Subject: File No. S7-09-13
From: Paul M Niederer
Affiliation: CEO ASSOB Equity Funding Platform Australia

October 25, 2013

Answers to questions

1 The transparency of fees relative to raisings needs to be maintained and is the easiest to monitor. If say one million shares are issued at one dollar each and the funds are received that is the raising. The shareholders will be able to see how much they get because they know a million was raised. So a million including the fees should be the limit.

2 The million should be the maximum amount raised from unaccredited investors. Amounts above this raised from accredited and overseas investors, provided it is in the same investment offering document, or a previous or subsequent offering document in the same year should be able to be accepted.

3 Concurrent offerings are confusing and there is a risk unaccredited investors wouldnt understand the totality of the offerings. No to this.

5 Any Director of an issuer should have a maximum of one million from unaccredited investors in a 12 month period to prevent them raising in multiple entities. At Director level one million dollars from accredited investors a year should be enough to keep them busy.

8 The only way here is to put the onus on the investor. They need to self certify that they are under investor limits. Do you know what your neighbour, brother, uncle is worth? Probably not. How can you expect a portal or intermediary to really know this answer. Obviously if the portal or issuer have knowledge that there is a breach they should refuse the investment.

9 Accredited investors have this category because they supposedly know and have attested to this status. They should not be subject to investment limits. There needs to be though full transparency. One offer at a time, everyone informed.

10 In the million dollar cap the issuer should dictate the minimum parcel size as shareholders cost money to keep on the books. What is not mentioned is family. Why should there be limits on family money? Surely if someone, say a brother is on a salary of $50,000 and has $50,000 in savings he should be able to invest this in his sisters company.

12 While an offering can be marketed through several compliant channels there should be only one place (portal) where investment can be accepted. You need to differentiate the offering and its marketing. There is one offering document and one intermediary managing the transactional side. There may be several channels marketing it but they cannot accept investment.

13 From ASSOBs experience, while an online presence appears to be a major part of the activity in reality 90% of the work is done off line. A platform has both an offline and an online component.

15 Any member of the public should be able to access the platform after acknowledging they realise they could lose all their money and this is an area where high risk investments are marketed and if they cant afford to lose their money they

should back out.

16 There are many items that cant be automatically managed on the platform. Due-diligence, acceptance of physical share applications, posting out share certificates, managing investor caps and limits, preparing videos and marketing materials. In view of how uninformed issuers and un-accredited investors normally are off platform input is essential.

17 Reporting requirements should be standard as per any corporation whether it is funded by crowdfunding or not. If their reporting obligations are not up to date they should not be able to raise funds. Every three months until a year after the raise they should
give updates to investors.

18. It is the entity that has been invested and if the entity has not met its obligations then that entity should be precluded from raising funds. ASSOB has never let an entity behind in its reporting obligations to raise funds.

19. For idea only companies the Use of Proceeds needs to be detailed and updated regularly through the platform.

20. From our experience business plans are not necessary for capital raisings. What is necessary is a clear offering document that details the investment opportunity and the use of proceeds. Often consultants independent of the company produce business plans and they are totally divorced from reality. You can check Offering Documents on www.assob.com.au they give all the information to legitimise the raise and inform investors. Business plans are usually fluff compared to these.

32 33. The issuer should update the use of proceeds if there is a variance of 5 percent or more of the total amount raised. For example if there is $100k in the use of funds for research and development and in a million dollar raise they now need to spend $50,000 more taking if from another category this should be communicated to all investors including prospective investors. If there is a 50% change then investors should be approached on the basis they can have their funds returned if they are not happy with their new direction. It is critical that issuers realise that investment is on an offer and acceptance basis and that if they change the offer fundamentals then there are obligations.

34 35 On the ASSOB platform the Target amount is called the Minimum Subscription and no shares are allotted until this amount has been met. The maximum amount in your terminology is the actual sought amount on our platform. I believe this is more logical. This part of the JobsAct seems to follow Reward Crowdfunding rather than the way equity raises normally work. There should be a minimum amount that is useable, beneficial and essential to the raise. That means if they dont get everything they seek shareholders including the new ones will benefit. Structuring raises to purposely oversubscribe seems contrived and points to a lack of experience in how equity works. An investor needs to know upfront how much they will be watered down. Over-subscriptions are not usually good for anyone, meaning taking the money for the sake of taking the money.

