

THIRTY-THIRD ANNUAL

**SEC Government-Business**

**FORUM**

**ON**  
**Small Business**  
**Capital Formation**

**November 20, 2014**  
**Washington, DC**





DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

November 20, 2014

Dear Forum Participant:

Welcome to the Thirty-Third SEC Government–Business Forum on Small Business Capital Formation.

The Securities and Exchange Commission has conducted this forum annually since 1982. The event provides small businesses, their advisors, and their investors with an opportunity to share perspectives and views on a variety of topics important to them. This is an effective way for the agency and its staff to learn more about the important capital formation issues that the small business sector is facing and helps us take a practical and effective approach in our rulemaking and interpretation.

Thank you for devoting your time and efforts to participating in today's forum. We look forward to today's discussions and appreciate your comments and recommendations.

Very truly yours,

A handwritten signature in cursive script that reads "Sebastian Gomez Abero".

Sebastian Gomez Abero  
Chief, Office of Small Business Policy

# **2014 SEC Government-Business Forum on Small Business Capital Formation**

*SEC Headquarters  
Washington, D.C  
November 20, 2014*

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## **FORUM SEC STAFF**

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Timothy J. White, Special Counsel

# 2014 SEC Government-Business Forum on Small Business Capital Formation

SEC Headquarters  
Washington, D.C.  
November 20, 2014

## Agenda

*(All participants will meet in Main Auditorium to begin Forum)*

**9:00 a.m. Call to Order**

Sebastian Gomez Abero, Chief, Office of Small Business Policy, SEC Division of Corporation Finance

**Introductions of Chair and Commissioners**

Keith F. Higgins, Director, SEC Division of Corporation Finance

**Remarks**

Chair Mary Jo White

Commissioner Luis A. Aguilar

Commissioner Daniel M. Gallagher

Commissioner Kara M. Stein

Commissioner Michael S. Piwowar

**9:50 a.m. Secondary Market Liquidity for Securities of Small Businesses<sup>1</sup>**

**Moderators:**

Stephen Luparello, Director, SEC Division of Trading and Markets

Stanley Keller, Partner, Edwards Wildman Palmer LLP, Boston, Massachusetts

**Panelists:**

Vladimir Ivanov, Senior Financial Economist, SEC Division of Economic and Risk Analysis

Michael L. Zuppone, Partner, Paul Hastings, New York, New York

Robert Malin, Vice President of Sales, NASDAQ Private Market

R. Cromwell Coulson, President and CEO of OTC Markets Group, Inc.

A. Heath Abshire, Arkansas Securities Commissioner, Little Rock, Arkansas

**11:10 a.m. Break**

**11:20 a.m. Should the Commission Revise the Accredited Investor Definition?<sup>2</sup>**

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<sup>1</sup> One or more SEC Commissioners may participate in this discussion.

<sup>2</sup> One or more SEC Commissioners may participate in this discussion.

**Moderators:**

Keith F. Higgins, Director, SEC Division of Corporation Finance  
Stanley Keller, Partner, Edwards Wildman Palmer LLP, Boston, Massachusetts

**Panelists:**

Rachita Gullapalli, Financial Economist, SEC Division of Economic and Risk Analysis  
Prof. Donald C. Langevoort, Georgetown University Law Center, Washington, D.C.  
Jean Peters, Board Member, Angel Capital Association; Managing Director, Golden  
Seeds Fund LP  
A. Heath Abshire, Arkansas Securities Commissioner, Little Rock, Arkansas

**12:40 pm. Lunch Break**

**2:00 p.m. Breakout Groups Assemble to Develop Recommendations**  
*(After lunch break, all participants will meet in Multipurpose Room (L-006) –  
under stairs across from Main Auditorium for Breakout Group Room  
Assignments)*

- ▶ **Exempt Securities Offerings Breakout Group**  
*(Remain in Multipurpose Room (L-006) – under stairs across from Main Auditorium)*

**Moderator:**

Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa, Florida

- ▶ **Secondary Market Liquidity for Securities of Small Businesses Breakout Group**  
*(SEC staff will escort to Room 4000, SPI)*

**Moderator:**

Michael L. Zuppone, Partner, Paul Hastings, New York, New York

- ▶ **Accredited Investor Breakout Group**  
*(SEC staff will escort to Room 6000, SPI)*

**Moderator:**

Deborah S. Froling, Partner, Arent Fox LLP, Washington, D.C.

- ▶ **Disclosure Effectiveness for Smaller Reporting Companies Breakout Group**  
*(SEC staff will escort to Room 3000, SPI)*

**Moderator:**

Thomas J. Kim, Partner, Sidley Austin LLP, Washington, D.C.

- 3:15 p.m. Break**  
*(SEC staff will escort participants who want to change breakout groups.)*
- 3:30 p.m. Breakout Groups to Develop Recommendations (*continued*)**  
*(same breakout group room assignments)*
- 5:00 p.m. Plenary Session to Develop Next Steps**  
*(SEC staff will escort all participants in Rooms 3000, 4000 and 6000 to reconvene in Multipurpose Room for Plenary Session.)*

**Moderators:**

Sebastian Gomez Abero, Chief, Office of Small Business Policy, SEC Division of Corporation Finance  
Gregory C. Yadley, Partner, Shumaker, Loop & Kendrick, LLP, Tampa, Florida

- 5:30 p.m. Networking Reception at Nearby Restaurant**

**2014 SEC Government-Business  
Forum on Small Business Capital Formation**

**Afternoon Breakout Group Room Assignments**

*All pre-registered Forum participants are free to attend or dial-in to the telephone conference call for any of the four afternoon breakout group meetings, even if they pre-registered for a different breakout group.*

*Participants may change breakout groups at the 3:15 p.m. break, with a staff escort for those in the building, or by dialing-in to a different breakout group for those participating by conference call. Please note, however, that selections of each breakout group's five recommendations to be presented at the Forum's Plenary Session at 5 p.m. will be made in the later breakout group session from 3:30 p.m. to 5:00 p.m. Accordingly, please make sure you are present at the 3:30 p.m. session of the breakout group in which you want to maximize your influence over what five recommendations will be selected by that breakout group.*

*SEC staff will be available in each of the four breakout groups to provide technical support and guidance in the discussions.*

**Exempt Securities Offerings  
Breakout Group**

Multipurpose Room (L-006)  
(Under stairs across from Auditorium)

*Gregory C. Yadley, Moderator*

***SEC Staff Support:***

*Tony Barone, SEC Div. of Corp. Fin.  
Julie Davis, SEC Div. of Corp. Fin.  
Vladimir Ivanov, SEC Div. of Econ. and  
Risk Analysis  
Darren Vieira, SEC Div. of T&M*

**Secondary Market Liquidity  
for Securities of Small  
Businesses Breakout Group**

Room 4000 (4<sup>th</sup> Floor)

*Michael L. Zuppone, Moderator*

***SEC Staff Support:***

*Zachary O. Fallon, SEC Div. of Corp. Fin.  
Joanne Rutkowski, SEC Div. of T&M*

**Accredited Investor Breakout  
Group**

Room 6000 (6<sup>th</sup> Floor)

*Deborah S. Froling, Moderator*

***SEC Staff Support:***

*Ivan Griswold, SEC Div. of Corp. Fin.  
Rachita Gullapalli, SEC Div. of Econ. and  
Risk Analysis  
Johanna Losert, SEC Div. of Corp. Fin.  
Michael Seaman, SEC Div. of Corp. Fin.*

**Disclosure Effectiveness for  
Smaller Reporting Companies  
Breakout Group**

Room 3000 (3<sup>rd</sup> Floor)

*Thomas J. Kim, Moderator*

***SEC Staff Support:***

*Karen Garnett, SEC Div. of Corp. Fin.  
P. Amy Reischauer, SEC Div. of Corp. Fin.*

**2014 SEC Government-Business  
Forum on Small Business Capital Formation**

**Breakout Group Participant Guidelines**

- 1) Identify yourself and your organization before speaking.
- 2) If participating by phone, mute your phone when not speaking.
- 3) Be aware that members of the press may be listening to the discussion.
- 4) The objective of the breakout group is to develop no more than five draft recommendations to present to the Plenary Session of the Forum at 5:00 p.m. today in the SEC Multipurpose Room (Lower Level Room 006). After today's sessions, the breakout group moderators will work with breakout group participants as appropriate to finalize the recommendations and submit them to the SEC staff. The SEC staff will then circulate the recommendations to all Breakout Group participants for voting, to prioritize them before including them in the Forum Final Report.

