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February 3, 2014

Via Electronic Mail

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number S7-09-13; Crowdfunding

Dear Ms. Murphy:

The American Institute of Certified Public Accountants (AICPA) is pleased to comment on the Securities and Exchange Commission's (SEC or Commission) proposed new Regulation Crowdfunding under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of Title III of the Jumpstart Our Business Startups (JOBS) Act as published in SEC File No. S7-09-13 (the Proposal). The AICPA is the world's largest association representing the accounting profession, with more than 394,000 members in 128 countries and a 125-year heritage of serving the public interest. AICPA members represent many areas of practice, including business and industry, public practice, government, education and consulting; membership is also available to accounting students and CPA candidates. The AICPA sets ethical standards for the profession, U.S. auditing standards (GAAS) for audits of nonissuers, including private companies, nonprofit organizations, and federal, state and local governments, and standards for review engagements of nonissuers. The AICPA also develops and grades the Uniform CPA Examination. It is from this diverse perspective that we provide our comments and recommendations.

We have provided detailed responses to certain of the specific questions presented in the Proposal. Those responses are included as an appendix to this letter. The following represents our overall comments and recommendations with respect to the Proposal.

- We believe that the AICPA independence standards should be applied when the accountant performs an audit or review of the financial statements in accordance with standards promulgated by the AICPA. When the auditor elects to conduct an audit in accordance with the standards issued by the PCAOB, we believe the SEC independence rules should be applied. In each case, we believe the user would expect the respective independence standards to be used, and provide the appropriate level of independence, less confusion and reduced complexity and cost.

- We do not recommend that the Commission consider creating new independence, review, or auditing standards, or that the definition of "a complete set of financial statements" be different than under accounting principles generally accepted in the United States of America (U.S. GAAP). To do so would result in confusion, further complexity, and increased costs.

- We support a requirement to prepare financial statements in accordance with U.S. GAAP with respect to targeted offerings over $100,000. However, use of other comprehensive bases of accounting have merit. Considering the nature of the entities using crowdfunding as financing means as well as the spirit and intent of the JOBS Act, we believe the SEC should consider whether a comprehensive basis of accounting other than U.S. GAAP (such as the tax-basis of accounting) may better achieve the objectives of the JOBS Act; creating greater cost savings than U.S. GAAP, while still maintaining the appropriate level of financial disclosure and transparency, for targeted offering amounts both under and over $100,000.

- Regarding tax returns, we do not believe that public disclosure of tax returns is a desirable policy – even with the redaction of personally identifiable information (PII), as proposed. We are concerned that the difference between financial statements and tax returns may not be properly understood by investors, and we believe that the availability of tax returns in such a public manner introduces the risk of business identity theft and fraud, including tax fraud, in addition to privacy concerns. If the proposal is implemented, we agree that issuers should be required to redact personally identifiable and other information, such as business identifiers, from tax returns that are provided to investors and prospective investors to avoid the risk of fraud. At a minimum, we believe the issue of making tax returns publicly available is deserving of greater study prior to implementation.

- We believe that the requirement for financial statements to be dated within a certain number of days of the start of the offering should be consistent with the comparable requirement for Tier 1 filers in the proposed Regulation A, and at a minimum be no more restrictive than the comparable requirement in extant Regulation A. When the entity's last fiscal year end is greater than the designated number of days prior to the start of the offering, we recommend that the entity be required to submit audited or reviewed financial statements for the last fiscal year. The entity should also be required to submit reviewed interim financial statements for an interim period from the end of the fiscal year to a date no earlier than the designated number of days from the start of the offering. Such interim financial statements could be either a complete or condensed set of financial statements. The interim review should be performed in accordance with the set of standards used to review or audit the year-end financial statements; that is, either SSARSs, GAAS, or the auditing standards issued by the PCAOB.

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We appreciate the opportunity to comment and welcome the opportunity to serve as a resource to the SEC on these issues. If we can be of further assistance, please contact me at (212) 596-6197.

Sincerely,

Susan S. Coffey, CPA, CGMA
Senior Vice President – Public Practice and Global Alliances

Appendix

Responses to Certain Specific Questions in File Number S7-09-13; Crowdfunding

The AICPA is pleased to provide responses to certain of the specific questions presented in the SEC's proposed Regulation Crowdfunding.

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

The Financial Accounting Standards Board (FASB) *Accounting Standards Codification®* (ASC) Glossary defines "principal owners" as "Owners of record or known beneficial owners of more than 10 percent of the voting interests of the entity." We believe the SEC should consider using the U.S. GAAP threshold of 10 percent for disclosure of related-party transactions and not introduce another threshold.