40 The use of funds in the offering document should clearly detail all payments to the intermediary. That means the invest knows it the intermediary is being unreasonable to not.

41 A standard SWOT analysis with a risks section should be included in every offering document. You can see this in all ASSOBs

47 Filing of documents for the capital raising entity should be no different than for any other corporation requirements. Filing the offering documents and communications will make this whole area cost prohibitive. They should only file annual accounts and returns. The disclosures should be between the issuer and investor. Lodging them elsewhere will be for what reason? ASSOB has every offering document and its updates for the past 8 years. I cannot see any reason why they should be filed with the SEC. When that is a requirement lawyers and accountants get involved and the cost is too high and the legislation will sit there unused for raised under say $500k.

48 They should specifically state that they have no operating history. The investor needs to clearly and unequivocally know where the entity is at at the moment they invest. We have had a number of offer documents submitted to us that have beautiful financials that give the perception they are operating now when they are not. Best that everyone is honest up front rather than requiring them to fudge some figures. If they havent earned a dollar they havent.

49 The capital raising entity is just that an entity. In its offering document it should detail its funding history and share structure. It is a mistake to think that just because an entity is crowdfunding it is different than other entities. It is not. It is just raising capital in a different way but it still has a share structure, shareholders and a past. This must be exposed.

50 The best way is that anything that is required to be lodged with authorities (as a standard corporation with shareholders) is lodged on the portal as well as with the SEC so the investors and intermediaries always updated. Just because a company is crowdfunding it should not have different lodgement requirements. Eventually the word crowdfunding will disappear and this is just another way to raise capital. Having special rules is cumbersome and unnecessary and will become outdated.

51 Every company needs to prepare tax accounts. these should be published on the Portal within 3 months of the end of the reporting period. If they have not been in business long enough to have a full years figures then that is how it is.

52 If they have no operating history they need to say this loud and clear. When they do have financials they should have to lodge them with the authorities (if required) and on the portal.

53 Having a public accountant review them is sufficient.

55 If they have two years of financials then yes but few do.

56 Issuers should lodge on the portal quarterly report detailing progress relative to their use of proceeds. Financial statements are hard for most people to read and can hide lots of things.

57 The raising should be to do with the investment opportunity not relative to fiscal years and financial reporting periods. This seems to be an unnecessary spanner in the works.

58 Again involving accountants and certifying adds costs. Just because someone certifies accounts doesnt mean they are useful. It is the use of funds that is critical in this. That wont be in the financials. Tying it to raise amounts is also another layer of rules around accounts wont benefit a capital raise.

59 60 61 62 This is really a corporations act area. Just because a company is raising capital the type of accountant it has shouldnt change. This is about the entity. The

entity raising capital, because of its legal form will have reporting requirements. It is these that need to be followed. If the corporation reporting requirements are not strong enough they should be strengthened. Just because an entity is crowdfunding shouldnt dictate the accountant it has and the way it reports to authorities.

63 to 71 Filing to the Commission is superfluous. There are annual requirements for every corporate entity they should be followed. Anything especially relevant to the capital raising should be filed with the portal. Commission filings should be also lodged with the portal for investors to see.

72 When the target amount is reached the shares are issued. Unless things have changed materially before then there should be no obligation to update. After the shares are issued there should be 3 monthly solvency statements and updates relative to the use of funds on the portal as cam be seen on assob.com.au I cannot see any reason why these update would be lodged with the authorities. It seems like extra work that none will ever look at.

73 Surely once they reach a threshold the shares are issued. This is not reward crowdfunding. An update on the portal which states whether the offer is open or closed or if over subscriptions are being accepted. If the portal is a registered portal why duplicate everything especially mundane things like multiple progress updates. Who in the SEC or wherever has time to read all these updates.

74 Anything that materially changes the offer needs to be reported on the portal. Offer opening, target reached, oversubscripton reached, offer closed. Any of these need to reported on the portal within say 3 days of the happening in reality it is the same day.

75 Yes Yes Yes exempt issuers from the requirement to file progress updates with the Commission as long as the intermediary publicly displays the progress of the issuer in meeting the target offering amount. One wonders why it would be any other way. Cant think of a logical reason.

76 to 79 Again lodging with authorities here seems to be overkill. If we look at how normal equity raises occur then if there is a change a supplementary document is added to the original offering and if here are large material changes a replacement document is produced.

