the event the offer is oversubscribed. Is this approach appropriate? Why or why not?

#35. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#36. Q. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? Should we require any additional disclosures? Please explain.

#36. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#37. Q. Are these proposed disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements? Should we require any additional disclosures? Please explain.

#37. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#38. Q. 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?

#38. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#39. Q. To assist investors and regulators in obtaining information about the offering and to facilitate monitoring the use of the exemption, the proposed rules would require an issuer to identify the name, Commission file number and CRD number (as applicable) of the intermediary through which the offering is being conducted. Is there a better approach? What other information should be provided? If so, please describe it.

#39. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#40. Q. Should we require disclosure of the amount of compensation paid to the intermediary, as proposed? Why or why not? Should we require issuers to separately disclose the amounts paid for conducting the offering and the amounts paid for other services? Why or why not?

#40. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#41. Q. Should we require the issuer to include certain specified legends about the risks of investing in a crowdfunding transaction and disclosure of the material factors that make an investment in the issuer speculative or risky, as proposed? Why or why not? Should we provide examples in our rules of the types of material risk factors an issuer should consider disclosing? Why or why not? If so, what should those examples be?

#41. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#42. Q. Should we require disclosure of certain related-party transactions, as proposed? Why or why not? The proposed rules would require disclosures of certain transactions between the issuer and directors or officers of the issuer, 20 Percent Beneficial Owners, any promoter of the issuer, or relatives of the foregoing persons. Is this the appropriate group of persons? Should we limit or expand the list of persons? If so, how and why?

#42. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#43. Q. As proposed, immediate family member, for purposes of related-party transactions disclosure, would have the same meaning that it has in Item 404 of Regulation S–K. Is this the appropriate approach? Why or why not? If not, what would be a more appropriate definition and why? For purposes of restrictions on resales of securities issued in transactions made in reliance on Section 4(a)(6), ''member of the family of the purchaser or the equivalent'' would, as proposed, expressly include spousal equivalents. Should the definition of immediate family member for purposes of related-party transactions disclosure also expressly include spousal equivalents, or would including spousal equivalents create confusion in light of the fact that the definition for purposes of related-party transactions already includes any persons (other than a tenant or employee) sharing the same household? Please explain.

#43. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#44. Q. Is it appropriate to limit the disclosure about related-party transactions to transactions since the beginning of the issuer's last full fiscal year? Why or why not? Is it appropriate to limit disclosure to those related-party transactions that exceed five percent of the aggregate amount of capital raised by the issuer in reliance on Section 4(a)(6)? Should we instead require disclosure of all related-party transactions or all transactions in excess of an absolute threshold amount?

#44. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#45. Q. 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?

#45. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#46. Q. Should we require any additional disclosures (e.g., should we require disclosure about executive compensation and, if so, what level of detail should be required in such disclosure)? If so, what disclosures and why?

#46. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#47. Q. Are these proposed requirements for the discussion of the financial condition of the issuer appropriate? Why or why not? Should we modify or eliminate any of the requirements in the proposed rule or instruction? If so, which ones and why? Should we require any additional disclosures? If so, what disclosures and why? Should we prescribe a specific format or presentation for the disclosure? Please explain.

#47. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#48. Q. Should we exempt issuers with no operating history from the requirement to provide a discussion of their financial condition? If so, why? Should we require such issuers to specifically state that they do not have an operating history, as proposed? Why or why not?

#48. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#49. Q. 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?

#49. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#50. Q. Under the statute and the proposed rules, issuers are required to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements. The proposed rules would require all issuers to provide a complete set of financial statements (a balance sheet, income statement, statement of cash flows and statement of changes in owner's equity) prepared in accordance with U.S. GAAP. Should we define financial statements differently than under U.S. GAAP? If so, what changes would be appropriate and why? What costs or challenges would be associated with the use of a model other than U.S. GAAP (e.g., lack of comparability)? What would be the benefits? Please explain.

#50. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#51. Q. 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? Why or why not? Specifically, what difficulties would issuers with no operating history or issuers that have been in existence for fewer than 12 months have in providing financial statements? Please explain.

#51. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#52. Q. If we were to exempt issuers with little or no operating history from the requirement to provide financial statements, should we require additional discussion of the fact that the issuer does not have an operating history? If so, what additional discussion should we require?

#52. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#53. Q. Section 4A(b)(1)(D) establishes tiered financial statement requirements based on aggregate target offering amounts within the preceding 12-month period. Under the proposed rules, issuers would not be prohibited from voluntarily providing financial statements that meet the requirements for a higher aggregate target offering amount (e.g., an issuer seeking to raise $80,000 provides financial statements reviewed by a public accountant who is independent of the issuer, rather than the required income tax returns and a certification by the principal executive officer). Is this approach appropriate? Why or why not?