**2014 SEC Government-Business  
Forum on Small Business Capital Formation**

**Guidelines for Drafting Recommendations**

1. Recommendations should be **clear, concise and to the point**.
2. Recommendations should be presented in a way that permits a “Yes” or “No” vote on the entire recommendation by Forum participants (*e.g.*, no multiple subparagraphs requiring separate votes).
3. Ideally, recommendations should be stated in **one sentence**. In rare cases, a second or third sentence may be needed to make a recommendation comprehensible. **Clear** and **succinct** supporting language may be presented separately and may be considered or published with the recommendation if time and/or space permits in the assembly of Forum participants and/or final report of the Forum.
4. The entire breakout group should **carefully consider** each of its recommendations. Recommendations should not represent the views of a single participant or a small group of vocal participants. Breakout groups should filter the group’s recommendations for **desirability**, **workability** and **achievability**. A breakout group properly considering its recommendations most likely will not have time to report out more than a few recommendations.
5. Each breakout group will be limited to no more than **five recommendations** to present to the Plenary Session of the Forum at 5:00 pm today. These five recommendations will be included with the recommendations of the other breakout groups for voting by the Forum participants after the Forum by electronic ballot. The prioritized recommendations will be included in the Forum Final Report
6. If a breakout group has more than five recommendations, **any recommendations in excess of the five recommendations** to be presented at the Forum’s Plenary Session will be recorded by the SEC staff and presented to next year’s Forum afternoon breakout groups for additional consideration.

## 2013 CONSOLIDATED FORUM RECOMMENDATIONS<sup>1</sup>

*Set forth below are the 43 recommendations of the 2013 SEC Government-Business Forum on Small Business Capital Formation, consolidated from the three breakout groups of the Forum held on the afternoon of November 21, 2013. The three breakout groups covered the following topics: Securities-Based Crowdfunding Offerings, Exempt Securities Offerings, and Securities Regulation of Smaller Public Companies. After that date, the moderators of the breakout groups worked with their breakout group participants to refine each group's recommendations.*

*The recommendations are presented below in the order of priority established as the result of a poll of all participants in the breakout groups.<sup>2</sup> The priority ranking is intended to provide guidance to the SEC as to the importance and urgency the poll respondents assigned to each recommendation.*

*For additional clarity with respect to the interest in each broad area of discussion, the recommendations are also subsequently presented by the breakout groups from which they originated.<sup>3</sup>*

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<sup>1</sup> The SEC conducts the SEC Government-Business Forum on Small Business Capital Formation, but does not endorse or modify any of the recommendations of the Forum. The recommendations are solely the responsibility of the Forum participants, who were responsible for developing them. The recommendations do not necessarily reflect the views of the SEC, its Commissioners or any of the SEC's staff members.

<sup>2</sup> In the poll, the participants were asked to respond whether the SEC should give "high," "medium," "low" or "no" priority to each of the 43 recommendations. Of the 126 participants, 34 responded, a 27% response rate. Each "high priority" response was assigned five points, each "medium priority" was assigned three points, each "low priority" response was assigned one point and each "no priority" or blank response was assigned zero points. The total number of points assigned to each recommendation is shown in brackets after the text of the recommendation, as is the average assignment of points for the recommendation. The average assignment of points was determined for each recommendation by dividing the total number of points for a recommendation by the number of responses received (34).

<sup>3</sup> Of the 34 respondents to the poll, 17 were participants in the Securities-Based Crowdfunding Offerings Breakout Group, 14 were participants in the Exempt Securities Offerings Breakout Group and 7 were participants in the Securities Regulation of Smaller Public Companies Breakout Group. Four respondents participated in more than one breakout group.

*Priority  
Rank*

*Recommendation*

- 1 We recommend that the Commission withdraw its proposed amendments to Regulation D, Form D and Rule 156. If the Commission determines not to do so, then we urge that revised proposals be published for further comment to include the following:
  - Removal of the harsh penalties for non-compliance;
  - No requirement for an advance Form D, instead require filing no earlier than the date of first sale and a closing or annual filing (if sales were made);
  - Allow parts of Form D, such as the financing amount, to be confidential;
  - Require legends and disclosures only when sale terms are communicated;
  - Rather than requiring the filing of advertising materials, form working groups from advisory bodies to monitor and report to the Commission; and
  - Clarify the meaning of “general solicitation,” and confirm that longstanding economic development events, such as “demo days,” do not constitute general solicitation. [112 points; avg. ranking 3.29]
  
- 2 Because Rule 506(c) exempt offerings exclude non-accredited friends and family investors, who have traditionally been important participants in small business capital formation, we recommend that the Commission:
  - Maintain the ability of Rule 506(c) issuers to concurrently offer Section 4(a)(6) crowdfunding securities, as set forth in the proposed rules issued pursuant to the JOBS Act; and
  - Clarify that an issuer changing from a Rule 506(b) offering to a Rule 506(c) offering may sell to friends and family and other non-accredited investors in a parallel Section 4(a)(6) crowdfunding offering. [105 points; avg. ranking 3.09]
  
- 3 We recommend that the Commission not increase the dollar amount thresholds in the accredited investor definition following its review of the definition, as mandated by the Dodd-Frank Act. The Commission has effectively already increased the financial threshold in the definition by removing the value of the primary residence, which resulted in a significant drop in the investor pool from 9% to 7% of U.S. households, thus limiting both capital formation and job creation. At the same time, we recommend that the Commission consider additional separate categories of qualification for accredited investors based on various types of sophistication, for example, by virtue of education, experience or training. [101 points; avg. ranking 2.97]

<i>Priority Rank</i>	<i>Recommendation</i>
4	Eliminate the requirement for audited financial statements in crowdfunding offerings, and instead require that financial statements for offerings of \$500,000 or more be reviewed by a certified public accountant. [100 points; avg. ranking 2.94]
5	The Commission should provide clarification and a framework on what is considered investment advice for a crowdfunding portal. Portals should be able to provide a labeling mechanism, such as an issue is “hot” or “trending,” along with an advanced search feature. [98 points; avg. ranking 2.88]
6A	Based on recent changes resulting from the JOBS Act, private companies will have much more flexibility to remain private longer. As a result, the need for a specific federal exemption for private secondary transactions for shareholders that cannot satisfy Rule 144 has become critical. We recommend that the Commission propose a new federal exemption governing the private resale of restricted securities under Section 4(a)(1) of the Securities Act, commonly referred to as “Section 4(1-1/2)” (or after the JOBS Act amendments to the Securities Act, Section 4(a)(1-1/2)). [95 points; avg. ranking 2.79]
6B	<p>The Commission should promptly adopt rules implementing Title IV of the JOBS Act that preempt state law review and regulation (but not enforcement) for the issuance of securities thereunder. The Commission should consider, among other means of accomplishing this:</p> <ul style="list-style-type: none"> <li>• Making a security offered in reliance upon the Regulation A+ exemption a “covered security” under Section 18(b) of the Securities Act;</li> <li>• Adopting a “qualified purchaser” definition under Section 18(b)(3) of the Securities Act to include purchasers of securities sold in reliance upon the Regulation A+ exemption;</li> <li>• Preempting only state regulation that fails to comply with uniform state regulation guidelines adopted by NASAA in consultation with the Commission; or</li> <li>• Seeking any legislation necessary to so preempt state regulation.</li> </ul> <p>New regulations promulgated under Title IV of the JOBS Act should provide for scaled disclosure based on, among other factors, size of offering, including unaudited financial statements for smaller offerings, and encourage user-friendly techniques, such as Q&amp;A. [95 points; avg. ranking 2.79]</p>
6C	The Commission should provide guidelines to crowdfunding intermediaries as to what constitutes curating deals. [95 points; avg. ranking 2.79]
9	Eliminate the imposition of liability against a crowdfunding platform for the misstatements and omissions of the companies that post on the platform’s website,

**Priority  
Rank**

**Recommendation**

which is proposed in the SEC proposing release for Title III of the JOBS Act at Section II.E.5 of Release No. 33-9470 (Oct. 23, 2013).