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

We believe it is appropriate to limit disclosure to those related-party transactions that exceed five percent of the aggregate amount of capital raised by the issuer in reliance on Section 4(a)(6). However, as noted in our responses to questions 50, 51, and 54 below, we support a requirement for issuers to prepare a set of financial statements prepared in accordance with U.S. GAAP. FASB ASC 850-10-50 requires disclosure of related-party information for each period for which an income statement or a balance sheet is presented.

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

The SEC should not define a complete set of financial statements differently than under U.S. GAAP. To do so would have no benefits and would result in confusion and complexity.

51. Should we exempt issuers with no operating history or issuers that have been in existence for fewer than 12 months from the requirement to provide financial statements, as one commenter suggested? Why or why not? Specifically, what difficulties would issuers with no operating history or issuers that have been in existence for fewer than 12 months have in providing financial statements? Please explain.

The SEC should not exempt issuers with no operating history or issuers that have been in existence for fewer than 12 months from the requirement to provide financial statements. Such entities include development stage entities, for which financial reporting guidance is provided primarily in FASC ASC 915, *Development Stage Entities*. FASB ASC 915 requires development stage entities to present financial position, results of operations, and cash flows in conformity with U.S. GAAP that apply to established operating enterprises and also requires such entities to include *additional* information. The FASB has tentatively decided to reduce cost and complexity in the financial reporting system by eliminating all of the incremental presentation and disclosure requirements that are currently required by FASB ASC 915. However, nothing in the FASB project indicates that users of development stage entities' financial statements have less of a need for financial statements than do users of other entities' financial statements or that U.S. GAAP should not apply to such entities.

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

Issuers should not be prohibited from voluntarily providing financial statements that meet the requirements for a higher aggregate target offering amount.

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

We support a requirement to prepare financial statements in accordance with U.S. GAAP with respect to targeted offerings over $100,000. We believe such financial statements are most appropriate for these types of issuers. However, considering the nature of these entities and the spirit and intent of the JOBS Act, we believe the SEC should consider whether a comprehensive basis of accounting other than U.S. GAAP (such as the tax-basis of accounting) may create greater cost savings than U.S. GAAP, while still maintaining the appropriate level of financial disclosure and transparency, for targeted offering amounts both under and over $100,000.

We observe that the entities to which the proposal would apply have more in common with private companies than with typical issuers. Moreover, we note that the crowdfunding provisions of the JOBS Act were designed to help make raising capital through securities offerings less costly for startups and small businesses. Accordingly, we encourage the SEC to specifically assess and consider allowing crowdfunding entities to use a comprehensive basis of accounting other than U.S. GAAP basis, in addition to U.S. GAAP with modifications the FASB allows for private companies.

56. Should we require some or all issuers also to provide financial statements for interim periods, such as quarterly or semi-annually? Why or why not? If so, which issuers and why? Should we require these financial statements to be subject to public accountant or auditor involvement? If so, what level of involvement is appropriate?

We do not believe that issuers also should be required to provide financial statements for interim periods after completion of the initial filing.

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

Issuers offering more than $100,000 are required to submit reviewed or audited financial statements. The review or audit of the financial statements by a CPA does not diminish the issuer's responsibility for the preparation and fair presentation of the financial statements; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error. Accordingly, we believe the principal executive officer should be required to certify that the financial statements are true and complete in all material respects in every offering.

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

individual. Does this requirement alleviate some of the potential privacy concerns? Please explain.

As a threshold matter, we do not support public disclosure of tax returns by issuers – even with the redaction of personally identifiable information (PII), as proposed. We believe that disclosing an issuer's tax return in addition to financial statements presents many difficulties that may have not been considered prior to statutory enactment of the provision authorizing this avenue of compliance. We believe that the proposed regulation's requirement of issuers offering $100,000 or less to provide potential investors access to the issuer's tax return is not appropriate and has the potential to cause serious problems. Tax returns are intended to be confidential and should remain so. We are concerned that the difference between financial statements and tax returns may not be properly understood by investors, and we believe that the availability of tax returns in such a public manner introduces the risk of business identity theft and fraud, including tax fraud, in addition to privacy concerns. We believe the requirement in the regulation of "financial statements that are certified by the principal executive officer to be true and complete in all material respects" is sufficient.