#53. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#54. Q. Should we allow issuers to prepare financial statements using a comprehensive basis of

accounting other than U.S. GAAP? For example, should issuers be allowed to provide financial statements prepared on an income tax basis, a cash basis or a modified cash basis of accounting? Why or why not? If so, should we allow all issuers to use a comprehensive basis of accounting other than U.S. GAAP, or only issuers seeking to raise $100,000 or less, or $500,000 or less? Why or why not?

#54. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#55. Q. Should we require issuers to provide two years of financial statements, as proposed? Should this time period be one year, as one commenter suggested,203 or three years? Please explain.

#55. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#56. Q. 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?

#56. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#57. Q. As proposed, subject to certain conditions, issuers would be able to conduct an offering during the first 120 days of the issuer's fiscal year if the financial statements for the most recently completed fiscal year are not yet available. For example, an issuer could raise capital in April 2014 by providing financial statements from December 2012, instead of a more recent period. Is this an appropriate approach? If the issuer is a high growth company subject to significant change, would this approach result in financial statements that are too stale? Should the period be shorter or longer (e.g., 90 days, 150 days, etc.)? What quantitative and qualitative factors should we consider in setting the period? Should issuers be required to describe any material changes in their financial condition for any period subsequent to the period for which financial statements are provided, as proposed? Please explain if you do not believe this description should be required.

#57. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#58. Q. The proposed rules would require issuers offering $100,000 or less to provide financial statements that are certified by the principal executive officer to be true and complete in all material respects. Should we require issuers offering more than $100,000, but not more than $500,000, and/or issuers offering more than $500,000 to provide financial statements that are certified by the principal executive officer to be true and complete in all material respects? Why or why not?

#58. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#59. Q. Have we adequately addressed the privacy concerns raised by the requirement to provide income tax returns? Should we require issuers to redact personally identifiable information from any tax returns, as proposed? Is there additional information that issuers should be required or allowed to redact? In responding, please specify each item of information that issuers should be required or allowed to redact and why. Under the statute and proposed rules, an issuer must be a business organization, rather than an individual. Does this requirement alleviate some of the potential privacy concerns? Please explain.

#59. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#60. Q. If an issuer has not yet filed its tax return for the most recently completed fiscal year, should we allow the issuer to use the tax return filed for the prior year and require the issuer to update the information after filing the tax return for the most recently completed fiscal year, as proposed? Should the same apply to an issuer that has not yet filed its tax return for the most recently completed fiscal year and has requested an extension of the time to file? Should issuers be required, as proposed, to describe any material changes that are expected in the tax returns for the most recently completed fiscal year? Please explain.

#60. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#61. Q. As proposed, the accountant reviewing or auditing the financial statements would have to be independent, as set forth in Rule 2–01 of Regulation S–X. Should we require compliance with the independence standards of the AICPA instead? Why or why not? If so, similar to the requirement in Rule 2–01 of Regulation S–X, should we also require an accountant to be: (1) Duly registered and in good standing as a certified public accountant under the laws of the place of his or her residence or principal office; or (2) in good standing and entitled to practice as a public accountant under the laws of his or her place of residence or principal office? Is there another independence standard that would be appropriate? If so, please identify the standard and explain why. Alternatively, should we create a new independence standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard? Please explain.

#61. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#62. Q. As proposed, the accountant reviewing or auditing the financial statements must be independent based on the independence standard in Rule 2–01 of Regulation S–X. Are there any requirements under Rule 2–01 that should not apply to the accountant reviewing or auditing the financial statements that are filed pursuant to the proposed rules? Why or why not? Are there any that would not apply, but should? For example, should the accountant reviewing or auditing the financial statements of issuers in transactions made in reliance on Section 4(a)(6) be subject to the partner rotation requirements of Rule 2–01(c)(6)? Why or why not?

#62. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#63. Q. As proposed, an issuer with a target offering amount greater than $100,000, but not more than $500,000, would be required to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements reviewed by an independent public accountant in accordance with the review standards issued by the AICPA. Is this standard appropriate, or should we use a different standard? Why or why not? If so, what standard and why? Alternatively, should we create a new review standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard and why would it be more appropriate than the one proposed? What costs would be involved for companies and accountants in complying with a new review standard? How should the Commission administer and enforce a different standard?

#63. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#64. Q. 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.)? Please provide a basis for any amount suggested. Should we identify

additional criteria other than the offering amount, as one commenter suggested,204 that could be used to determine when to require an issuer to provide audited financial statements? If so, what should those criteria be?

#64. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#65. Q. Should financial statements be required to be dated within 120 days of the start of the offering? If so, what standard should apply? Should those financial statements be reviewed or audited? Why or why not?