[94 points; avg. ranking 2.76]

- 10 Repeal the requirement for smaller reporting companies and emerging growth companies to submit financial information in XBRL format for periodic reports and other public filings. [92 points; avg. ranking 2.71]
- 11 Allow crowdfunding portals to create a membership tiered system that will disclose only specific company details (e.g., financial statements) to registered members on the platform. [85 points; avg. ranking 2.50]
- 12 In the voting and prioritization phase of this Forum, the recommendations of each breakout group should be presented separately from those of the other two breakout groups. [83 points; avg. ranking 2.44]
- 13A Revise the definition of “smaller reporting company” under the Securities Act and Exchange Act to include companies with:
- A public float of up to \$250 million; or
  - Annual revenues of up to \$100 million, so long as their public float is not more than \$700 million.
- These companies are still generally considered “micro-caps.”  
[81 points; avg. ranking 2.38]
- 13B Clarify whether the intent of proposed Rule 203 of Regulation Crowdfunding is to require all material information to be filed on proposed Form C, or whether “free writing” is permitted to be posted on platforms. [81 points; avg. ranking 2.38]
- 15A Allow crowdfunding intermediaries to syndicate deals between platforms by having one lead intermediary host and provide a communication channel to the other funding portals and allow funding portals to share commissions and fees. Transactions must be conducted on the intermediary platform on which they originated. [74 points; avg. ranking 2.18]
- 15B Broker-dealers and registered crowdfunding portals should be allowed to share transaction-based compensation in conjunction with Section 4(a)(6) offerings. [74 points; avg. ranking 2.18]
- 17 Forum participants report that many broker-dealers will not accept, deposit, clear, sell and/or trade low-priced stocks. They note that the Financial Industry Regulatory Authority (“FINRA”) and the Depository Trust Company (“DTC”) are requiring broker-dealers to take inordinate responsibility and liability for possible

**Priority  
Rank**

**Recommendation**

- counterfeit certificates, tracking the origin of prior share transfers and monitoring the placement of restricted legends. This issue seriously impacts the participation of investors in financing micro-cap issuers. Through all of its appropriate divisions, the SEC should promptly commence discussions with FINRA and DTC to determine the reasons for, and extent of, these perceived practices, and how such practices can be modified so as not to hamper small business capital formation. [72 points; avg. ranking 2.12]
- 18 The Commission should join with NASAA and FINRA in the effort to implement the basic principles of the American Bar Association Task Force on Private Placement Brokers. Further, to achieve this goal, the Commission should join NASAA and FINRA in developing a timeframe for quarterly or other regular meetings—with specified benchmarks—until a mutually agreeable regime of finder registration and regulation is achieved. [71 points; avg. ranking 2.09]
- 19A Amend the eligibility requirements in the General Instructions of Form S-3 to permit smaller reporting companies, companies whose common equity securities are not listed on a national securities exchange and companies whose shares are defined as “penny stock” to utilize a registration statement on Form S-3 for primary and secondary offerings, but not for automatically effective shelf offerings, if the companies are current in their Exchange Act reports and have timely filed those reports within the past 12 months. The justifications against expanding Form S-3 usage to smaller public companies have been substantially eliminated with advanced information technology, including EDGAR. This recommendation follows closely the SEC’s own proposed rule in 2007 to revise the eligibility requirements for primary securities offerings on Form S-3. See *Revisions to the Eligibility Requirements for Primary Securities Offerings on Forms S-3 and F-3*, Release No. 33-8812 (June 20, 2007). [70 points; avg. ranking 2.06]
- 19B Standardize baseline educational material across crowdfunding portals in order to establish an industry standard similar to the Real Estate Settlement Procedure Act (“RESPA”) administered by the Consumer Financial Protection Bureau (“CFPB”) for the mortgage industry. [70 points; avg. ranking 2.06]
- 21A Support the ongoing efforts of Nasdaq OMX Group Inc. and NYSE Euronext to widen “tick sizes” to increments of \$0.05 for smaller reporting company stock trading. [69 points; avg. ranking 2.03]
- 21B Permit “forward incorporation by reference” in registration statements on Form S-1 by all companies. Current practices to supplement an effective registration statement add little or nothing to the availability or quality of subsequent public information provided by issuers. [69 points; avg. ranking 2.03]
- 21C In 1988, pursuant to its exemptive authority, the Commission first issued Rule 701

**Priority  
Rank**

**Recommendation**

- to allow private companies to sell securities to employees for compensatory purposes. In 1999, the Commission added certain disclosure requirements for sales exceeding \$5 million in a 12-month period. Given the Section 12(g) exemptions for employees provided in the JOBS Act, an update of these thresholds is appropriate. We recommend that the Commission raise the dollar threshold for triggering the required disclosures pursuant to a Rule 701 offering from \$5 million to no less than \$10 million. [69 points; avg. ranking 2.03]
- 24 Crowdfunding platforms of foreign entities should be allowed to conduct business as a U.S. crowdfunding portal only if the foreign entity forms a partnership with a U.S. crowdfunding portal. [68 points; avg. ranking 2.00]
- 25 Allow crowdfunding intermediaries the ability to monitor misstatements on crowdfunding platforms, monitor Q&A commentary and de-rank accordingly as a filtering mechanism. Allow crowdfunding intermediaries the ability to curate based on less objective factors, such as management team experience, over-inflated financials, or size of funding requested, if the funding request is too little to realistically achieve business goals. [67 points; avg. ranking 1.97]
- 26 Consider recommending for enactment by Congress an amendment to the definition of an “emerging growth company” (“EGC”) in Section 2(a)(19) of the Securities Act to provide the same benefits that are applicable to EGCs pursuant to the JOBS Act to companies that would have qualified as an EGC, but for the fact that their initial public offerings were declared effective on or prior to December 8, 2011. Congress may accomplish this by amending the definition of an EGC in paragraph (B) of Section 2(a)(19) to add language that states companies whose IPOs were declared effective on or prior to December 8, 2011 may be treated as EGCs starting as of the date of this amendment so as to give effectively to these companies a full 5 years of potential EGC eligibility. [66 points; avg. ranking 1.94]
- 27A Amend the cover pages of Form 10-K and Form 10-Q to permit registrants to provide the various alternative URL addresses and locations where corporate information may be disseminated by the registrant (e.g., Facebook, Twitter, Tumblr, Instagram and LinkedIn) and, provide that any such postings shall constitute public dissemination for purposes of Regulation FD. [65 points; avg. ranking 1.91]
- 27B Another medium other than the Internet should be made acceptable to perform crowdfunding transactions, particularly for local, community-based capital raising efforts. [65 points; avg. ranking 1.91]
- 29 Extend the disclosure exemptions and scaled or phased-in disclosure obligations that are provided to EGCs under the JOBS Act to all smaller reporting companies, unless there is a significant policy reason for not doing so, including the following

*Priority  
Rank*

*Recommendation*

requirements:

- The requirement in Exchange Act Section 14A(a) to conduct shareholder advisory votes on executive compensation and on the frequency of such votes;
- The requirement in Exchange Act Section 14A(b) to provide disclosure about and conduct shareholder advisory votes on golden parachute compensation;
- The requirement in Section 953(b) of the Dodd-Frank Act, as promulgated by the Commission to be in Item 402 of Regulation S-K, to provide disclosure of the ratio of the median annual total compensation of all employees of the registrant to the annual total compensation of the chief executive officer;
- The requirement in Exchange Act Section 14(i) to provide disclosure of the relationship between executive compensation and issuer financial performance;
- In the case of a new or revised financial accounting standard that has different compliance dates for public and private companies, the deferral of compliance with any such financial accounting standard until the date that a private company is required to comply; and
- Any rules of the Public Company Accounting Oversight Board (“PCAOB”) requiring mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the registrant. [64 points; avg. ranking 1.88]

- 30 Prohibit the PCAOB from requiring any report or procedure similar to a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer, such as a report on “critical audit matters” for the auditors of smaller reporting companies and EGCs. [62 points; avg. ranking 1.82]
- 31 Given the dwindling number of market-makers willing to submit FINRA Form 211 for trading the shares of smaller publicly reporting companies on the over-the-counter market, the SEC’s Division of Trading and Markets should encourage FINRA to allow payment by an issuer of a fixed fee to a market-maker to compensate the market-maker for its time and effort involved in required due diligence, form preparation and related expenses. [59 points; avg. ranking 1.74]
- 32 As has been generally recommended since 2008, Rule 144(i) should be amended to provide a shell company relief two years after filing a Form 8-K to report that it is no longer a shell company. [56 points; avg. ranking 1.65]