Listed below are more details of the issues and problems with providing potential investors access to the issuer's tax return, as well as possible suggestions of further considerations if our recommendation to refrain from implementing the requirement to disclose tax returns is not possible.

Require Issuers to Redact Personally Identifiable Information and Business Identifiers to Avoid Individual and Business Identity Theft and Tax Fraud

If the statutory ability to publish tax returns is implemented, we strongly support a mandatory requirement to redact "personally identifiable information" (PII). We support the inclusion in the regulation of a definition of PII, particularly to clarify that the mandate of redaction includes third parties as well as the issuer. For example, "For the avoidance of doubt, for this purpose, the term 'personally identifiable information' shall include, but may not be limited to, the taxpayer identification number of the issuer, and the name, address, telephone number, e-mail or similar electronic address, and tax identification number or other identification number of any person other than the issuer." Although issuers are not individuals, PII for individuals and entities other than the issuer may be included on many issuers' tax returns. Redactions should include the name of the officer who signed the tax return on behalf of the taxpayer, as well as the name and firm of the tax return preparer and IRS Preparer Tax Identification Number.

While the focus of the proposed redaction rule is the protection of PII, which is an important goal, we believe that the proposed redaction rule does not adequately protect against business identity theft and fraud concerns. The fact that the issuer must be a business organization under the statute and proposed rules only underscores the importance of focusing on the risk of business identity theft and fraud, including tax fraud, in addition to privacy. We agree that the SEC should require issuers to redact PII from tax returns to be provided to investors and prospective investors, but the SEC should also consider mandatory redaction of business identifiers used in business identity theft and fraud. These identifiers include:

- Bank account numbers;
- Other financial account numbers;
- Business Employer Identification Numbers (EINs) or Tax Identification Numbers (TINs);
- Business license numbers; and
- Business registration numbers.

Require Redaction of Tax Credit Information to Prevent Tax Refund Fraud

Another opportunity for fraud is present if the tax return that is publicly available indicates the issuer has tax credits available on the tax return. If a tax return indicates that the issuer is due a tax refund for the tax return in question, an unscrupulous individual or group could preemptively file the next year's tax return before the issuer was able to do so and attempt to claim the tax refund. Therefore, the SEC should require the issuer to redact all information about taxes paid and credits available.

Consider All the State and Federal Privacy Law Requirements

The SEC should consider the patchwork of state and federal privacy laws that might apply to disclosure of protected information in such a public manner. States have different definitions of protected personal information, and they also have different requirements in the case such personal information is subject to unauthorized disclosure. The residence of the person whose information is disclosed is the point of reference that triggers the applicable state rules. This is a legally exhaustive exercise that we believe small issuers may not be adequately prepared to execute correctly.

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

Our response to question 59 outlines potential problems with the public availability of tax returns. We would note that information provided on an interim basis is not a fair substitute for financial statements or even a tax return that has not yet been filed. If the proposal is implemented, we recommend that paragraph (t) or the instructions thereto be clarified to specify that the issuer is required to provide only the U.S. Federal tax return, and not any state or local tax return filed for the same taxable year.

The SEC should consider providing guidance for issuers who have not filed a U.S. tax return in any prior year because they were not subject to tax in the United States for any prior tax year.

The SEC could require that the issuer provide financial statements prepared in accordance with the tax basis of accounting dated no later than 120 days from the commencement of the offering period.

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

We believe that the AICPA independence standards should be applied when the accountant performs an audit or review of year-end or interim financial statements in accordance with applicable AICPA standards. However, where the auditor elects to conduct the audit in accordance with the auditing standards issued by the PCAOB, we believe it would be appropriate for the SEC independence rules to be applied, as there would be an expectation by users of the financial statements that the SEC independence rules have been applied under a PCAOB audit.

Many of these startups and small businesses are in the very early stage of their business development and can clearly benefit from limited recordkeeping and other limited nonaudit services performed by a CPA. For example, such companies may not have the in-house resources or expertise necessary to prepare financial statements or record complex transactions. In many cases, the company's auditor or accountant performing a review may be the most suitable and cost-effective choice to assist the company with these activities. Certain nonaudit services, such as assisting the company with certain bookkeeping services, enhance the reliability of the company's financial statements and can clearly benefit startups and small businesses as well as users of the financial statements. If the SEC were to require that SEC independence rules be applied for reviews and audits of these entities, the company would have to engage a separate firm to perform bookkeeping or other necessary services. This would place an additional burden on companies seeking crowdfunding and would result in additional expenses associated with having the company's financial statements reviewed or audited.