#65. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#66. Q. Under Rule 502(b)(2)(B)(1)–(2) of Regulation D, if an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet must be audited. Should we include a similar provision in the proposed rules? Why or why not? Should we provide any guidance as to what would constitute unreasonable effort or expense in this context? If so, please describe what should be considered to be an unreasonable effort or expense. If we were to require an issuer's balance sheet to be dated within 120 days of the start of the offering, should we allow the balance sheet to be unaudited? Why or why not?

#66. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#67. Q. As proposed, an issuer with a target offering amount greater than $500,000 could select between the auditing standards issued by the AICPA or the PCAOB. Should we instead mandate one of the two standards? If so, which standard and why? Alternatively, should we create a new audit standard for purposes of Section 4(a)(6)? If so, what would be an appropriate standard? What costs would be involved for companies and auditors in complying with a new audit standard?

#67. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#68. Q. Should we require that all audits be conducted by PCAOB-registered firms? Why or why not?

#68. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#69. Q. Should we consider the requirement to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors financial statements subject to a review to be satisfied if the review report includes modifications? Why or why not? Would your response differ depending on the nature of the modification? Please explain.

#69. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#70. Q. As proposed, an issuer receiving an adverse audit opinion or disclaimer of opinion would not satisfy its requirement to file with the Commission, provide to investors and the relevant intermediary and make available to potential investors audited financial statements. Should an issuer receiving a qualified audit opinion be deemed to have satisfied this requirement? Should certain qualifications (e.g., non-compliance with U.S. GAAP) result in the financial statements not satisfying the requirement to provide audited financial statements while other types of qualifications would be acceptable? If so, which qualifications would be acceptable and why?

#70. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#71. Q. Should we require that the certified public accountant reviewing or auditing the financial statements be in good standing for at least five years, as one commenter suggested? Why or why not? Should we require that the public accountant be in good standing for a lesser period of time? If so, for how long? Would such a requirement restrict the pool of available public accountants? If so, by how much? Would such a requirement reduce investor protections? If so, how?

#71. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#72. Q. Views about what constitutes a ''regular update'' may vary, particularly when considering the length of the offering. Is the requirement to file an update when the issuer reaches one-half and 100 percent of the target offering amount appropriate? Is the proposed requirement to file a final update in offerings in which the issuer will accept proceeds in excess of the target offering amount appropriate? Why or why not? Should we require the progress updates to be filed at different intervals (e.g., one-third, two-thirds or some other intervals)? Why or why not? Alternatively, should the progress updates be filed after a certain amount of the offering time has elapsed (e.g., weekly or monthly until the target or maximum is reached or until the offering closes)? Should the progress updates be based on reaching other milestones or on some other basis? If so, what milestones or other basis and why?

#72. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#73. Q. As proposed, issuers would have five business days from the time they reach the relevant threshold to file a progress update. Is this time period appropriate? Why or why not? If not, what would be an appropriate time period? Please explain. Should issuers be allowed to consolidate multiple progress updates into one Form C–U if multiple progress updates are triggered within a five-business-day period, as proposed? Why or why not?

#73. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#74. Q. Should issuers be required to certify that they have filed all the required progress updates prior to the close of the offering? Why or why not?

#74. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#75. Q. 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?

#75. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#76. Q. 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?

#76. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#77. Q. If an issuer amends its Form C, should the intermediary be required to notify investors? If so,

should we specify the method of notification, such as via email or other electronic means?

#77. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#78. Q. Should establishment of the final price be considered a material change that would always require an amendment to Form C and reconfirmation, as proposed? Would it be appropriate to require disclosure of the final price but not require reconfirmation? Should we consider any change to the information required by Section 4A(b)(1) to be a material change? Why or why not?

#78. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#79. Q. Should we require issuers to amend Form C to reflect all changes, additions or updates regardless of materiality so that the Form C filed with us would reflect all information provided to investors through the intermediary's platform? Why or why not?

#79. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#80. Q. Should we require ongoing annual reports, as proposed? Why or why not? Should we require ongoing reporting more frequently than annually? Why or why not? If so, how often (e.g., semiannually or quarterly)?

#80. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#81. Q. 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.

#81. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#82. Q. Should we require that the annual reports be provided to investors by posting the reports on the issuer's Web site and filing them on EDGAR, as proposed? Should we require issuers also to directly notify investors of the availability of the annual report, such as by email or other electronic means? Should we instead require issuers to deliver the annual reports directly to investors? If so, should we specify the method of delivery (e.g., email or other electronic means, U.S. mail or some other method)? Would investors have an electronic relationship with the issuer after the offering terminates? If not, how would an issuer notify or deliver a copy of the annual report to the investor? Would issuers continue to have an ongoing relationship with intermediaries once the offering is completed? If so, should we also require that the issuer post its annual report on the intermediary's platform? Why or why not?