**Priority  
Rank**

**Recommendation**

- 33A Through all applicable divisions of the SEC, take steps with the national securities exchanges to lower to \$15 million the current \$40 million minimum required size of a public offering following a reverse merger of an issuer to eliminate the so-called “seasoning” requirement that delays listing the securities of that issuer for more than one year, notwithstanding otherwise meeting all other quantitative and qualitative listing requirements. [55 points; avg. ranking 1.62]
- 33B Eliminate the applicability to smaller reporting companies of rules mandating disclosure with respect to conflict minerals, as well as reports by natural resource extraction issuers, concerning payments made to a foreign government or the U.S. federal government in order to further the commercial development of oil, natural gas or minerals, as such rules would be cost prohibitive for smaller natural resource companies. [55 points; avg. ranking 1.62]
- 33C Add a general instruction to Regulation S-K that permits smaller reporting companies to omit disclosure required pursuant to a line item in Regulation S-K in the event that such disclosure is not material from the perspective of a reasonable investor. This general instruction should contain language similar to that in Rule 502(b)(2) of Regulation D, which limits the disclosure required to be provided to the purchaser by an issuer “to the extent material to an understanding of the issuer, its business, and the securities being offered.” This would add an element of principles-based disclosure to Regulation S-K. [55 points; avg. ranking 1.62]
- 36 Provide a dashboard (tool) that will show updates on intrastate crowdfunding exemptions and federal laws for crowdfunding. [54 points; avg. ranking 1.59]
- 37 Provide a final rule as to when public companies are required to adopt the new 2013 Framework of the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”), and provide a one-year delay for required implementation of the rule by smaller reporting companies. [53 points; avg. ranking 1.56]
- 38A Standardize deal structures across crowdfunding platforms.  
[51 points; avg. ranking 1.50]
- 38B Develop educational programs aimed at minority owned firms and investors, and track the effectiveness of those efforts. [51 points; avg. ranking 1.50]
- 40 Anyone that invests in a qualifying business, such as a minority, women or veteran owned business, should become eligible for income tax relief based on their investment. [49 points; avg. ranking 1.44]
- 41 The SEC should repeal the requirement to file an information statement pursuant to Section 14(f) of the Exchange Act and Rule 14f-1 thereunder, concerning notice of change in the majority of the board of directors other than by a meeting of

***Priority  
Rank***

***Recommendation***

shareholders, because the schedule is onerous, frequently duplicative, and inconsequential for smaller reporting companies. [40 points; avg. ranking 1.18]

- 42 Consider recommending for enactment by Congress, the repeal of Exchange Act Section 16(b), but leaving Section 16(a) reporting as is, in order to continue monitoring insider trading. The short-swing profit recovery provisions of Section 16(b) may have a disproportionate impact on the management of smaller public companies who may rely more heavily on equity-based compensation. [39 points; avg. ranking 1.15]
- 43 The SEC should recommend that the PCAOB conduct a study of the percentage of audit work papers where external auditors rely upon management's Sarbanes-Oxley Act Section 404(a) assessment work papers. [33 points; avg. ranking 0.97]

## 2013 FORUM RECOMMENDATIONS BY BREAKOUT GROUP

*Set forth below are the recommendations of participants in each of the three Forum breakout groups in order of priority, as discussed in footnote 3 of the preceding section.*

### Securities-Based Crowdfunding Breakout Group Recommendations

<i>Priority Rank</i>	<i>Recommendation</i>
1	Eliminate the requirement for audited financial statements in crowdfunding offerings, and instead require that financial statements for offerings of \$500,000 or more be reviewed by a certified public accountant. [100 points; avg. ranking 2.94]
2	The Commission should provide clarification and a framework on what is considered investment advice for a crowdfunding portal. Portals should be able to provide a labeling mechanism, such as an issue is “hot” or “trending,” along with an advanced search feature. [98 points; avg. ranking 2.88]
3	The Commission should provide guidelines to crowdfunding intermediaries as to what constitutes curating deals. [95 points; avg. ranking 2.79]
4	Eliminate the imposition of liability against a crowdfunding platform for the misstatements and omissions of the companies that post on the platform’s website, which is proposed in the SEC proposing release for Title III of the JOBS Act at Section II.E.5 of Release No. 33-9470 (Oct. 23, 2013). [94 points; avg. ranking 2.76]
5	Allow crowdfunding portals to create a membership tiered system that will disclose only specific company details (e.g., financial statements) to registered members on the platform. [85 points; avg. ranking 2.50]
6	Clarify whether the intent of proposed Rule 203 of Regulation Crowdfunding is to require all material information to be filed on proposed Form C, or whether “free writing” is permitted to be posted on platforms. [81 points; avg. ranking 2.38]
7A	Allow crowdfunding intermediaries to syndicate deals between platforms by having one lead intermediary host and provide a communication channel to the other funding portals and allow funding portals to share commissions and fees. Transactions must be conducted on the intermediary platform on which they originated. [74 points; avg. ranking 2.18]
7B	Broker-dealers and registered crowdfunding portals should be allowed to share transaction-based compensation in conjunction with Section 4(a)(6) offerings. [74 points; avg. ranking 2.18]
9	Standardize baseline educational materials across crowdfunding portals in order to

***Priority  
Rank***

***Recommendation***

- establish an industry standard similar to the RESPA administered by the CFPB for the mortgage industry. [70 points; avg. ranking 2.06]
- 10 Crowdfunding platforms of foreign entities should be allowed to conduct business as a U.S. crowdfunding portal only if the foreign entity forms a partnership with a U.S. crowdfunding portal. [68 points; avg. ranking 2.00]
- 11 Allow crowdfunding intermediaries the ability to monitor misstatements on crowdfunding platforms, monitor Q&A commentary and de-rank accordingly as a filtering mechanism. Allow crowdfunding intermediaries the ability to curate based on less objective factors, such as management team experience, over-inflated financials, or size of funding requested, if the funding request is too little to realistically achieve business goals. [67 points; avg. ranking 1.97]
- 12 Another medium other than the Internet should be made acceptable to perform crowdfunding transactions, particularly for local, community-based capital raising efforts. [65 points; avg. ranking 1.91]
- 13 Provide a dashboard (tool) that will show updates on intrastate crowdfunding exemptions and federal laws for crowdfunding. [54 points; avg. ranking 1.59]
- 14A Standardize deal structures across crowdfunding platforms. [51 points; avg. ranking 1.50]
- 14B Develop educational programs aimed at minority owned firms and investors, and track the effectiveness of those efforts. [51 points; avg. ranking 1.50]
- 16 Anyone that invests in a qualifying business, such as a minority, women or veteran owned business, should become eligible for income tax relief based on their investment. [49 points; avg. ranking 1.44]

## Exempt Securities Offerings Breakout Group Recommendations

### *Priority Rank*

### *Recommendation*

- 1 We recommend that the Commission withdraw its proposed amendments to Regulation D, Form D and Rule 156. If the Commission determines not to do so, then we urge that revised proposals be published for further comment to include the following:
  - Removal of the harsh penalties for non-compliance;
  - No requirement for an advance Form D, instead require filing no earlier than the date of first sale and a closing or annual filing (if sales were made);
  - Allow parts of Form D, such as the financing amount, to be confidential;
  - Require legends and disclosures only when sale terms are communicated;
  - Rather than requiring the filing of advertising materials, form working groups from advisory bodies to monitor and report to the Commission; and
  - Clarify the meaning of “general solicitation,” and confirm that longstanding economic development events, such as “demo days,” do not constitute general solicitation. [112 points; avg. ranking 3.29]
  
- 2 Because Rule 506(c) exempt offerings exclude non-accredited friends and family investors, who have traditionally been important participants in small business capital formation, we recommend that the Commission:
  - Maintain the ability of Rule 506(c) issuers to concurrently offer Section 4(a)(6) crowdfunding securities, as set forth in the proposed rules issued pursuant to the JOBS Act; and
  - Clarify that an issuer changing from a Rule 506(b) offering to a Rule 506(c) offering may sell to friends and family and other non-accredited investors in a parallel Section 4(a)(6) crowdfunding offering. [105 points; avg. ranking 3.09]
  
- 3 We recommend that the Commission not increase the dollar amount thresholds in the accredited investor definition following its review of the definition, as mandated by the Dodd-Frank Act. The Commission has effectively already increased the financial threshold in the definition by removing the value of the primary residence, which resulted in a significant drop in the investor pool from 9% to 7% of U.S. households, thus limiting both capital formation and job creation. At the same time, we recommend that the Commission consider additional separate categories of qualification for accredited investors based on various types of sophistication, for example, by virtue of education, experience or training.

*Priority  
Rank*

*Recommendation*

[101 points; avg. ranking 2.97]

4A Based on recent changes resulting from the JOBS Act, private companies will have much more flexibility to remain private longer. As a result, the need for a specific federal exemption for private secondary transactions for shareholders that cannot satisfy Rule 144 has become critical. We recommend that the Commission propose a new federal exemption governing the private resale of restricted securities under Section 4(a)(1) of the Securities Act, commonly referred to as “Section 4(1-1/2)” (or after the JOBS Act amendments to the Securities Act, Section 4(a)(1-1/2)). [95 points; avg. ranking 2.79]

4B The Commission should promptly adopt rules implementing Title IV of the JOBS Act that preempt state law review and regulation (but not enforcement) for the issuance of securities thereunder. The Commission should consider, among other means of accomplishing this:

- Making a security offered in reliance upon the Regulation A+ exemption a “covered security” under Section 18(b) of the Securities Act;
- Adopting a “qualified purchaser” definition under Section 18(b)(3) of the Securities Act to include purchasers of securities sold in reliance upon the Regulation A+ exemption;
- Preempting only state regulation that fails to comply with uniform state regulation guidelines adopted by NASAA in consultation with the Commission; or
- Seeking any legislation necessary to so preempt state regulation.

