

# SECURITIES AND EXCHANGE COMMISSION

*File No. S7-09-13*

**Comment submitted to:**

Ms. Elizabeth M. Murphy, Secretary  
U.S. Securities and Exchange Commission  
100 F. Street, NE  
Washington, D.C. 20549-0609

**Comment submitted electronically:**

November 30, 2013

Re: Comment in Response to Proposed Rule: Crowdfunding

## **Introduction and Background**

I write as an unaffiliated individual from a small town with past experience running a small business that was in constant need of additional capital. My background includes an undergraduate degree in economics-finance and professional experience as a financial analyst at a hedge fund. I am currently in my second year of law school. I am excited that startup business and entrepreneurs will soon have more access to capital through crowdfunding balanced with the appropriate safeguards due investors. I submit the following comments in light of my past experience and the effect the proposed rules may have on businesses similar to my own.

- I. This comment addresses the questions posed in Request for Comments Question Number 1 in Section II.A.2.

The \$1 million limit should be net of fees charged by the intermediary to host the offering on the intermediary's website. Additionally, I urge the Securities and

Exchange Commission (SEC) to consider including additional fees that would offset the calculation of the \$1 million limit including all reasonable expenses used in furtherance of the offering. This would include but not be limited to professional services **such as accountants** and attorneys, website development, marketing and advertising, and additional employees hired for the purpose of acquiring crowdfunds.

Allowing for \$1 million to be calculated net of fees would be in the best interests of the Issuer and the Investor. The Issuer would gravitate toward higher priced and presumably higher skilled accountants, attorneys, and other professionals because the Issuer should be less concerned with the quantity of money remaining to actually invest in their business. Better-qualified professionals employed in crowdfunding services would in turn lead to generally less Investor fraud and confusion.

Congress did not intend a startup to spend \$100,000 to then be capped at raising \$1 million with only \$900,000 left for investing in their business. As expressed in the proposed rules, the SEC is not proposing to increase the aggregate amount of \$1 million that an issuer can sell because it would be contrary to Congressional intent.<sup>1</sup> The SEC referenced Senator Merkley's comments.<sup>2</sup> When the Senator remarked how \$1 million is a substantial amount for a small business, he likely was not considering what companies would have to spend in order to receive that \$1 million to support their own business. It is likely that Congress wanted a startup to utilize a maximum of \$1 million per year

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<sup>1</sup> See proposed Rule of Regulation Crowdfunding, 78 Fed. Reg. 66,427, 66,431, (proposed Nov. 5, 2013).

<sup>2</sup> *Id.*

net of fees charged— a core purpose of this SEC exemption for crowdfunding is to provide alternative ways to source capital to support a wide range of ideas and ventures.<sup>3</sup> The operative phrase is, “supporting the ideas and ventures themselves,” rather than the vehicles and services necessary to receive that support.

II. This comment addresses the questions posed in Request for Comments Question Number 14 in Section II.A.3.

Crowdfunding transactions made in reliance on Section 4(a)(6) should be permitted in other forms other than an intermediary’s electronic platform. The web-based platform should exist along with opportunities for the Issuer and Investor to connect in other arenas such as community food cooperatives, farmers’ markets, and local banks, to name a few. Without doubt, the web fosters a crowd and a convenient forum to express ideas and learn about the Issuer. However, small community gatherings provide similar feedback loops and often times serve the community and some investors better by fostering nuanced forms of communication that can never be achieved online. Further, some SEC concerns can be assuaged regarding the loss of creating a “crowd” online because some investors that may rely on the website to educate themselves may not be inclined to contribute to the “crowd intelligence” online, yet would be vocal in a community gathering.

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<sup>3</sup> *Id.* at 62,428.

III. This comment addresses the questions posed in Request for Comments Question Number 15 in Section II.A.3.

Some ability for intermediary's to restrict who can access their platforms may be well founded. Due to the amount of disclosure required in an offering, the desire to limit anyone with a computer from learning about one's personal information and sensitive business plans and financials is understandable. The Issuer should have some control concerning the public's accessibility to their information. By maintaining a delicate balance, limited restrictions on who can access the company's information should continue to promote the benefit of the crowd and the Issuer's access to investors, while at the same time reducing the and potentially damaging effects of putting one's life and business in plain view.

IV. This comment addresses the questions posed in Request for Comments Question Number 29 in Section II.B.1.a.i.b.

The SEC ought to provide a non-exclusive list regarding the types of information the Issuer should consider disclosing. Examples of templates and full business plans categorized by industry would facilitate Issuers in filing a plan in concert with the goal of a well-informed investor base. Many small business owners and their officers may be extremely skilled in their industry, niche, or novel idea, but often times their experience and exposure in writing a comprehensive business plan is lacking. The SEC's assistance through examples, non-exclusive lists, and a database of online resources will help a startup comply with the Crowdfunding requirements resulting in well- and properly-informed investors.

Respectfully submitted.