#82. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#83. Q. After completion of the offering, should we require that investors be represented by a nominee or other party who could help to facilitate physical delivery of the annual report to investors? Why or why not? Should the nominee or other party have other responsibilities, such as speaking on behalf of and representing the interests of investors (e.g., when the issuer wishes to take certain corporate actions that could impact or dilute the rights of investors, distribution of dividend payments, etc.)? If a nominee

or other party should be required, what structure should this arrangement take and why?

#83. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#84. Q. Are the proposed ongoing disclosure requirements appropriate? Why or why not? Should we modify or eliminate any of the proposed requirements?

#84. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#85. Q. Should the discussion of the issuer's financial condition address changes from prior periods? Why or why not? Should the number of years covered by the financial statements be the same as in the offering statement? Why or why not? If not, what should they be?

#85. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#86. Q. Should we require that reviewed or audited financial statements be provided only if the total assets of the issuer at the last day of its fiscal year exceeded a specified amount, as one commenter suggested? Why or why not? If so, what level of total assets would be appropriate (e.g., $1 million, $10 million, or some other amount)? Are there other criteria (other than total assets) that we should consider? Please explain.

#86. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#87. Q. The proposed rules would require any issuer terminating its annual reporting obligations to file on EDGAR, within five business days from the date of the terminating event, a notice to investors and the Commission that it will no longer file and provide annual reports. Is this approach appropriate? Why or why not? Should we require issuers to file the notice earlier (e.g., within two business days of the event) or later (e.g., within 10 business days of the event)? If so, what would be an appropriate amount of time after the event and why?

#87. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#88. Q. Should an issuer be able to terminate its annual reporting obligation in circumstances other than those provided in the proposed rules? For example, should an issuer be allowed to terminate its reporting obligation after filing a certain number of annual reports, as one commenter suggested, so long as the issuer does not engage in additional transactions in reliance on Section 4(a)(6) (e.g., after filing one annual report, two annual reports or some other number of annual reports)? Why or why not? If so, what would be an appropriate number of annual reports? Should all issuers be allowed to terminate their reporting obligations or only issuers that have not sold more than a certain amount of securities in reliance on Section 4(a)(6)? If so, what would be an appropriate amount of securities (e.g., $100,000, $500,000, or some other amount)? Should an issuer be allowed to terminate its reporting obligation following the issuer's or another party's purchase or repurchase of a significant percentage of the securities issued in reliance on Section 4(a)(6) (including any payment of a significant percentage of debt securities or redemption of a significant percentage of redeemable securities), or receipt of consent to cease reporting from a specified percentage of the unaffiliated security holders? Why or why not? If so, what would be an appropriate percentage (greater than 50 percent, 75 percent or some other percentage)? Should an issuer be allowed to terminate its reporting obligation if the securities issued in reliance on Section 4(a)(6) are held by less than a specified number of holders of record, as suggested by a commenter? Why or why not? If so, what would be an appropriate number of

holders of record (less than 500, 300 or some other number)?

#88. A. This is an illegal Rule that was not authorized by the JOBS Act legislation. Remove it.

#89. Q. If an issuer files a petition for bankruptcy, what effect should that filing have on the issuer's reporting obligations? Please explain.

#89. A. None, and this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#90. Q. Should issuers be required to file reports to disclose the occurrence of material events on an ongoing basis? What events would be material and therefore require disclosure? Should we identify a list of material events that would trigger a report, similar to the list in Form 8–K (such as changes in control, bankruptcy or receivership, material acquisitions or dispositions of assets, issuances of securities and changes to the rights of security holders)? Or should we require that all material events be reported without specifying any particular events? How many days after the occurrence of the material event should the issuer be required to file the report? Please explain.

#90. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#91. Q. We have the authority to include exceptions to the ongoing reporting requirements in Section 4A(b)(4). Should we consider excepting certain issuers from ongoing reporting obligations (e.g., those raising a certain amount, such as $100,000 or less)? Should any exception always apply or only after a certain number of reports have been filed? Please explain.

#91. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#92. Q. Should we require a specific format that issuers must use to disclose the information required by Section 4A(b)(1) and the related rules?

#92. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#93. Q. Should issuers be required to file the Form C with the Commission in electronic format only, as proposed? Alternatively, should we permit issuers to file the Form C in paper format? What are the relative costs and benefits of permitting the filing of the Form C in paper format? Should issuers be precluded from relying on the hardship exemptions in Rules 201 and 202 of Regulation S–T? 255 Why or why not?

#93. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#94. Q. 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?

#94. A. This would be an illegal Rule that was not authorized by the JOBS Act legislation.

#95. Q. Should we require different forms for each type of required filing? Would the use of one form with different EDGAR tags for each type of filing create confusion among investors who review the

issuer's filings? Would it create confusion for issuers that are filing the forms? Please explain.

#95. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

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

#96. A. Yes, prohibiting referrals would be an illegal Rule not authorized by the JOBS Act legislation.

#97. Q. Should we require issuers to file with the Commission or provide to the intermediary a copy of any notice directing investors to the intermediary's platform? Why or why not?