New regulations promulgated under Title IV of the JOBS Act should provide for scaled disclosure based on, among other factors, size of offering, including unaudited financial statements for smaller offerings, and encourage user-friendly techniques, such as Q&A. [95 points; avg. ranking 2.79]

6 The Commission should join with NASAA and FINRA in the effort to implement the basic principles of the American Bar Association Task Force on Private Placement Brokers. Further, to achieve this goal, the Commission should join NASAA and FINRA in developing a timeframe for quarterly or other regular meetings—with specified benchmarks—until a mutually agreeable regime of finder registration and regulation is achieved. [71 points; avg. ranking 2.09]

7 In 1988, pursuant to its exemptive authority, the Commission first issued Rule 701 to allow private companies to sell securities to employees for compensatory purposes. In 1999, the Commission added certain disclosure requirements for sales exceeding \$5 million in a 12-month period. Given the Section 12(g) exemptions for employees provided in the JOBS Act, an update of these thresholds is

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*Recommendation*

appropriate. We recommend that the Commission raise the dollar threshold for triggering the required disclosures pursuant to a Rule 701 offering from \$5 million to no less than \$10 million. [69 points; avg. ranking 2.03]

## Securities Regulation of Smaller Public Companies Breakout Group Recommendations

<i>Priority Rank</i>	<i>Recommendation</i>
1	Repeal the requirement for smaller reporting companies and EGCs to submit financial information in XBRL format for periodic reports and other public filings. [92 points; avg. ranking 2.71]
2	In the voting and prioritization phase of this Forum, the recommendations of each breakout group should be presented separately from those of the other two breakout groups. [83 points; avg. ranking 2.44]
3	Revise the definition of “smaller reporting company” under the Securities Act and Exchange Act to include companies with: <ul style="list-style-type: none"><li>• A public float of up to \$250 million; or</li><li>• Annual revenues of up to \$100 million, so long as their public float is not more than \$700 million.</li></ul> <p>These companies are still generally considered “micro-caps.” [81 points; avg. ranking 2.38]</p>
4	Forum participants report that many broker-dealers will not accept, deposit, clear, sell and/or trade low-priced stocks. They note that FINRA and DTC are requiring broker-dealers to take inordinate responsibility and liability for possible counterfeit certificates, tracking the origin of prior share transfers and monitoring the placement of restricted legends. This issue seriously impacts the participation of investors in financing micro-cap issuers. Through all of its appropriate divisions, the SEC should promptly commence discussions with FINRA and DTC to determine the reasons for, and extent of, these perceived practices, and how such practices can be modified so as not to hamper small business capital formation. [72 points; avg. ranking 2.12]
5	Amend the eligibility requirements in the General Instructions of Form S-3 to permit smaller reporting companies, companies whose common equity securities are not listed on a national securities exchange and companies whose shares are defined as “penny stock” to utilize a registration statement on Form S-3 for primary and secondary offerings, but not for automatically effective shelf offerings, if the companies are current in their Exchange Act reports and have timely filed those reports within the past 12 months. The justifications against expanding Form S-3 usage to smaller public companies have been substantially eliminated with advanced information technology, including EDGAR. This recommendation follows closely the SEC’s own proposed rule in 2007 to revise the eligibility requirements for primary securities offerings on Form S-3. See <i>Revisions to the Eligibility Requirements for Primary Securities Offerings on Forms S-3 and F-3</i> , Release No. 33-8812 (June 20, 2007). [70 points; avg. ranking 2.06]

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Rank*

*Recommendation*

- 6A Support the ongoing efforts of Nasdaq OMX Group Inc. and NYSE Euronext to widen “tick sizes” to increments of \$0.05 for smaller reporting company stock trading. [69 points; avg. ranking 2.03]
- 6B Permit “forward incorporation by reference” in registration statements on Form S-1 by all companies. Current practices to supplement an effective registration statement add little or nothing to the availability or quality of subsequent public information provided by issuers. [69 points; avg. ranking 2.03]
- 8 Consider recommending for enactment by Congress an amendment to the definition of an “emerging growth company” in Section 2(a)(19) of the Securities Act to provide the same benefits that are applicable to EGCs pursuant to the JOBS Act to companies that would have qualified as an EGC, but for the fact that their initial public offerings were declared effective on or prior to December 8, 2011. Congress may accomplish this by amending the definition of an EGC in paragraph (B) of Section 2(a)(19) to add language that states companies whose IPOs were declared effective on or prior to December 8, 2011, may be treated as EGCs starting as of the date of this amendment so as to give effectively to these companies a full 5 years of potential EGC eligibility. [66 points; avg. ranking 1.94]
- 9 Amend the cover pages of Form 10-K and Form 10-Q to permit registrants to provide the various alternative URL addresses and locations where corporate information may be disseminated by the registrant (e.g., Facebook, Twitter, Tumblr, Instagram and LinkedIn) and, provide that any such postings shall constitute public dissemination for purposes of Regulation FD. [65 points; avg. ranking 1.91]
- 10 Extend the disclosure exemptions and scaled or phased-in disclosure obligations that are provided to EGCs under the JOBS Act to all smaller reporting companies, unless there is a significant policy reason for not doing so, including the following requirements:
- The requirement in Exchange Act Section 14A(a) to conduct shareholder advisory votes on executive compensation and on the frequency of such votes;
  - The requirement in Exchange Act Section 14A(b) to provide disclosure about and conduct shareholder advisory votes on golden parachute compensation;
  - The requirement in Section 953(b) of the Dodd-Frank Act, as promulgated by the Commission in Item 402 of Regulation S-K, to provide disclosure of the ratio of the median annual total compensation of all employees of the registrant to the annual total compensation of the chief executive officer;
  - The requirement in Exchange Act Section 14(i) to provide disclosure

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*Recommendation*

- of the relationship between executive compensation and issuer financial performance;
- In the case of a new or revised financial accounting standard that has different compliance dates for public and private companies, the deferral of compliance with any such financial accounting standard until the date that a private company is required to comply; and
  - Any rules of the PCAOB requiring mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the registrant. [64 points; avg. ranking 1.88]
- 11 Prohibit the PCAOB from requiring any report or procedure similar to a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer, such as a report on “critical audit matters” for the auditors of smaller reporting companies and emerging growth companies. [62 points; avg. ranking 1.82]
- 12 Given the dwindling number of market-makers willing to submit FINRA Form 211 for trading the shares of smaller publicly reporting companies on the over-the-counter market, the SEC’s Division of Trading and Markets should encourage FINRA to allow payment by an issuer of a fixed fee to a market-maker to compensate the market-maker for its time and effort involved in required due diligence, form preparation and related expenses. [59 points; avg. ranking 1.74]
- 13 As has been generally recommended since 2008, Rule 144(i) should be amended to provide a shell company relief two years after filing a Form 8-K to report that it is no longer a shell company. [56 points; avg. ranking 1.65]
- 14A Through all applicable divisions of the SEC, take steps with the national securities exchanges to lower to \$15 million the current \$40 million minimum required size of a public offering following a reverse merger of an issuer to eliminate the so-called “seasoning” requirement that delays listing the securities of that issuer for more than one year, notwithstanding otherwise meeting all other quantitative and qualitative listing requirements. [55 points; avg. ranking 1.62]
- 14B Eliminate the applicability to smaller reporting companies of rules mandating disclosure with respect to conflict minerals, as well as reports by natural resource extraction issuers, concerning payments made to a foreign government or the U.S. federal government in order to further the commercial development of oil, natural gas or minerals, as such rules would be cost prohibitive for smaller natural resource companies. [55 points; avg. ranking 1.62]
- 14C Add a general instruction to Regulation S-K that permits smaller reporting

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*Recommendation*

companies to omit disclosure required pursuant to a line item in Regulation S-K in the event that such disclosure is not material from the perspective of a reasonable investor. This general instruction should contain language similar to that in Rule 502(b)(2) of Regulation D, which limits the disclosure required to be provided to the purchaser by an issuer “to the extent material to an understanding of the issuer, its business, and the securities being offered.” This would add an element of principles-based disclosure to Regulation S-K. [55 points; avg. ranking 1.62]

- 17 Provide a final rule as to when public companies are required to adopt the new 2013 Framework of the COSO, and provide a one-year delay for required implementation of the rule by smaller reporting companies. [53 points; avg. ranking 1.56]
- 18 The SEC should repeal the requirement to file an information statement pursuant to Section 14(f) of the Exchange Act and Rule 14f-1 thereunder, concerning notice of change in the majority of the board of directors other than by a meeting of shareholders, because the schedule is onerous, frequently duplicative, and inconsequential for smaller reporting companies. [40 points; avg. ranking 1.18]
- 19 Consider recommending for enactment by Congress, the repeal of Exchange Act Section 16(b), but leaving Section 16(a) reporting as is, in order to continue monitoring insider trading. The short-swing profit recovery provisions of Section 16(b) may have a disproportionate impact on the management of smaller public companies who may rely more heavily on equity-based compensation. [39 points; avg. ranking 1.15]
- 20 The SEC should recommend that the PCAOB conduct a study of the percentage of audit work papers where external auditors rely upon management’s Sarbanes-Oxley Act Section 404(a) assessment work papers. [33 points; avg. ranking 0.97]

## 2014 SEC Government-Business Forum on Small Business Capital Formation

### Biographies of Panelists and Moderators

**A. Heath Abshure** is the Arkansas Securities Commissioner and a past President of the North American Securities Administrators Association (NASAA). Mr. Abshure is an observer member of the SEC Advisory Committee on Small and Emerging Companies and a board member of Economics Arkansas, a non-profit, educational organization promoting economic literacy in Arkansas. He is the Chairman of the NASAA Corporation Finance Section Committee, and past Chairman of the Federal Legislation Committee, Small Business Capital Formation Committee, Regulation D Electronic Filing Committee, and Rating Agencies Committee.

