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To: Mary Jo White, Chair
Elizabeth M. Murphy, Secretary
Charles Kwon, Office of Chief Counsel,
Division of Corporation Finance
Securities and Exchange Commission
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From: Jason Coombs, Co-Founder and CEO
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Re: File No. S7-11-13, http://www.gpo.gov/fdsys/pkg/FR-2014-01-23/pdf/2013-30508.pdf
JOBS Act legislation URL http://www.gpo.gov/fdsys/pkg/BILLS-112hr3606enr/pdf/BILLS-112hr3606enr.pdf

This comment addresses the 141-page Proposed Rules for revision to Regulation A pursuant to Title IV "SMALL COMPANY CAPITAL FORMATION", JOBS Act Section 401 & Rel. #34-71120 & #39-2493

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
I have been writing letters to the SEC since 2012 when the corrupt, criminal, outrageous action of the former Chair, Mary Schapiro, and her co-conspirators including most of the present Commissioners, first made it clear to me that the SEC was going to continue to be the problem rather than the solution.

My previous letters have been tweeted on my Twitter account: https://twitter.com/JasonCoombsCEO
I submitted 4 comment letters previously published at http://www.sec.gov/comments/s7-11-13/s71113.shtml

After reviewing the other submitted comment letters published by the Commission on its website this week regarding Title IV of the JOBS Act and the revisions to Regulation A including the new Regulation A+ Rule codified in Section 3(b)(2) of the 1933 Securities Act, my viewpoint on the optimal final Rule has changed slightly. I now urge the Commission to adopt a final Rule, without further delay or debate, substantially as proposed by the Commission including the following minor modifications to accommodate State regulators:

1. The proposed Tier 1 and Tier 2 should be revised to include a Tier 3 such that the proposed Tier 2 would become the new Tier 3. The new Tier 2 would be nearly identical to Tier 3 except it would contain a lesser annual limit on capital that can be raised through the Offering, and instead of being required to supply to the Commission any audited financial statements at the time of filing to qualify the Offering under Tier 2 the issuer should be expressly permitted to provide only unaudited financial statements unless audited financial statements are otherwise available just as proposed presently by the Commission for its Tier 1 Offering. All three Tiers could be required to supply periodic reports to the Commission, within the requirements of the Tier through which the issuer qualified with the SEC to conduct its public offering under Regulation A+.

2. It appears necessary for the Commission to require three Tiers of auditing standard compliance to match the principles of "small", "medium" and "large" Regulation A+ Offerings above. Tier 1 Offerings should be required to comply with the same follow-on reporting requirements as a Tier 2 Offering post-Offering, such that if the final Rule requires filing with the Commission audited financial statements after the end of the first 12 months following the date of qualification for the Regulation A+ Offering, for example, then Tier 1 Offerings should likewise be required to begin minimum reporting requirements on the same schedule. However, Tier 1 Offerings could perhaps never require audited financial statements, but instead permit ALL Directors and Officers of the issuer to file sworn affidavits attesting to the accuracy and truthfulness of the

unaudited financial statements. In this Tier 1 auditing standard (effectively a "self-auditing" by the issuer's Directors and Officers) the sworn affidavits filed with the SEC should create criminal liability risk for fraud if the issuer's Directors and Officers are found later to have committed perjury and filed a false document with the Commission. Compared to the proposed Tier 1 requirement of no audited financial statements this new "self-auditing" regime would be superior for both federal and state criminal law enforcement and also for state securities regulators who may otherwise not even be able to easily determine who the Directors and Officers are of a questionable issuer whose activities in their State necessitate future enforcement actions.

The new Tier 2 and Tier 3 auditing standards above my new concept of "self-auditing" should easily fit with the various comments supplied by auditors and others along the lines of Tier 2 Offerings being eligible for lesser audit standards (including perhaps no AICPA independence standard mandate) and no requirement for PCAOB inspections. Tier 3 Offerings should clearly be subject to the most stringent audit standards of PCAOB and GAAP accounting. There should also be a "safe harbor" or something promulgated by the Commission that clearly exempts issuers from ever being required to retroactive restate, revise and re-audit when it grows from a Tier 1 to a Tier 2 to a Tier 3 and finally to a fully-reporting registered issuer over time.

3. All three Tiers must be afforded preemption from State registration or review except for a Tier 1 Offering in which the issuer is a local business that does not plan to operate in multiple states or does not propose to engage in substantial inter-state commerce or otherwise is deemed by the Commission to be a "local" issuer. The State of Washington Department of Financial Institutions Securities Division comment letter submitted on March 24, 2014 by William M. Beatty makes a very compelling case for excluding such "local" issuers from qualifying for preemption in ***at least*** Tier 1 Offerings. I also believe that "local" issuers should perhaps always be ineligible for preemption on any Tier in Regulation A+ Offerings if the SEC can formulate a fair and workable policy for determining objectively what "local" issuers look like versus "national" issuers.

For "national" issuers of Regulation A+ securities to be ineligible for preemption would be an absurd final Rule feature which would not implement the explicit requirements of Title IV of the JOBS Act nor would it be consistent with the intent of Congress in passing the JOBS Act. Even in light of the legislative history in terms of a previously-considered explicit preemption provision in Title IV, it is **obvious** that Congress could have expressly required registration with state securities regulators as a condition of qualifying for this new Regulation A+ Offering mechanism. Instead of inserting such language in the final legislation, Congress has **obviously** left this question of preemption to the Commission to decide based on its research and expertise.

I do believe it is necessary for "local" issuers to continue to be required to register with state regulators. I also think it would be helpful for it to be part of the final Rule to remind everyone that it is **optional** for issuers to file to qualify with the SEC and that even "national" issuers who conduct business across state lines in substantial volume can opt instead to file to register local Offerings that are regulated only by the State or States in which the issuer has its domicile and/or its primary place of business. It is clear to me that many people, even accredited "angel" investors, simply do not comprehend that electing federal jurisdiction for an Offering is a choice that is made by the issuer based on their planned behavior in marketing their new securities Offering. I believe there should be, expressly stated in the final Rule, a path for Regulation A+ Offerings to be conducted locally, within a single State or a limited number of States, without requiring any qualifying filings with the SEC, wherein periodic reports would be filed only with the State regulators and the new "Coordinated Review" regime being advanced by the State regulators would thus preempt federal jurisdiction by being a "safe harbor" for sales within the States where any given local Offering is qualified.

The questions of preemption for subsequent resales of the unrestricted unregistered securities are complex, but they could be made easier for everyone to understand and manage if the Rule 15c2-11 requirements are deemed satisfied by periodic publication pursuant to Regulation A+ even in the case of a "local" Offering.

4. The Commission **must** clarify whether Regulation A+ Offerings can be offered and sold through brokers.

5. Investors must be required to certify they're sophisticated and have visited the INVESTOR.GOV website. Without at least minimal requirement for self-certification of investor qualification, the final Rule is flawed.