#97. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#98. Q. The proposed rules would define ''terms of the offering'' to include: (1) The amount of securities offered; (2) the nature of the securities; (3) the price of the securities; and (4) the closing date of the offering period. Is this definition appropriate? Why or why not? Should the definition be modified to eliminate or include other items? If so, which ones and why? Should we provide further guidance as to the meaning of ''terms of the offering?'' Please explain.

#98. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#99. Q. Should we restrict the media that may be used for the advertising of notices (e.g., prohibit advertising via television, radio or phone calls)? If so, why and what media should we restrict? What media should we permit? Please explain.

#99. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#100. Q. Should we require a specific format for issuer notices? Should we provide examples of notices that would comply with the requirements?

#100. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#101. Q. Should we further restrict or specify the information that could be included in a notice of the offering? If so, how and why? Is the information that we have proposed to permit in notices sufficient to inform potential investors of an offering? Should we permit the issuer to include any additional information in the notice if, for example, the offering aims to promote a particular social cause, such as driving economic growth in underinvested communities, as one commenter suggested? If so, what information and why? Should we allow any additional information to be included in the notices for all offerings made in reliance on Section 4(a)(6)? Please explain. Should we impose restrictions on the timing or frequency of notices? Why or why not? If so, what restrictions would be appropriate?

#101. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#102. Q. 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?

#102. A. No, this would be an illegal Rule that was not authorized by the JOBS Act legislation.

#103. Q. The proposed rules would allow an issuer to communicate with investors and potential investors about the terms of an offering through communication channels provided by the intermediary on the intermediary's platform, so long as the issuer identifies itself as the issuer in all communications. Is this approach appropriate? Why or why not? If not, why not?

#103. A. Yes, to prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

#104. Q. The proposed rules would not restrict an issuer's ability to communicate information that does not refer to the terms of the offering. Is this approach appropriate? Why or why not? If not, what limitations should we include on an issuer's communications that do not refer to the terms of the offering and why?

#104. A. Yes, to restrict this would be an illegal Rule not authorized by the JOBS Act legislation.

#105. Q. The proposed rules would prohibit an issuer from compensating or committing to compensate, directly or indirectly, any person to promote its offering outside of the communication channels provided by the intermediary, unless the promotion is limited to notices that direct investors to the intermediary's platform. Is this approach appropriate? Why or why not?

#105. A. Yes, to prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

Furthermore, the Rule should permit the issuer to compensate promoters who refer potential investors directly to the issuer's own self-hosted Regulation Crowdfunding offering, provided that the issuer is working with a licensed broker-dealer for clearing and custodial services on behalf of investors.

#106. Q. The proposed rules would require issuers to take reasonable steps to ensure that persons promoting the issuer's offering through communication channels provided by the intermediary disclose the receipt (both past and prospective) of direct or indirect compensation each time they make a promotional communication. Is this an appropriate approach to the statutory requirement for issuers to ensure that promoters make the required disclosures? If not, what standard should we apply and why?

#106. A. Yes, but to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#107. Q. Should we require that any person who receives compensation from the issuer to promote an issuer's offering through communication channels provided by the intermediary register with, or otherwise provide notice to, the intermediary? If so, should we require that person to disclose the amount of the compensation and the structure of the compensation arrangement to the intermediary? Why or why not? If so, what would be the purpose of such a requirement?

#107. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#108. Q. Should the issuer provide disclosure of any person who receives compensation from the issuer to promote an issuer's offering? Why or why not?

#108. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#109. Q. Should we require that oversubscribed investments be allocated using a pro-rata, first-come,

first-served or other method, rather than leaving that decision up to the issuer? Please explain.

#109. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#110. Q. Should we limit the maximum oversubscription amount to a certain percentage of the target offering amount? If so, what should the limit be and why?

#110. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#111. Q. Should we allow issuers to accept commitments in excess of the $1 million limitation so that if an investor withdraws his or her investment commitment prior to the closing of the offering, the issuer would still be able to raise $1 million? If so, should we require that investments in excess of $1 million be allocated using a pro-rata, first-come, first-served or other method, or should we leave that decision up to the issuer? Please explain.

#111. A. Yes, but to limit the offering size would be an illegal Rule not authorized by the JOBS Act.

#112. Q. Should we require issuers to set a fixed price at the commencement of an offering or prohibit dynamic pricing? Why or why not?

#112. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#113. Q. Should we limit the types of securities that may be offered and sold in reliance on Section 4(a)(6) (e.g., should the exemption be limited to offers and sales of equity securities)? If so, to what securities should crowdfunding be limited and why? Should we create a separate exemption for certain types of offerings of limited types of securities, as one commenter proposed?

#113. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#114. Q. 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.