Prior to his appointment as Arkansas Securities Commissioner, Mr. Abshure was a partner at the Little Rock law firm Williams & Anderson focusing on corporate and municipal finance. Mr. Abshure also served as Senior Attorney-Adviser in the Office of the Administrative Law Judges at the U.S. Securities and Exchange Commission.

Mr. Abshure graduated *cum laude* from Christian Brothers University in Memphis, Tennessee. He obtained his law degree from the University of Arkansas at Little Rock, William H. Bowen School of Law, with high honors. Mr. Abshure also attended the Georgetown University Law Center and obtained a Masters of Law with distinction in Securities and Financial Regulation.

**Luis A. Aguilar** is a Commissioner at the U.S. Securities and Exchange Commission. He was sworn in on July 31, 2008. Commissioner Aguilar was appointed by President George W. Bush and was reappointed by President Barack Obama in 2011.

Prior to his appointment as an SEC Commissioner, Mr. Aguilar was a partner with the international law firm of McKenna Long & Aldridge, LLP, specializing in securities law. During his career, his practice included matters pertaining to general corporate and business law, international transactions, investment companies and investment advisers, securities law, and corporate finance. He also focused on issues related to corporate governance, public and private offerings (IPOs and secondary offerings), mergers and acquisitions, mutual funds, investment advisers, broker-dealers, and other aspects of federal and state securities laws and regulations.

Commissioner Aguilar's previous experience includes serving as the general counsel, executive vice president, and corporate secretary of Invesco, with responsibility for all legal and compliance matters regarding Invesco Institutional. He also was Invesco's managing director for Latin America in the late 1990's. His career also includes tenure as a partner at several prominent national law firms and as an attorney at the U.S. Securities and Exchange Commission.

Commissioner Aguilar represents the Commission as its liaison to both the North American Securities Administrators Association (NASAA) and to the Council of Securities Regulators of the Americas (COSRA). He has served as the primary sponsor of the SEC's Investor Advisory Committee.

He has been active in numerous civic and business associations. From May 2005 to May 2007, he chaired the Latin American Association (LAA), a non-profit organization that has served Georgia's Latino community since 1972 with comprehensive services that foster healthy, self-sufficient individuals, families and communities. The LAA offers employment, immigration, youth, family, housing, and translation services, as well as English and Spanish language classes. In recent years, the LAA has provided services to over 70,000 Hispanics annually.

He has served on various Boards, including the Mexican American Legal Defense and Education Fund (MALDEF), Girl Scouts Council of Northwest Georgia, Inc., Georgia Hispanic Bar Association, United States Fund for UNICEF Southeast Regional Chapter, and CIFAL Atlanta, Inc. He has been very active with national organizations such as the Hispanic National Bar Association. In 2002, Commissioner Aguilar was Co-Chair of its Annual Convention and also served as Regional President (for Georgia, Alabama, and Mississippi) from 2002 - 2006, Chair of its Financial Committee from 2003 - 2005, and a member of its Board of Governors since 2002. In addition, he served as the President of the Hispanic National Bar Foundation from September 2006 to July 2008.

He is a graduate of the University of Georgia School of Law, and also received a master of laws degree in taxation from Emory University. Additionally, he has successfully completed Series 7, 24, 63, and 65 examinations in connection with serving as president and a director of a registered broker-dealer. Commissioner Aguilar has also written numerous articles over the years. He is married to Denise T. Aguilar.

Commissioner Aguilar serves as sponsor of the SEC's Hispanic and Latino Opportunity, Leadership, and Advocacy Committee, the African American Council, and the Caribbean American Heritage Committee.

**R. Cromwell Coulson** is President, Chief Executive Officer and a Director of OTC Markets Group, Inc. (OTCQX: OTCM), which operates financial marketplaces for 10,000 U.S. and global securities.

Over the past two decades, Cromwell has transformed this previously opaque and inefficient phone-based market into fully modern, electronic and transparent financial marketplaces. Today, OTC Markets Group operates three marketplaces that organize securities based on the quality and quantity of disclosure they provide to investors – OTCQX®, The Best Marketplace for established, investor-focused U.S. and international companies; OTCQB®, The Venture Marketplace for entrepreneurial and development stage companies; and OTC Pink®, The Open Marketplace for brokers to trade all types of securities.

The 10,000 U.S. and global securities traded on these marketplaces include: 3,100+ American Depositary Receipts (ADRs) and foreign ordinary shares of global exchange-traded companies like Roche Holding AG, adidas AG and Volkswagen AG; large-cap distressed companies such as Fannie Mae and Freddie Mac; 650+ community and regional banks; 2,500+ SEC reporting companies; 1,400+ large- and mid-cap companies; and 2,000+ smaller and growth companies. OTC Link® ATS, OTC Markets Group's FINRA regulated and SEC registered Alternative Trading System, directly links a diverse network of leading U.S. broker-dealers that provide liquidity and execution services. OTC Markets Group sets the best price standard for OTCQX, OTCQB and OTC Pink securities by broadly distributing its market data to major market data redistributors, including Bloomberg and Thomson Reuters.

Cromwell is a strong advocate of improving access to capital for small companies and trading transparency. He has testified before Congress and spoken on these and other issues at numerous industry conferences. He also supports diverse choice and competition among trading venues that leverage the power of networks to efficiently connect consumers and suppliers of liquidity.

Prior to OTC Markets Group, Cromwell was an institutional trader and portfolio manager specializing in distressed and value-oriented investments at Carr Securities Corporation, an institutional broker-dealer. He received a Bachelor of Business Administration from Southern Methodist University in Dallas and graduated from the Owner/President Management Program at Harvard Business School. Outside of work and family, Cromwell is an active waterman as a passionate sailor, stand up paddle boarder, kiteboarder and kite surfer.

OTC Link ATS is operated by OTC Link LLC, a FINRA/SIPC member and wholly-owned subsidiary of OTC Markets Group.

**Daniel M. Gallagher** was confirmed by the United States Senate as a Commissioner of the Securities and Exchange Commission on October 21, 2011 and sworn in on November 7, 2011.

Commissioner Gallagher has had the honor and privilege of serving the agency in several capacities throughout his professional career. He first joined the Commission as a summer honors program intern while pursuing his law degree, focusing on enforcement matters. In January 2006, he rejoined the agency, serving first as counsel to SEC Commissioner Paul S. Atkins, and later as counsel to SEC Chairman Christopher Cox, working on matters involving the Division of Enforcement and the Division of Trading and Markets.

In 2008, he joined the Division of Trading and Markets as Deputy Director and served as Co-Acting Director of the Division from April 2009 until January 2010. During this period, Commissioner Gallagher was on the front lines in the agency's response to the financial crisis. He represented the Commission in the Lehman Brothers liquidation, and helped lead the agency in addressing other crisis-related issues, including the move to central clearing of swaps and matters involving SIPC. In his role as Co-Acting Director of Trading and Markets, he also served as the inaugural Chairman of Committee 6 of the IOSCO Technical Committee, responsible for addressing matters related to the regulation of credit rating agencies.

Since returning to the agency in 2011, Commissioner Gallagher has focused on initiatives aimed at strengthening our capital markets and encouraging small business capital formation, including staunchly supporting the changes introduced by the JOBS Act. Commissioner Gallagher has also been an outspoken and frequent advocate for conducting a comprehensive holistic review of equity market structure issues; increasing the Commission's focus on the fixed income markets, both corporate and municipal; addressing the outsized power of proxy advisory firms; and eliminating special privileges for credit rating agencies. He has also addressed the creeping federalization of corporate governance matters as well as the concerted efforts of special interest groups to manipulate the SEC's disclosure regime to advance their political agendas. He also has been instrumental in educating the markets and investors about the shortcomings of the Dodd Frank Act and the encroachment of bank regulatory measures and prudential regulators into the capital markets. In addition, Commissioner Gallagher has been an outspoken critic of the disturbing trend toward empowering supranational groups to enact "one world" regulation outside established constitutional processes.

