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Investor Education Series

The New Crowdfunding Rules

The purpose of this call...	The purpose of this ***investor education training*** is to help you make higher quality investment decisions in the emerging ***"Crowdfunding Capital Markets."*** On this call, we'll limit the discussion to any and all investment opportunities using the exemptions as outlined within the JOBS Act of 2012, to raise capital.
Who is this training for?	This call is designed for anyone who wants to learn more about investing in private market deals who use Reg-D, Reg-A, or Reg-CF to raise capital. ● Individual Investors ● Entrepreneurs ● Fund Managers (Private Equity & Venture Capital) ● Broker Dealers ● Registered Investment Advisors (RIAs) ● Family Offices It doesn't matter if you're a Wall Street Insider or you're brand new to investing, this training is for you. Regardless of your prior investing experience, we'll assume you are brand new to the ***Crowdfunding Capital Markets***. The **Crowdfunding Capital Markets** operate by a different set of rules than the ***Public Capital Markets***. With this in mind, the process you're about to learn will help you invest in alignment with the current rules and regulations set by the Securities and Exchange Commission (SEC).

	As always, all investing activity carries some sort of risk. ***Early Stage Companies*** and ***Emerging Growth Companies*** should be considered high risk and speculative in nature. Please do not invest with funds you cannot afford to lose.
What will be my main takeaway?	The goal of this training is to help you get a high level understanding of how the updates to the Crowdfunding exemptions could fundamentally change how ***Early Stage Companies*** and ***Emerging Growth Companies*** get access to capital (and eventually go public). As an investor, the more you understand the strategies companies can use to raise capital, scale up, and go public… the easier it will become for you to assess private market investment opportunities (and their potential for a meaningful exit).
What kind of results should I expect?	By federal law, we cannot legally promise (or otherwise guarantee) that you will make any money using this workbook. Nor can we guarantee you will avoid poorly-performing investments. That being said, if you don't currently have a well-defined due diligence process like the one described in this call, you'll almost certainly benefit by implementing what you learn today.
Additional Resources	• Equifund Basic Due Diligence Tool • Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets

	• Report on the 39th Annual Small Business Forum

Disclaimers

Before we begin...	Nothing in this training should be considered as professional advice or individualized advice. Please consult your financial professionals before making any investment. All investments carry some sort of risk. Regulation Crowdfunding should be considered a risky asset class with a high rate of failure. Please don't risk any capital you need immediate access to, or otherwise cannot afford to lose.

Key Concepts, Terms, and Definitions

What is Regulation Crowdfunding?	**The Jumpstart Our Business Startups Act (the "JOBS Act"),** enacted on April 5, 2012, establishes a regulatory structure for startups and small businesses to raise capital through securities offerings using the Internet through crowdfunding. The crowdfunding provisions of the JOBS Act were intended to help provide startups and small businesses with capital by making relatively low dollar offerings of securities, featuring relatively low dollar investments by the "crowd," less costly. Congress included a number of provisions intended to protect investors who engage in these transactions, including investment limits, required disclosures by issuers and a requirement to use regulated intermediaries.

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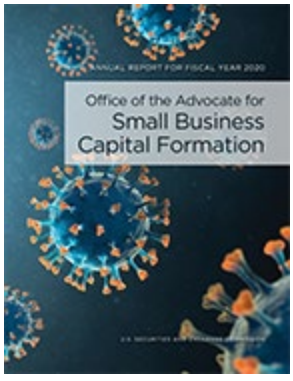
What is the SEC?	About the SEC The mission of the SEC is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public's trust.
What is the OASB?	**Office of the Advocate for Small Business Capital Formation** The Office of the Advocate for Small Business Capital Formation is an independent office that began operations in January 2019. It was established pursuant to the SEC Small Business Advocate Act of 2016 to advance the interests of small businesses and their investors at the SEC and in the capital markets. The Office advocates for small businesses and their investors by conducting outreach to solicit views on relevant capital formation issues, providing assistance to resolve significant problems, analyzing the potential small business impact of proposed regulations and rules, and recommending changes to mitigate capital formation issues and promote the interests of small businesses and their investors. The Office is responsible for the following: ● Identifying problems that small businesses have with securing access to capital;