#114. A. Yes, issuers will conduct securities-based and non-securities crowdfunding simultaneously. To prohibit this would be an illegal Rule not authorized by the JOBS Act legislation. There are no issues with doing this because to allow rewards- or pre-sale-based crowdfunding backers to support the issuer at the same time that those same people are providing capital in return for securities is intuitive and easy for everyone to understand and to self-govern. Only the SEC thinks this is potentially-problematic.

#115. Q. 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? Why or why not?

#115. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#116. Q. Are there other funding portal activities, other than those in Exchange Act Section 3(a)(80), that we should prohibit? If so, which activities and why? Are there any prohibitions that should be modified or removed? If so, which ones and why?

#116. A. No, to add prohibitions would be an illegal Rule not authorized by the JOBS Act legislation.

#117. Q. Do we need to provide further guidance concerning which provisions of the Exchange Act and the rules and regulations thereunder would apply to funding portals? If so, what further guidance is necessary and why?

#117. A. No, to require this would be an illegal Rule not authorized by the JOBS Act legislation.

#118. Q. We have named FINRA expressly in the proposed rules as an applicable registered national securities association for crowdfunding intermediaries. Is this helpful? Is this appropriate? Why or why not? Are there other entities considering applying to become registered national securities associations?

#118. A. Yes, crowdfunding intermediaries should be able to register with FINRA as broker-dealers, and all broker-dealers should automatically be deemed authorized crowdfunding intermediaries, so that separate registration as a "registered crowdfunding portal" are not necessary in the case where an issuer self-hosts their own Regulation Crowdfunding offering with the support of licensed broker-dealer who provides clearing and custodial services to hold securities in "street name" for investors.

My company intends to compete with FINRA. This is not possible unless investors can be located who will fund the creation of a FINRA competitor.

#119. Q. The proposed rules would require that an intermediary be a member of FINRA or of any other applicable national securities association. Is this an appropriate approach? At present, FINRA is the only registered national securities association. If we were in the future to approve the registration of another national securities association under Exchange Act Section 15A, would it be appropriate for us to require membership in both the existing and new association? Why or why not?

#119. A. No, membership in either one should be permitted. FINRA provides a corrupt and outdated self-regulatory regime that will not be compatible with the policies and procedures of its competitor.

#120. Q. No intermediary can engage in crowdfunding activities without being registered with the Commission and becoming a member of FINRA or another registered national securities association. We recognize that while there is an established framework for brokers to register with the Commission and become members of FINRA, no such framework is yet in place for funding portals. We do not intend to create a regulatory imbalance that would unduly favor either brokers or funding portals. Are there steps we should take to ensure that we do not create a regulatory imbalance? Please explain.

#120. A. Authorize broker-dealers to immediately begin providing the clearing and custodial services that make the back office and regulatory compliance functions of the "registered crowdfunding portal" requirement of the JOBS Act legislation to any issuer who wishes to self-host their own crowdfunding user interface on their own website or mobile App, or any issuer who has an offline mechanism available for crowdfunding and who could immediately begin forming capital in this way if they merely had the support of a licensed broker-dealer.

#121. Q. The proposed rules do not independently establish licensing or other qualification requirements for intermediaries and their associated persons. The applicable registered national securities associations may or may not seek to impose such requirements. Should the Commission consider establishing these requirements? Should the Commission consider establishing requirements only if the associations do not? Would licensing or other qualifications for intermediaries and their

associated persons be necessary, for example, to provide assurances that those persons are sufficiently knowledgeable and qualified to operate a funding portal? Why or why not? If so, what types of licensing or other qualifications should we consider?

#121. A. No, to add prohibitions would be an illegal Rule not authorized by the JOBS Act legislation. Under the JOBS Act legislation, there is no longer a regulatory purpose behind infringing freedom of speech and freedom of association. Now that sophisticated information, warnings, community support and forensic transparency is just a mouse click away from nearly every person in the market, and those who do not possess the skill or inclination to access those forensic transparency platforms and means of communication can simply ask somebody else who does have free, unrestricted access to those means of investigation and community support to crowd-based investment decision-making, everyone who wishes to help facilitate crowdfunding of any kind through any intermediary or hybrid broker-dealer service that may become available to support issuers who self-host their own offerings cannot be stopped from providing this assistance. The only regulatory function that the SEC should consider is enhanced law enforcement oversight and direct involvement in daily operations of the broker-dealer clearing services that form the new distributed, social media-driven back office for crowdfunding.

#122. Q. Should we permit an intermediary to receive a financial interest in an issuer as compensation for the services that it provides to the issuer? Why or why not? If we were to permit this arrangement, the proposed rules on disclosure requirements for issuers would require the arrangement to be disclosed to investors in the offering material. Are there other conditions that we should require? If so, please identify those conditions and explain.

#122. A. Yes, to prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

#123. Q. If an intermediary receives a financial interest in an issuer, should it be permitted to provide future services as long as it retains the interest? Why or why not?