While in the private sector, Commissioner Gallagher advised clients on broker-dealer regulatory issues and represented clients in SEC and SRO enforcement proceedings as a partner with the Washington, D.C. law firm WilmerHale, where he earlier began his career in private practice. Commissioner Gallagher also served as the General Counsel and Senior Vice President of Fiserv Securities, Inc., where he was responsible for managing all of the firm's legal and regulatory matters.

Commissioner Gallagher earned his JD degree, magna cum laude, from the Catholic University of America, where he was a member of the law review. He graduated from Georgetown University with a BA degree in English.

**Sebastian Gomez Abero** is the Chief of the Office of Small Business Policy in the Division of Corporation Finance of the Securities and Exchange Commission. The office assists companies seeking to raise capital through exempt or smaller registered offerings, and participates in and reviews SEC rulemaking and other actions that may affect small businesses. Previously, Mr. Gomez was a Special Counsel in the Office of Chief Counsel in the Division of Corporation Finance. He received his law degree, cum laude, from Northwestern University School of Law, where he was an editor of the Journal of International Law & Business, and his B.S. in computer science, magna cum laude, from Bridgewater College.

**Rachita Gullapalli** is a financial economist with the Office of Corporate Finance at the Division of Economic and Risk Analysis. She has been with the Commission since August 2012. Her areas of expertise include securities offerings, including unregistered offerings and offerings by foreign private issuers. At the SEC, she has been the lead economist on Dodd-Frank rulemakings relating to "Bad Actors in Rule 506 offerings" and "Conflicts of Interest related to Securitizations." In addition to working on JOBS Act Title IV: General Solicitation and JOBS Act Title II: Regulation A rulemakings, she has been the lead economist on the rulemaking "Amendments to Regulation D, Form D and Rule 156." Her research has been published in Journal of International Money and Finance.

Prior to working at the Commission and her doctoral studies, Rachita worked in economic consulting and investment banking. She received her B.S. in Business Studies from Delhi University (India), MBA from Indian Institute of Management, Bangalore (India), and Ph.D. in Economics from University of California, Berkeley.

**Keith F. Higgins** is the Director of the Division of Corporation Finance at the U.S. Securities and Exchange Commission. Prior to joining the Division in June 2013, Mr. Higgins practiced law for 30 years at Ropes & Gray LLP in Boston, Massachusetts, where he advised public companies on securities offerings, mergers and acquisitions, compliance and corporate governance and regularly represented underwriters in IPOs and other public equity offerings.

**Vladimir Ivanov** is a senior economist with the Office of Corporate Finance at the Division of Economic and Risk Analysis and has been with the Commission since 2009. His areas of expertise include venture capital and private equity, securities offerings, and small business financing. At the SEC, he has worked on a number of Dodd-Frank rulemakings primarily related to corporate disclosure and executive compensation. Most recently, he has been the lead economist on two JOBS Act rulemakings – Title III: Crowdfunding and Title IV: General Solicitation – and has participated in the JOBS Act Title II: Regulation A rulemaking. At the Commission, he has also designed and executed economic studies on the capital raising in the Regulation D market, disclosure and capital raising in the OTC market, and shell reverse mergers in the OTC market. His research has been published in the Journal of Finance, the Journal of Financial Economics, the Journal of Financial and Quantitative Analysis, and other prestigious academic journals. He has received the Commission’s Economic Research Award.

Before Coming to the Commission, Vladimir was an assistant professor in Finance at the University of Kansas Business School where he taught classes in corporate finance, investments, and entrepreneurial finance. He received his B.S. in Finance from the University of National and World Economy (Bulgaria), MBA in Finance from the University of Memphis, and PhD in Finance from Vanderbilt University.

**Stanley Keller** is partner in the Boston office of Edwards Wildman Palmer LLP, and has extensive experience in corporate and securities law, and has worked on regulatory developments with officials at all levels in the SEC. He chaired the American Bar Association’s Committee on Federal Regulation of Securities during the height of the Sarbanes-Oxley era, and in that capacity had responsibility for interacting on behalf of the private bar with the SEC, other governmental officials and the stock exchanges. He was actively involved with the ABA’s Task Force dealing with the SEC’s attorney conduct rules, with the ABA Task Force on Corporate Responsibility and with the ABA Task Force on Attorney-Client Privilege. He recently served as chair of the ABA Legal Opinions Committee, having previously chaired the ABA’s Audit Responses Committee, and he is a participant in the ABA’s Corporate Laws Committee. He also is a member of the TriBar Opinion Committee and was the reporter for its Remedies Opinion Report and its Report on Preferred Stock Opinions. Mr. Keller is co-chair of the Boston Bar Association’s Task Force on Revision of the Massachusetts Business Corporation Law, which

drafted the current Massachusetts corporation statute, and chaired the BBA's Business Law Section, Corporation Law Committee, and Legal Opinions Committee. Mr. Keller lectures widely for continuing legal education organizations, and has written and edited many articles and treatises on corporate and securities law matters.

**Donald C. Langevoort** is the Thomas Aquinas Reynolds Professor of Law at Georgetown University Law Center, Washington, D.C. Prior to joining the Law Center faculty in 1999, Professor Langevoort was the Lee S. and Charles A. Speir Professor at Vanderbilt University School of Law, where he joined the faculty in 1981. The courses Professor Langevoort teaches are Contracts, Securities Regulation, various seminars on corporate and securities issues, and Corporations. Professor Langevoort has received the the Frank Flegal Teaching Award at Georgetown and the Paul J. Hartman Award for Excellence in Teaching at Vanderbilt. He has been a visiting professor at Harvard Law School and the University of Michigan Law School and a lecturer at the Washington College of Law, American University. After practicing for two years at Wilmer, Cutler & Pickering in Washington, D.C., he joined the staff of the U.S. Securities & Exchange Commission as Special Counsel in the Office of the General Counsel. Professor Langevoort is the co-author, with Professors James Cox and Robert Hillman, of *Securities Regulation: Cases and Materials* (Aspen Law & Business), and the author of a treatise entitled *Insider Trading: Regulation, Enforcement and Prevention* (West Group). He has also written many law review articles, a number of which seek to incorporate insights from social psychology and behavioral economics into the study of corporate and securities law and legal ethics. Professor Langevoort has testified numerous times before Congressional committees on issues relating to insider trading and securities litigation reform.

**Stephen I. Luparello** became Director of the SEC's Division of Trading and Markets in March 2014. Before returning to the SEC, he was a partner at WilmerHale, specializing in broker-dealer compliance and regulation, securities litigation, and enforcement. Mr. Luparello joined WilmerHale after 16 years at the Financial Industry Regulatory Authority (FINRA) and its predecessor, the National Association of Securities Dealers (NASD) where he most recently served as Vice Chairman of FINRA. As FINRA's Vice Chairman, Mr. Luparello was responsible for its examination, enforcement, market regulation, international, and disclosure programs. He played a key role in the creation of FINRA's Office of the Whistleblower and its Office of Fraud Detection and Market Intelligence, and led the development of its Order Audit Trail System (OATS) and SONAR, technology used to monitor securities markets and detect suspicious trading. From 1994 to 1996, Mr. Luparello served as Chief of Staff and legal counsel to then-CFTC Chairman Mary Shapiro. He began his career with nine years at the SEC, serving as Branch Chief in the Office of Inspections in the Division of Market Regulation, now the Division of Trading and Markets. Mr. Luparello received his law degree from Washington and Lee University in 1984. He received his B.A. in history from LeMoyne College in 1981.

**Robert Malin** is Vice President of Sales at NASDAQ Private Market and a principal of NPM Securities, LLC. He is responsible for business development where he engages private companies, investors and brokers to improve and expand the market for private share trading.

From 2007 to 2012, Mr. Malin worked at Liquidnet where he led the design and launch of the firm's Equity Capital Markets platform after joining the firm as a member of the Corporate Strategy Group. Prior to Liquidnet, he held client-facing roles at NASDAQ for both the New Listings team and Transaction Services group, as well as at Brut ECN where he headed the institutional sales effort. Previously, he worked within the corporate debt market for over 10 years, holding positions in investment-grade sales, trading and origination at Barclays Capital, Credit Suisse First Boston, and Lehman Brothers.

Mr. Malin earned his MBA from Duke University's Fuqua School of Business and his BA in Government from Dartmouth College. He previously served as 2nd Vice President at The Security Traders Association of New York. He holds FINRA Series 7, 24, 63 & 79 licenses.