Essentially, a Supplementary or Replacement investment document is to be used whenever an Issuer wants to do any of the following things:
(a) to correct a deficiency in the original investment document. This means any sort of deficiency eg a material omission, a material statement which is false or misleading, or some error which is not material
(b) to update the original investment document by providing information about something which has happened since the investment document was prepared. This is the case whether or not the information is material. For example, they can be used to tell investors that there has been a change in the issuers directors or the address of its registered office
(c) to provide additional information, whether or not the information is new or material.
(d) to offer additional securities in the same class as those offered by the original investment document. However, this will often make it necessary to update other information in the investment document, such as:
(i) the type and number of securities which have already been issued under the original offer
(ii) the effect of the increased subscriptions on the issuers gearing and cash position and

(iii) how the issuer intends to use the money from the increased subscriptions.

For the benefit of investors and Issuers alike, a Replacement or Supplementary investment document be lodged with the portal if, during the offer period, the issuer becomes aware that the investment document is deficient or outdated in that:
(a) the investment document contains a material statement that is false or misleading

(b) there is a material omission from the investment document
(c) there has been a significant change affecting information in the investment document
(d) a significant new matter has arisen, and this matter would have been included in the investment document if the matter had arisen when the investment document was being prepared or
(e) it may affect the rights of investors who accepted the offer before getting notice of the variation (for example: reducing the minimum subscription level of the offer).

Replacement Investment Documents

In effect, a Replacement investment document is merely an integrated version of a Supplementary and an Original investment document.

A replacement investment document must have the same wording as the original investment document, except for:
(a) the provision of new or additional information and
(b) the correction of deficiencies in the original investment document.

Each page of the replacement investment document must contain a clear statement in bold type saying that the document is a replacement investment document which replaces the original investment document.
For example, the statement could read:
This is a replacement investment document dated insert date. It replaces an investment document dated insert date, relating to shares of insert name of issuer.

Supplementary Investment Documents

A Supplementary investment document accompanies an original investment document.

Each page of a supplementary investment document must contain a clear statement in bold type stating that the document is a supplementary investment document to be read in conjunction with the original investment document and any other supplementary investment document already issued.

For example, the statement could read:
This is a supplementary investment document intended to be read with the investment document dated insert date and supplementary investment documents dated insert date and insert date, relating to shares of insert name of issuer.

80 to 82 Whatever is required to be lodged normally by the entity type should be lodged. Any capital raising specific communications should be via the portal

94 to 95 The offering is the offering. In the future it will be totally web based and offering documents will be a thing of the past. As long as the investor certifies at the time of investment that the information it has read on the portal, which is on the portal forever is the basis on which they invest then what does EDGAR and all the other acronyms really contribute. Maybe in the future everything will be totally video based, we dont know but the important thing isnt if it is lodged in a hundred places or certified by an accountant with a string of letters after its name it is of the investor

confirms they are investing on the basis of the information on the portal and other documents at the time of the investment.

96 Any investor referred by an issuer or anyone must sign warnings that scare them into recognising they could lose all their money if they proceed. The onus should be on the investor if they proceed.

97 No. If there is a breach this can always be found by asking the investor how they found out about the offering. Doing it the other way around is cumbersome and a waste of resources.

99 Random people seldom invest due to advertising no matter how prolific. Allowing blatant advertising of offerings will show over a period time it is a waste of money for promoters. It sounds exciting but people invest because they have a connection to the idea, the people, the intermediary, the geographical location or a re genealogically connected. While it would be nice to be able to advertise offerings we have never found it to be a profitable endeavour.

103 Yes The proposed rules would allow an issuer to communicate with investors and potential investors about the terms of an offering through communication channels provided by the intermediary on the intermediarys platform, so long as the issuer identifies itself as the issuer in all communications.

105 Yes. The investor should learn about the offering on the platform not out in the public domain. However publications and other sites may compliantly advertise the offering, and be paid for this, provided the links go back to the transaction platform.

106 All compensation should be detailed in the offering document so that the investor can see up front what is happening with the money. There should be 100 percent transparency.

107 If the issuer senses the intermediaries marketing is not working they should be able to engage someone else to do the marketing side. This is not the intermediaries business and as long as they get their commission they should not be bothered.