#122. A. Yes, to prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

124. One commenter suggested that an intermediary should be able to receive a financial interest under the same terms as other investors participating in an offering made in reliance on Section 4(a)(6). We request comment on this suggestion. How could an intermediary address potential conflicts of interest that may arise from this practice? Would disclosure of the arrangement be sufficient? Please explain.

#124. A. Provided that the valuation of the securities issued to the intermediary is consistent with the valuation being paid by the investors, I see no problem with this proposal. Potential conflicts of interest are irrelevant in virtually all real-world instances. It would be ridiculous and it would be an illegal Rule not authorized by the JOBS Act legislation if the SEC were to regulate everyone based on irrational fear of a widespread problem that simply does not exist on a widespread basis. In nearly all cases the intermediary would be accepting investment risk, just like investors. The only material concern with this arrangement is fraudulent or abusive offerings in which an intermediary helps an issuer perpetrate some fraud or engage in some abuse of power or some misuse of information within the marketplace.

#125. Q. The proposed rules define "financial interest in an issuer," for purposes of Securities Act Section 4A(a)(11), to mean a direct or indirect ownership of, or economic interest in, any class of the issuer's securities. Should we define the term more broadly to include other potential forms of a financial interest? For example, should the term include a contract between an intermediary and an issuer or the issuer's directors, officers or partners (or any person occupying a similar status or

performing a similar function), for the intermediary to provide ancillary or consulting services to the issuer after the offering? Should it include an arrangement under which the intermediary is a creditor of an issuer? Should it include any carried interest or other arrangement that provides the intermediary or its associated persons with an interest in the financial or operating success of the issuer, other than fixed or flat-rate fees for services performed? Should any other interests or arrangements be specified in the term ''financial interest in an issuer?'' If so, what are they and what concerns do they raise?

#125. A. To prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

#126. Q. In light of the reasons for the prohibition, should there be a de minimis exception? Why or why not? If so, what would be an appropriate de minimis amount? For example, would a one percent holding be an appropriate amount? Would another amount be more appropriate? Please explain. Should there be disclosure requirements for any de minimis exception? Why or why not?

#126. A. To prohibit this would be an illegal Rule not authorized by the JOBS Act legislation.

#127. Q. Should we impose any other requirements or prohibitions on intermediaries? If so, what requirements or prohibitions and why?

#127. A. To prohibit relationships would be an illegal Rule not authorized by the JOBS Act legislation.

#128. Q. We are not proposing to require that an issuer relying on Section 4(a)(6) engage a transfer agent due, in part, to the potential costs we believe such a requirement would impose on issuers. 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 its securities?

#128. A. All registered crowdfunding portals, and any issuer who self-hosts their own crowdfunding, should be required to engage the services of a licensed broker-dealer who will keep records for issuers. Use of a transfer agent can obviously be supplemental to the basic broker-dealer custodial service.

#129. Q. The proposed rules incorporate a ''reasonable basis'' standard for intermediaries to determine whether issuers comply with the requirements in Securities Act Section 4A(b) and the related requirements of Regulation Crowdfunding, as well as for satisfying the requirement that the issuer has established means to keep accurate records of the holders of the securities it would offer and sell through the its platform. Is a ''reasonable basis'' the appropriate standard for intermediaries making such determinations? 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 an issuer with respect to one or both determinations?

#129. A. The registered crowdfunding portal should either be operated by a licensed broker-dealer or contract with a broker-dealer for clearing and custodial services for the issuer and its investors. It is not reasonable to expect issuers to be the ones to keep these definitive records and the JOBS Act mandates the use of a registered crowdfunding portal intermediary so not having a third-party keep such records would be absurd, particularly given the impracticality of effecting secondary market resales in the future without such third-party broker-dealer.

#130. Q. The proposed rules incorporate a ‘‘reasonable basis’’ standard for intermediaries to determine whether an issuer would be subject to a disqualification. In contrast, there is no reasonableness standard for intermediaries’ requirement under the proposed rules to deny access to an issuer if it believes the issuer or the offering presents potential for fraud or otherwise raises concerns regarding investor protection. Is it appropriate to have these two different standards under the proposed rules? Why or why not? If one of these standards is not appropriate, please explain what would be a more appropriate standard and why.

#130. A. It is difficult to imagine a disqualification determination that would be “reasonable” unless the SEC itself maintains a new public SEC's Offender Registry that intermediaries could search. Given the ease with which a bad actor could adopt a new false identity, or steal an identity, the most important step that anyone can take to establish the authenticity of, and affirmative proof of qualification for the services provided by the intermediary, is a positive forensic record of the personal and professional history of what the issuer and its directors and officers have been doing in recent years, with references to verify current and previous customers, professional service providers, landlords, creditors and others.