**Jean Peters** is managing director of Golden Seeds, one of the nation's largest and most active angel groups. Peters also is on the Board of the Angel Capital Association, the leading professional association of the global accredited investor community. Peters chairs ACA's Marketing Committee, and serves on the Public Policy and Membership committees.

Previously, Peters was senior vice president of Genworth Financial, with responsibility for investor relations, corporate communications and strategic planning. She was internal lead on Genworth's IPO from GE, which raised more than \$13 billion. Prior to Genworth, Peters was SVP for investor relations of John Hancock Financial, where she was internal lead on its demutualization and IPO.

Peters had a prior career as a financial and investigative journalist for several metropolitan daily publications including the Louisville Courier-Journal, and as financial editor of the Dayton Daily News. She also spent several years on Capitol Hill as policy analyst to the U.S. House of Representatives' Committee on the Budget, following a one-year Congressional Fellowship from the American Political Science Association. She graduated from Northwestern University with a degree in journalism, was awarded a fellowship for Carnegie Mellon University's Program for Executives and attended the University of Louisville School of Law. She is a recipient of the Charles Stewart Mott Award for Investigative Reporting, and a William Randolph Hearst National Journalism Scholar award.

**Michael S. Piwovar** was appointed by President Barack Obama to the U.S. Securities and Exchange Commission (SEC) and was sworn in on August 15, 2013.

Most recently, Dr. Piwovar was the Republican chief economist for the U.S. Senate Committee on Banking, Housing, and Urban Affairs under Senators Mike Crapo (R-ID) and Richard Shelby (R-AL). He was the lead Republican economist on the four SEC-related titles of the Dodd-Frank Act and the JOBS Act. Dr. Piwovar also worked on a number of important SEC-related

oversight issues under the jurisdiction of the Committee, such as securities, over-the-counter derivatives, investor protection, market structure, and capital formation.

During the financial crisis and its immediate aftermath, Dr. Piwovar served in a one-year fixed-term position at the White House as a senior economist at the President's Council of Economic Advisers (CEA) in both the George W. Bush and Barack Obama Administrations. While at the CEA, Dr. Piwovar also served as a staff economist for the Financial Regulatory Reform Working Group of the President's Economic Recovery Advisory Board.

Before joining the White House, Dr. Piwovar worked as a Principal at the Securities Litigation and Consulting Group (SLCG). At SLCG, he provided economic consulting to law firms involved in complex securities litigation and technical assistance on market structure, regulatory policy, and risk management issues to domestic and international securities regulators and market participants.

Dr. Piwovar's first tenure at the SEC was in the Office of Economic Analysis (now called the Division of Economic and Risk Analysis) as a visiting academic scholar on leave from Iowa State University and as a senior financial economist. In those roles, he provided economic analyses and other technical support to the Commission and other SEC Divisions and Offices on a wide range of rulemaking, compliance, and enforcement matters.

Dr. Piwovar was an assistant professor of finance at Iowa State University where he focused his research on market microstructure and taught undergraduate and graduate courses in corporate finance and investments. He published a number of articles in leading academic publications and received several teaching and research awards.

Dr. Piwovar received a B.A. in Foreign Service and International Politics from the Pennsylvania State University, an M.B.A. from Georgetown University, and a Ph.D. in Finance from the Pennsylvania State University.

**Kara M. Stein** was appointed by President Barack Obama to the U.S. Securities and Exchange Commission (SEC) and was sworn in on August 9, 2013.

Ms. Stein joined the Commission after serving as Legal Counsel and Senior Policy Advisor for securities and banking matters to Sen. Jack Reed. From 2009 to 2013, she was Staff Director of the Securities, Insurance, and Investment Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs. During that time, Ms. Stein played an integral role in drafting and negotiating significant provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

As Staff Director for the Senate Banking Subcommittee of primary jurisdiction over the SEC, Ms. Stein also organized and participated in over twenty hearings on such issues as the:

- evolution of market microstructure,
- regulation of exchange traded products,

- state of the securitization markets,
- risks to investors in capital raising processes, including through public offerings,
- role of the accounting profession in preventing another financial crisis,
- establishment of swap execution facilities, and
- role of the tri-party repurchase markets in the financial marketplace.

Ms. Stein was Legal Counsel and Senior Policy Advisor to Sen. Reed from 2007 to 2009 and served as both the Majority and Minority Staff Director on the Banking Committee's Subcommittee on Housing and Transportation from 2001 to 2006. She served as Legal Counsel to Sen. Reed from 1999 to 2000, following two years as a Legislative Assistant to Sen. Chris Dodd.

Before working on Capitol Hill, Ms. Stein was an associate at the law firm of Wilmer, Cutler & Pickering, a Skadden Public Interest Fellow, an Advocacy Fellow with the Georgetown University Law Center, and an assistant professor with the University of Dayton School of Law.

Ms. Stein received her B.A. from Yale College and J.D. from Yale Law School.

**Mary Jo White** was sworn in as the 31st Chair of the SEC on April 10, 2013. She was nominated to be SEC Chair by President Barack Obama on Feb. 7, 2013, and confirmed by the U.S. Senate on April 8, 2013.

Chair White arrived at the SEC with decades of experience as a federal prosecutor and securities lawyer. As the U.S. Attorney for the Southern District of New York from 1993 to 2002, she specialized in prosecuting complex securities and financial institution frauds and international terrorism cases. Under her leadership, the office earned convictions against the terrorists responsible for the 1993 bombing of the World Trade Center and the bombings of American embassies in Africa. She is the only woman to hold the top position in the 200-year-plus history of that office.

Prior to becoming the U.S. Attorney for the Southern District of New York, Chair White served as the First Assistant U.S. Attorney and later Acting U.S. Attorney for the Eastern District of New York from 1990 to 1993. She previously served as an Assistant U.S. Attorney for the Southern District of New York from 1978 to 1981 and became Chief Appellate Attorney of the Criminal Division.

After leaving her U.S. Attorney post, Chair White became chair of the litigation department at Debevoise & Plimpton in New York, where she led a team of more than 200 lawyers. Chair White previously was a litigation partner at the firm from 1983 to 1990 and worked as an associate from 1976 to 1978.

Chair White earned her undergraduate degree, Phi Beta Kappa, from William & Mary in 1970, and her master's degree in psychology from The New School for Social Research in 1971. She earned her law degree in 1974 at Columbia Law School, where she was an officer of the Law

Review. She served as a law clerk to the Honorable Marvin E. Frankel of the U.S. District Court for the Southern District of New York.

Chair White has won numerous awards in recognition of her outstanding work both as a prosecutor and a securities lawyer. The 2012 Chambers USA Women in Law Awards named her Regulatory Lawyer of the Year. Among other honors she has received are the Margaret Brent Women Lawyers of Achievement Award, the George W. Bush Award for Excellence in Counterterrorism, the Sandra Day O'Connor Award for Distinction in Public Service, and the "Women of Power and Influence Award" given by the National Organization for Women.

Chair White is a fellow in the American College of Trial Lawyers and the International College of Trial Lawyers. She also has served as a director of The NASDAQ Stock Exchange and on its executive, audit, and policy committees. Chair White is a member of the Council on Foreign Relations.

**Michael L. Zuppone** is a partner in the Corporate practice of Paul Hastings and is based in the firm's New York office. He serves as the chair of the firm's Securities and Capital Markets practice group. He practices primarily in the area of securities and capital markets representing public and private companies, underwriters, and investors in domestic and international equity and debt securities offerings, including IPOs, follow-on offerings, Rule 144A offerings, PIPEs, and other private placements. He is recognized in Capital Markets: Equity Offerings and Real Estate Investment Trusts by Legal 500 US and Capital Markets: REITs by Chambers USA.

Mr. Zuppone also practices in the area of general corporate and securities law and is often consulted as outside securities counsel by many of the firm's public company clients with respect to ongoing securities compliance. He regularly counsels public companies and their boards regarding Dodd Frank, Sarbanes-Oxley and related corporate governance compliance. Mr. Zuppone's practice also includes counseling sponsors in connection with the formation of private equity funds and portfolio transactions. He also has substantial experience in mergers, acquisitions, dispositions, and joint ventures involving public and private companies and he regularly counsels investment professionals regarding securities, broker-dealer, and investment advisor regulations.

Prior to entering private practice, Mr. Zuppone served as a branch chief in the New York Regional Office of the U.S. Securities and Exchange Commission where he administered the office's full disclosure program, supervising the review of initial public offering documents of startup and small business issuers.



**5:30 p.m. Networking Reception at Thunder Grill Restaurant**  
(in Union Station facing taxi stand—can be reached from either  
inside or outside Union Station)