108 If it is not taken from the Use of Proceeds then well done to them they should have no need to disclose their charity

109 110 111 The thinking is wrong here. On the ASSOB platform the Target amount is called the Minimum Subscription and no shares are allotted until this amount has been met. The maximum amount in your terminology is the actual sought amount on our platform. I believe this is more logical. This part of the JobsAct seems to follow Reward Crowdfunding rather than the way equity raises normally work. There should be a minimum amount that is useable, beneficial and essential to the raise. That means if they dont get everything they seek shareholders including the new ones will benefit. Structuring raises to purposely oversubscribe seems contrived and points to a lack of experience in how equity works. An investor needs to know upfront how much they will be watered down. Over subscriptions are not usually good for anyone, meaning taking the money for the sake of taking the money.

In regard to should we require that investments in excess of $1 million be allocated using a pro-rata, first-come, first-served or other method, or should we leave that decision up to the issuer. Lets think though this logically. An entity has sought investment. Investors have completed share applications. The Directors of that company accept the ones they want to. Some people you dont want as shareholders for a variety of reasons. It is straight offer and acceptance. Noone else should dictate this.

126 To avoid pressure selling caused by a pecuniary interest why not say that the broker dealer or funding portal can invest but only of they close out the offering meaning they are never in competition with prior investors.

137 The platforms / portals should feel confident they scan report any breaches and wrongdoings to the authorities and also send disgruntled investors the same way. Portals can have control structure, rules, form and layout but it a breach occurs where they dont have the teeth to sort it the authorities need to be involved

150 Most investors only retain the offer document. This document should clearly disclose what the intermediary receives upfront and as a percentage of the raised funds. There needs to be full transparency in this area. If this changes a supplementary or replacement document needs to be issued with the new arrangements.

153 All information should remain on the portal for a period of at least one year after the raise is complete. After this period people can be referred to the company secretary of the issuer. In practise we have had companies profiled for 5 years and all information is always available provided they pay their annual fee. It is never deleted.

155 We have found that a Url direct to the issuers page on the platform is sufficient.

156 Once an offer is open for investment all information on the platform should be available. Not sure why anyone would wait 21 days. The opening of the offering should come with complete information and access

157 We have found that after about a year after the offering closed funded companies tire of doing 3 monthly solvency and director responsibility updates. We cannot legislate for them to keep communicating like you can but I believe that they should have to do this for at least 2 years after they got the money

158 Why not use a self certification system where say 100points need to be reached as they do for identification in some countries for drivers licenses

The latter category may possibly work on a self certified 100 points system.
(just a guide not meant to be accurate they need to reach 100 points)

Member of Angels Group 80 points
Director of Public Company 40 Points
Member of Directors institute 80 points
Company Secretarial Course 40 Points
Corporate Governance course 40 points
CPA/ CA / etc 50 points
Have one of the following entrepreneurial qualifications 30 points
Has attended an incubator or accelerator intake 30 points
Immediate family 80 points
Relative 40 points
Have known the issuer for more than 10 years 40 points

159 An intermediary may rely on the representations of a potential investor.
Especially if they self-certify as follows

The latter category may possibly work on a self certified 100 points system.

(just a guide not meant to be accurate)

Member of Angels Group 80 points
Director of Public Company 40 Points
Member of Directors institute 80 points
Company Secretarial Course 40 Points
Corporate Governance course 40 points
CPA/ CA / etc 50 points
Have one of the following entrepreneurial qualifications 30 points
Has attended an incubator or accelerator intake 30 points
Immediate family 80 points
Relative 40 points
Have known the issuer for more than 10 years 40 points

161 Only if they have doubts about the investor self certification

166 On ASSOBs platform everything published on an issuers page is signed off by the Issuer. FAQs are good but random unmoderated comments would never be tolerated as people could write things like Invest now this is going to triple your money guaranteed I do not believe any unmoderated published comments should be allowed for this reason. There could be a button Click here to submit anything about the issuer investors should know

200 As the portal is only a publisher of information prepared and signed off by the issuer and funds are not handled by the portal but by the trust account authority between the issuer and the trust account wouldnt it make more sense, though impractical to have the issuer lodge a $100,000 security bond. The portal is just a publisher and the consummation of the transaction is between the issuer and the investor. A fidelity bond will further limit this market to established broker dealers and investment banks which is not where innovation and tomorrows systems evolve from. I cannot see a reason for a fidelity bond. It is a hangover from the previous era and any in place certainly didnt stop what happened during 2008 and 2009

201 No amount is necessary. Funds are not handled and they are just publishers.

202 Even more distant. What is the logic here? This is a hangover from a non-transparent financial services sector. A transparent platform will not have these problems

203 No as it is not necessary. This is a hangover from a non-transparent financial services sector. A transparent platform will not have these problems

204 I cant understand your link with protecting investors. You need to prove this before pushing for a fidelity bond. Investors are far better off through using a portal than not. With this logic anyone seeking investment should lodge a fidelity bond. What about lawyers, accountants etc etc etc

220 Ranking should be mathematically (including pure random) not value driven. Most raised, soonest to close, most investment, least investment etc etc are OK but our favourite staff pick should be no gos.