#131. Q. The proposed rules would implement Section 4A(a)(5) by requiring the intermediary to conduct a background and securities enforcement regulatory history check aimed at determining whether an issuer or any of its officers, directors (or any person occupying a similar status or performing a similar function) or 20 Percent Beneficial Owners is subject to a disqualification, presents potential for fraud or otherwise raises concerns regarding investor protection. Is this approach appropriate? Why or why not? If not, why not? Would another approach be more appropriate? Why or why not?

#131. A. Yes this is an appropriate approach but it does not appear to be legal for the SEC to implement this policy because it was not authorized by the JOBS Act legislation and goes far beyond the bad actor prohibitions of the Dodd-Frank Act. Only persons who are definitively disqualified by recent criminal conviction or other event such as a disqualification in connection with a regulatory enforcement action are meant to be disqualified based on the statutory language of the JOBS Act legislation.

#132. Q. Should we require intermediaries to make the results of the proposed background checks publicly available? Why or why not? Would doing so raise privacy concerns?

#132. A. I support publication of background checks for any issuer who chooses to publish one, but I do not believe this can be implemented in practice as a requirement imposed on intermediaries. Many problems exist with the current standard of practice in the background check industry, not the least of which is the fact that providers of background check services are known to falsify the results because charging a client for a background check but not actually doing one is more profitable. For example, See: https://www.techdirt.com/articles/20140124/12433225982/doj-says-company-that-vetted-snowden-faked-665000-background-checks.shtml

#133. Q. Should we specify the steps that an intermediary must take in obtaining background and securities enforcement regulatory history checks on the issuer and its officers, directors (or any person occupying a similar status or performing a similar function) and 20 Percent Beneficial Owners? Should we require, for example, an intermediary to check publicly-available databases, such as FINRA’s BrokerCheck and the Commission’s Investment Adviser Public Disclosure program? Why or why not? Are there third parties who would be in a position to provide these types of services? Please discuss.

#133. A. The SEC should maintain the definitive SEC's Offender Registry for all persons, companies and entities that have been disqualified pursuant to legislation such as Dodd-Frank Act.

#134. Q. Should we require intermediaries to conduct specific checks or other steps (such as a review of credit reports, verification of necessary business or professional licenses, evidence of corporate good standing, Uniform Commercial Code checks or a CRD snapshot report)? Why or why not? Separately, should we specify a minimum or baseline level of due diligence to help establish a reasonable basis? Why or why not? If so, what should that level include? For instance, should it include a review or a verification of certain publicly available information about an issuer and its officers, directors (or any person occupying a similar status or performing a similar function) and 20 Percent Beneficial Owners? Should it include searches related or tailored to their location or place of incorporation, assets including real property and liens on those assets? Are there items it should or should not include? Please explain.

#134. A. I don't believe the SEC has the authority to require intermediaries to conduct such checks, but clearly the SEC can and should create its own SEC's Offender Registry and require the search thereof, just as the SEC could, if it wished to do so, impose a requirement for the filing of a Form ID prior to the commencement of any Regulation Crowdfunding offering by any issuer. I would rather see the SEC impose such a requirement, so that public forensic database records become available for all issuers in which public investors might be purchasing securities than to see the SEC attempt to implement Rules that are clearly illegal and that do not comply with the spirit or letter of the JOBS Act legislation.

#135. Q. Are there resources available to an intermediary that enable it to collect the information necessary for making a determination regarding disqualification or the potential for fraud or potential concerns as to investor protection? If so, which resources? Are there aspects of the proposed issuer disqualification rule that would make it difficult for an intermediary to assess whether the issuer is subject to a disqualification? If so, please explain. Are there additional events or factors relevant to reducing the risk of fraud that intermediaries should be required to check? Please explain.

#135. A. To require intermediaries to conduct such private investigations would be an illegal Rule not authorized by the JOBS Act legislation.

#136. Q. Section 4A(a)(5) authorizes the Commission to specify measures to reduce the risk of fraud, in addition to background checks. Are there other risks of fraud which are not contemplated by the proposed rules? Are there any additional measures that we should specifically require? Please discuss any suggested measures, and explain. For example, should we require intermediaries to monitor investment commitments and cancellations or take any other actions to detect potential attempts to promote an issuer’s securities? If so, which actions and why?

#136. A. To require intermediaries to conduct such private investigations would be an illegal Rule not authorized by the JOBS Act legislation.

#137. Q. Should the intermediary be required to report to the Commission (or another agency) issuers that are denied access? Why or why not?

#137. A. To require intermediaries to report to the Commission the results of such private investigations would be an illegal Rule not authorized by the JOBS Act legislation. I do believe it would be allowable, however, for the Commission to compare searches for Form ID filers' information by intermediaries with its own SEC's Offender Registry, and then to follow-up with the intermediaries who search for information about known bad actors who have been disqualified in order to verify the intermediaries are not providing services to these disqualified issuers or their companies.