The AICPA *Code of Professional Conduct* ("AICPA Code") contains a robust set of independence standards that provide stringent requirements, including standards addressing financial, employment and business relationships with clients. In many respects, the AICPA Code's independence requirements are comparable to those of the SEC (for example, financial interests and certain employment relationships). The AICPA Code also includes a *Conceptual Framework for AICPA Independence Standards* that members must apply when evaluating whether a specific relationship or circumstance that is not addressed in the AICPA Code would pose an unacceptable threat to independence. With regard to the provision of nonaudit services to a company, Ethics Interpretation No. 101-3, "Nonattest Services,"[1] under Rule 101, *Independence*, of the AICPA Code provides extensive and comprehensive independence requirements governing the provision of nonaudit services. The AICPA Code recognizes that many nonaudit services may place the accountant in a position of auditing or reviewing his or her own work (that is, self-review threat) or assuming the role of management (that is, management participation threat) and, therefore, Interpretation No. 101-3 prohibits many nonaudit services where the self-review threat or management participation threat is deemed to be significant. For those nonaudit services that are permitted, stringent safeguards must be applied by the accountant and client management to reduce the threats to independence to an acceptable level. Specifically, the AICPA independence rules strictly prohibit an auditor from assuming any management responsibilities while performing nonaudit services for an attest client and for those services that are permitted, the client must designate a member of management who has the requisite skill, knowledge and/or experience to make all significant decisions and judgments, and oversee the nonaudit services, including evaluating the adequacy and results of the services performed and accepting responsibility for the nonaudit services. We believe that the AICPA Code provides sufficient prohibitions and restrictions to safeguard independence for those companies who could benefit from having their accountant provide any necessary nonaudit services.

While we can appreciate the SEC's position that an issuer subject to the SEC independence rules that expects to eventually become an Exchange Act reporting company may have an easier transition if already using the SEC's independence rules, we believe such entities can choose to apply the PCAOB auditing standards, in which case we believe the SEC independence rules should apply and, thus, provide for an easy transition if the company subsequently becomes a reporting company. Many startups and small businesses, however, may not have expectations to become an Exchange Act reporting company and, therefore, imposing the Commission's more restrictive independence requirements on the auditors of such companies, specifically those relating to the provision of nonaudit services, would not be appropriate. Such companies should

[1] http://www.aicpa.org/Research/Standards/CodeofConduct/Pages/et_101.aspx#et_101.05

have the ability to engage their accountant to conduct an audit or review in accordance with AICPA standards and apply the AICPA independence rules which would allow for the provision of certain nonaudit services that enhance the reliability of the financial statements in the most cost-effective manner. Finally, we would not recommend that the Commission consider issuing a "new independence standard" for purposes of reviews and audits of such companies. We believe that another set of independence standards would only result in further confusion and complexity given the numerous different sets of independence standards (for example, SEC, PCAOB, GAO, AICPA) to which CPAs are already subject when performing reviews, audits, and other attest services for various types of entities.

With regard to the question as to whether the Commission should include a requirement that the accountant be: "(1) duly registered and in good standing as a certified public accountant under the laws of the place of his or her residence or principal office; or (2) in good standing and entitled to practice as a public accountant under the laws of his or her place of residence or principal office," we believe that such a requirement would remain appropriate.

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

As discussed in our preceding response to Question 61, we do not believe the Rule 2-01 of Regulation S-X should be applied in cases where the accountant performs a review of the financial statements in accordance with SSARSs or an audit or review of the financial statements in accordance with GAAS. In cases where the auditor chooses to conduct the audit in accordance with the auditing standards issued by the PCAOB, we believe it would be appropriate for the SEC independence rules to be applied without exception.

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

We believe that SSARSs (the review standards issued by the AICPA) are appropriate for reviews of year-end financial statements as required by the Commission. As stated on page 76 of the SEC release, "the AICPA's review standard is widely utilized, and we are not aware of any other widely utilized standards for reviews. Many accountants reviewing financial statements of crowdfunding issuers should be familiar with the AICPA's standards and procedures for review, which could make it less burdensome for issuers." We do not recommend that the Commission consider creating a "new review standard" for purposes of reviews of such companies. We believe that another set of review standards would only result in confusion, additional costs, and further complexity.

Please see our response to question 65 below with respect to reviews of interim financial statements, which would be performed in accordance with the set of standards used to audit or review the year-end financial statements.