230 Ratings should be mathematical rather than value driven. Most visited, most downloaded etc. Anything else can be enticement.

231 Funding portals compliance policies and procedures is very much part of their IP it should not be specified by an external party.

285 How similar or different is a securities-based crowdfunding offering from a non-securities-based crowdfunding offering? In our experience very different.

With pledge crowdfunding the contributor is expecting a reward. A gratification. Probably instant gratification. Meaning if they contribute $100 for a watch they are pretty sure they will get the watch within a few months. This also draws far more people than equity raises.

However with equity or investor crowdfunding there is uncertainty and hope. The investor hopes that when they invest they will get their money back or better but it is uncertain as to when this will happen. Meaning if they contribute $20,000 they trust that the founders of the company will be good custodians of the money and will deliver on the promises they have made or the picture they have painted. Hope also must endure. From the time of the crowdfunding investment until its return, or not, communications need to be maintained with investors because they are still living on hope.

They hope that they will at least get their money back and it should not be a surprise after three years if they dont.

Therefore to pump up an equity raise to get more investors you basically need to misrepresent the opportunity which breaches security regulations.

So they are totally different animals. They seldom will attract similar projects because investing in an entity never gives instant gratification.

288 I believe the wisdom of the crowd, if harnessed, especially in the formative stages by polling friends, family, fans and followers of the issuer is better than checking on Dun and Bradstreet or a similar service. There is much not in the public domain that those near and dear know. If not one of their friends, family, fans and followers invest initially the platform needs to find out why before marketing far and wide.

291 We have had large investment in ASSOB matters ranging from $200,000 to $1.5 million. Admittedly from accredited investors. Without this investment all previous investment would have been lost.

294 It would be good if we could run our funding portal for $90,000 a year but with in-house legal and compliance to ensure everything published does not misrepresent the offering I doubt it could be run under $480,000 minimum. $90,000 is one person to handle thousands of tasks. Not practical not sure how you could come to a figure like this.

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November 11, 2013

The Commissioners
Securities & Exchange Commission
Washington, DC

Dear Commissioners:

On October 23, 2013, you voted in favor of proposed "crowdfunding" rules required by Title III of the Jumpstart our Business Startups Act of 2012 (the "JOBS Act"). The proposed rules are for the purpose of regulating the offer and sale of securities under the new Section 4(a)(6) of the Securities Act of 1933 (the "Securities Act").

As one who has represented investors, most typically "Mom and Pop" as well as institutional investors, throughout my legal career spanning more than four decades (see attached firm bio), I strongly urge the Commission not to finalize the proposed rules in their present form. In that regard, I have made several recommendations which, I believe, provide appropriate and enhanced investor protection, yet not unduly hinder the legitimate ability for start-up business to raise capital efficiently and relatively cheaply.

While I truly respect the thoughtfulness and diligence the Commission has applied to drafting rules consistent with the laudable mandate of the JOBS Act and the desire to fairly balance capital formation provided for in the Act with the need to protect relatively unsophisticated investors, your efforts fall short in this latter respect.[1] The proposed rules, if enacted, will be for the principal

[1] SEC Chair, Mary Jo White, has been quoted as saying: " We want this market to thrive, in a safe manner for investors."

benefit of proponents of largely unregulated securities sales (e.g. Crowdfund Intermediary Regulatory Advocates, an industry lobbying group) and to the detriment of the broad investing public, particularly unsophisticated investors, who have had, heretofore, no practical access to the type of investments to which the proposed rules are aimed.

Risk Factors for Unsophisticated Investors

The National Venture Capital Association reports that 40% of venture capital investments fail, 40% break about even with moderate returns and only 20% have a decent to high return. "Crowdfunding" will result in connecting unproven, high-risk companies with unsophisticated investors to purchase equity in those companies. Particularly given the potential abuses that will be engendered in making relatively anonymous purchases of securities through internet portals (where there is no broker/customer relationship), it is a virtual certainty that the rules as proposed will likely lead to investors losing money.

At the outset, "crowdfunding" will appeal to those businesses or start-ups deemed too small or risky to attract funding from investment banks or venture capitalists which, presumably, vetted the investment potential of the companies. This is not to suggest that Wall Street's vetting process is uniformly effective or even in the interests of investors. However, under the Commission's proposed rules, "crowdfunding" will attract "Mom and Pop" investors excessively vulnerable to fraud or material losses, especially with the high failure rates of start-up businesses.

The "Crowdfunding" Intermediaries

Under the JOBS Act, prospective issuers of securities must post their offerings on websites operated by brokers registered with the Commission or by "funding portals" similarly registered. Brokers and portals are to be regulated by the SEC and the largely ineffective Financial Industry Regulatory Authority ("FINRA"). While securities brokers have long been regulated, based upon media accounts, the "portals" may be virtual in nature, with little or no actual presence, competent employees or recourse.

Disclosure Requirements

Companies offering equity through "crowdfunding" will be required to prepare a comprehensive offering statement. In addition to being filed with the SEC no later than 21 days before the first sale and must be provided to the Company's intermediary and made available to investors. The report must be posted on the issuer's website and must contain annually updated financial statements and updates to any information already disclosed by the company. The offering statement must disclose, among other things, the following: (a) information about directors, officers and owners of 20% or more of the issuer's equity; (b) a description of the issuer's business plan and the use of offering proceeds; (c) the price of the security being offered and how the valuation of the securities was determined; (d) the planned goal of the offering in terms of amount to be raised; (e) information regarding related-party transactions; (f) financial statements that are required to be certified by the issuer's chief financial officer if the offering is less than $500,000 in the preceding twelve month period and they must be audited if the issuer's offering is $500,000 or above in the preceding twelve month period; and (g) risk factors in purchasing the securities being offered. In making the offering process as simple and inexpensive as possible, the Commission provides for no real vetting process with regard to the foregoing disclosures. Moreover, given the size of most likely offerings which "crowdfunding" will encourage and the absence of real oversight, the entire process envisioned by the proposed rules has been based upon a "trust me" philosophy. It can reasonably be assumed that absent additional protections, unsophisticated investors will be "shot like fish in a barrel" by illegally motivated issuers and their confederates.

Conclusion and Recommendations

According to the Commission's former Chief Accountant, Lynn Turner:

> "Compliance checks are especially important in crowdfunding because the companies using it are unproven and risky...What we are talking about are companies that in all likelihood are not going to be winners, and they are being invested in by people who clearly don't have the expertise and financial smarts of venture capitalists...So you put those together and you are creating a real opportunity for scams and fraud and significant losses."

While "crowdfunding" is an idea whose time has come, at least according to Congress, the laudable goal of relatively simple and cheap capital raising for start-up business should not overcome investor protections under existing law. Indeed, given the largely unregulated "new frontier" of "crowdfunding," greater investor protection is warranted. Accordingly, in my opinion, the proposed rules need to be modified as follows:

1. The offering statement required to be prepared and posted on the website of the issuers of securities, should be provided to each prospective investor **concurrently** upon the first communication from or to such investor and should be signed by such issuers' chief executive and chief financial officers **under penalty of perjury**. This protection is particularly warranted given the inherent trust afforded "crowdfunding" intermediaries, issuers and others involved in the sale of securities, and the likely lack of effective oversight by both the Commission and FINRA.
2. There should be **mandatory and substantial fines and other penalties** for (a) **misrepresentations in and/or omissions** of material facts from the offering statement provided to prospective investors; (b) sale of securities to **unqualified investors**; and/or (c) **non-compliance with the investor verification** (discussed below) and other aspects of the securities sale process as set forth in the proposed rules. Such fines and penalties need to be substantial and mandatory because, given the likely size of most securities offerings pursuant to the proposed rules, there will be minimal or no economic incentives for victims and their attorneys to commence individual or class actions to recover damages when claims are warranted.
3. Completed and signed **Subscription Forms** should be required of prospective investors which sets forth, in summary form, the level of investment experience they possess; an acknowledgement that they have read and understand a warning prominently displayed thereupon which discloses the risks of investing in a start-up and that the entirety of their investment may be lost; the identity of any person from whom the prospective investor has acquired any information regarding the proposed investment and the percentage of their liquid net worth represented by the proposed investment.
4. Upon the receipt of the completed and duly executed Subscription Forms referred to above, as an integral part of a **verification process**, the forms should be countersigned by the broker or portal operator with a copy returned to the prospective investor. Such copies should include a statement from the broker or portal operator stating its good faith belief that the prospective investor is qualified to make the investment.
5. All **funds paid by a prospective investor** pursuant to a "crowdfunding" offering should be required to be paid solely into an