64. Section 4A(b)(1)(D)(iii) requires audited financial statements for offerings of more than $500,000 "or such other amount as the Commission may establish, by rule." Should we increase the offering amount for which audited financial statements would be required? If so, to what amount (*e.g.*, $600,000, $750,000, etc.)? Please provide a basis for any amount suggested. Should we identify additional criteria other than the offering amount, as one commenter suggested, that could be used to determine when to require an issuer to provide audited financial statements? If so, what should those criteria be?

We believe that the threshold selected by Congress for which an issuer would be required to provide audited financial statements is appropriate. Further, we believe that no additional criteria for determining when to require an issuer to provide audited financial statements are necessary or appropriate as such additional criteria, such as revenue levels as one commenter suggested, would add complexity to the process without any additional benefit.

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

We believe that the requirement for financial statements to be dated within a certain number of days of the start of the offering should be consistent with the comparable requirement for Tier 1 filers in the proposed Regulation A, and at a minimum be no more restrictive than the comparable requirement in extant Regulation A. We believe that there is no compelling reason for the requirements for these issuers to be more restrictive than the requirements for issuers subject to the requirements of Regulation A.

When the entity's last fiscal year end is greater than the designated number of days prior to the start of the offering, we recommend that the entity be required to submit audited or reviewed financial statements, as required based on the offering amount, for the fiscal year. The entity would also be required to submit reviewed interim financial statements for an interim period from the end of the fiscal year to a date the designated number of days from the start of the offering. Such interim financial statements could be either a complete or condensed set of financial statements. The interim review would be performed in accordance with the set of standards used to audit or review the year-end financial statements; that is, either SSARSs, GAAS, or the auditing standards issued by the PCAOB (with respect to which standards to follow, please see our response to question 67 below).

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

We do not believe that a provision as that included in Rule 502(b)(2)(B)(1)-(2) of Regulation D should be included in the proposed rules. We believe that an entity that is looking to raise a minimum of $500,000 through crowdfunding should be able to obtain an audit of their financial statements without undue burden or expense. It is in the interests of and for the protection of investors and the public that audited financial statements be provided for such offerings.

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

We believe that the proposal that an issuer with a target offering amount greater than $500,000 could select between the auditing standards issued by the AICPA or the PCAOB is appropriate. It would be cost prohibitive for an entity whose financial statements were audited in accordance with one set of standards prior to making a decision to raise funds through crowdfunding to engage an auditor to audit those same set of financial statements in accordance with a different set of auditing standards.

Finally, we do not recommend that the Commission consider creating a "new audit standard" for purposes of audits of such companies. We believe that another set of auditing standards would only result in confusion, increased costs, and further complexity.

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

We agree with the proposal that audits should not be required to be conducted by PCAOB-registered firms. As stated on page 369 of the proposal, the proposed rules allow for the eligibility of a greater number of accountants to audit the issuers' financial statements, and thereby, could reduce costs for crowdfunding issuers.

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

Accountants who perform review engagements in accordance with SSARSs are required to consider whether modification of the standard accountant's review report is adequate to disclose a departure from the applicable financial reporting framework. If the accountant concludes that modification of the standard accountant's review report is not adequate to indicate the deficiencies in the financial statements as a whole, the accountant is required to withdraw from the review engagement and provide no further services with respect to those financial statements. Therefore, we believe that an accountant's review report with modifications would appropriately alert users to the financial position, results of operations, and cash flows of the entity, and should be considered a satisfactory submission.

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

We believe that an issuer receiving a qualified audit opinion should be deemed to have satisfied the requirement to file with the Commission, provide to investors and the relevant intermediary, and make available to potential investors audited financial statements. The auditor's report on the audited financial statements would clearly indicate the basis for the qualification. Such basis would be included in a separate paragraph of the report with a descriptive heading, such as "Basis for Qualified Opinion." Users of the audited financial statements would be appropriately alerted to the limitations of the financial statements.

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

the pool of available public accountants? If so, by how much? Would such a requirement reduce investor protections? If so, how?

We do not believe it is necessary to require the accountant to be in good standing for at least five years; such a requirement could reduce the pool of available accountants. We believe it is appropriate to defer to the specific rules and regulations of the state board of accountancy or other applicable laws in the state where the accountant resides or practices to determine whether the accountant would be considered in good standing. We believe the existing language generally achieves that result.

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

We do not believe that the total assets of the issuer at the last day of its fiscal year should be a determinant in requiring reviewed or audited financial statements as startups frequently have their financial statements reviewed or audited. We believe that the proposed amount of funds anticipated to be raised is an appropriate determinant and that no other criteria are necessary.