escrow account maintained for the benefit of the issuer at a United States-based clearing bank. No funds should be paid out to the issuer until it certifies in writing under penalty of perjury to such escrow bank that the offering has been completed pursuant to its terms as set forth in the offering statement and that there have been no material changes of circumstances that would render the representations in the offering statement false or misleading.

6. The Commission, because it is venturing into largely unknown investment territory in providing for mass "crowdfunding," should establish either internally or otherwise, a body to evaluate "crowdfunding" offerings and the conduct of those who sponsor them. Close oversight is needed upon the effective date of the rules to protect against non-compliance with the rules and/or other abuses and, to the extent necessary, to be prepared to commence appropriate enforcement proceedings.
7. "Crowdfunding" intermediaries, particularly "portals," as an integral part of the process by which they register with the Commission and FINRA, should be required to provide satisfactory evidence of substance, competence and recourse, as well as the ability to provide appropriate assistance to investors should it be warranted by circumstances.

Respectfully submitted,

Richard D. Greenfield

RDG:gw
Enclosure

National Asian American Coalition

October 31, 2013

Chair Mary Jo White
Commissioner Luis Aguilar
Commissioner Daniel Gallagher
Commishsioner Kara Stein
Commissioner Michael Piwowar
Securities & Exchange Commission
10h F Street, NE
Washington, DC 20549h

Comments:of:Asian American Community on:SEC: r oposal:for:Crowdfunding: eci pe:for:Disaster:

"Since thetSECtwas first establishedtbyt resident Roosevelt almost eightytyears agot(1934),tit t understood thetimportancetoftavoiding tonzi-liketschemestandtprotectingt hetvulnerable.t Unfortunately, thetSEC'stproposedtplantfortequitytcrowdfundingtcouldtdotmoretdamaget hant anytoftMadoff'st onzitschemestevertdid,t"tFaithtBautista,t resident &tCEO,tNationaltAsiant AmericantCoalition.t

Dear Chair White and Commissioners Aguilar, Gallagher, Stein and Piwowar,

ThehNationalhAsian American Coalition (NAAC)hpreviouslyhfiledhcommentshopposinghthe lifting of the ban on hedge fund advertising on July 2, 2013. We suggested that the minimum incomehforhany hedgehfundhadvertisinghshouldhbehrestrictedhtohfamilieshwith $350,000hor more in annual income and $3 million or more in assets.

ThehSEC'shproposedhcrowdfundinghplan hallowinghinternethsaleshbyhstartups and hsmall businesseshofhownership stakeshishpotentiallyhdangerous,heven tohsophisticatedhwealthy potential investors. Sadly, the SEC appears to have failed to consult with any nonprofits workinghwith ourhnation'sh130hmillionhAsianhAmerican,hBlack,hLatinohorhimmigrant communities before drafting this proposed regulation.

The SEC crowdfunding plan is far more dangerous than unrestricted hedge fund advertising since it willhaffect the 70% of the Americans who live from paycheck to paycheck and allow themhtohinvadehtheirh401(k) forhinvestment purposes.hSpecially,hthehSEChcrowdfundinghplan willhallow anyhstartuphorhsmall business,h(evenhif ith ashnohpotential tohevethreturnhahprofit) tohraiseh$5,000hahyearhfromhtheh70%hofhAmericanshwhohlivehfromhpaycheckhtohpaycheck.h t wouldh alsoh allow highlyh riskyh startupsh andh smallh businesses,h includingh scamsh andh

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National Asian American Coalition

sophisticatedhPonzihschemes,htohgenerateh$10,000hahyear fromhahtypicalhfamilyhofhfour earning $100,00 in San Francisco.[1]h

Thishill-conceivedhPonzihplanhdoeshnothevenhrequirehthathahstartuphseekinghfundshverify compliancehwith whatharehadmittedlyhloosehinvestmenthlimits.hThathis,hahfamilyhthat previouslyhneverhearnedhmorehthan $40,000hahyearh(with ahbreadwinnerhthat hashjusthlost er job and is now dependent oh food stamps) could easily pretend that sheh as $250,000 in incomehandhinvesth$25,000hahyear.hShehcouldhthereforehinvest herhentireh401(k) retirement in a startup where the chances of success are less than one in ah undred.

The NAAC and manyhof its partners,hparticularly faith-based groups from the Black and Latino hcommunities,hwillhbehseekinghmeetingshwith SEChChairhWhitehandheac hofhthe commissioners to discuss their concerns during the week of November 12th.

We also urge thehSEC to contactha broad range of minority-led, faith-basedhorganizations, as wellhashgovernmenthandhcorporatehleaders,hashtohthehadvisabilityhofhcreatinghahplatformhfor what are, in effect,hpotentially sophisticatedhPonzi schemes. Forhexample, please contact the CEOshofhGoogle,[2] Facebookhand hApple,hConsumerhFinancialhProtectionhBureau (CFPB) Director Richard Cordray, Federal ReservehVice Chair Janet Yellen, the trustee suing Madoff, NewhYorkhStatehAttorneyhGeneralhErichSchneidermanhandhformerhNewhYorkhStatehAttorney General Eliot Spitzer.

nhaddition,hwehurgehthehSEChtohconduct hearingshinhat least fourhgeographicalhareashof the UnitedhStates,hincludinghathleasthonehinhthehSiliconhValley,htohsecurehcommunityhinputhonhthe advisability ofhthishproposedhcrowdfunding plan.hMany community groupshwehareh working with fromhthehBlack,hLatinohandhAsianhAmericanhcommunities,hincludinghfaith-basedhand traditional nonprofits, will seek to participate in such ah earing.h

Special:Vulnerability of:New:Immigrants:and:Need:for:Financial:Education

Although thehnewhSEChcrowdfundinghplan,hpointedhouthabove,hendangershtheh70%hof Americanshwhohlivehfromhpaycheckhtohpaycheck,h"gethrich quick"hschemeshare particularly attractivehto unsophisticatedhnewhimmigrants,hahdisproportionatehnumberhofhwhomhare minoritieshorhdohnothspeakhEnglish wellhandhoftenhdependhonhtheirhchildrenhforhmost financial decisions.

Although this proceeding does not address the lack of financialheducation among minorities andhthosehliving fromhpaycheckhto paycheck,hwehwouldhalso urgehthehSEChto joinhinhahmajor efforthtohpromote comprehensive financialheducationhthathcouldhsubstantially diminish the likelihood hofhoverreachinghPonzi-likehschemeshandhotherhunsavoryhmethodshaimedhat

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[1]h nhSanhFrancisco,hfamilieshofhfourhthat earnhuphtoh$100,000hahyearhareheligiblehforh UDhfairhmarket rental subsidies.h

[2]Wehwillhbehmeetinghwith Googlehto,hinhpart,hdiscusshthis,hashwellhashmeetingshwith thehCFPB,hthehFederal Reserve, Treasury and the Comptroller of the Currency, to secure their insight and input. h

financially unsophisticated Americans. We note, with interest, for example, that former SEC Chair Mary Schapiro is, to her great credit, a major advocate of financial education and hope that all SEC commissioners share her commitment and passion.[3]

nconclusion the NAAC and its many minority partners strongly support startups and small businesses. They can best survive and prosper through sophisticated venture capital and proper due diligence conducted by the loan process system at the SBA and at regulated financial institutions. Under no circumstances, however, should the 90% of Americans with $100,000 or less in income, or the 70% of Americans who live from paycheck to paycheck, be targeted for such risky investments.[4] And, under no circumstances, should any startup be able to secure any investments without appropriate verified and stringent determinations as to the income and net worth qualifications of any potential investors.

Most sincerely,

Faith Bautista
President and CEO

[3] At our meeting with the SEC, we will be joined by low-income minority high school students and their teachers from the King-Chavez Neighborhood of Charter Schools who are focusing on financial education and wish to protect their parents form unsavory practices.

[4] Please also note that the SEC proposal seems to confuse income with net worth. That is, it appears that investors with income <u>or</u> net worth greater than $100,000 could contribute as much as 10% of their annual income <u>or</u> net worth.

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