- Conducting outreach to small businesses and their investors to solicit views on capital formation issues;
- Assisting small businesses and their investors in resolving significant problems they may have with the SEC or with self-regulatory organizations (SROs);
- Identifying areas in which small businesses and their investors would benefit from changes in SEC regulations or SRO rules;
- Analyzing the potential impact on small businesses and their investors of proposed SEC regulations and SRO rules; and
- Proposing appropriate regulatory and legislative changes to the SEC and Congress to mitigate problems identified with small business capital formation and to promote the interests of small businesses and their investors.

The Office proactively works to identify and address unique challenges faced by minority-owned, women-owned, rural, and natural disaster area small businesses.

Annual Report to Congress



The Office prepares an annual report to Congress summarizing its activities in supporting small businesses and their investors during the immediately preceding fiscal year. The report provides statistical information and analyses of the issues on which the Office has worked, information on steps that the Office has taken to improve small business services, and a summary of the most serious issues

encountered by small businesses and their investors, including any unique issues encountered by minority-owned, women-owned, rural, and natural disaster area small businesses and their investors.

The FY2020 report includes a robust analysis of the state of small business capital formation that paints the picture of how capital is being raised and by whom, and begins an exploration of the impacts of the COVID-19 pandemic. The FY2020 annual report was delivered on December 18, 2020. Click here to download a copy of the report.

Government-Business Forum on Small Business Capital Formation

The Office is charged with planning, organizing and executing the annual Small Business Forum on Capital Formation described in section 503 of the Small Business Investment Incentive Act of 1980. The Forum is a unique event where members of the public and private sectors gather to craft suggestions for securities policy impacting emerging businesses and their investors, from startups to smaller public companies. The 2020 Forum was hosted in a completely virtual format, which resulted in an inclusive event that engaged entrepreneurs, investors, market participants and other thought leaders from across the country. Video archives of the keynote addresses and spotlight discussions are available in the Forum video gallery. The 2020 Forum Report summarizing the proceedings and recommendations of participates was released on September 14, 2020. Click here for more information about the Forum, including archives of prior fora.

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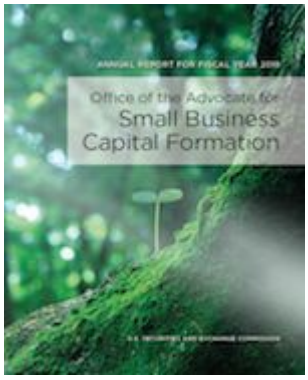
	Prior Reports and Publications from the Office  Annual Report 2019  Small Business Forum Report 2019  Foundational Business Plan 2019
Regulation D	Regulation D: Everything You Need to Know

Regulation D is the most common method that startups use to raise money from investors without being required to register with the SEC. Using a Regulation D offering, businesses raise money faster by selling equity or debt securities while avoiding the complicated filing process and avoiding the cost of a public offering. Regulation D contains three rules allowing exemption status:

Rule 504 of Regulation D: A Small Entity Compliance Guide for Issuers

1. Overview

Rule 504 of Regulation D provides an exemption from registration under the Securities Act of 1933 for the offer and sale of up to $5,000,000 of securities in a 12-month period.

2. Eligibility

The following companies are not eligible to use the Rule 504 exemption:

- companies that already are Exchange Act reporting companies;
- investment companies;
- companies that have no specific business plan or have indicated their business plan is to engage in a merger or acquisition with an unidentified company or companies; and
- companies that are disqualified under Rule 504's "bad actor" disqualification provisions.

Private placements - Rule 506(b)

	Rule 506(b) of Regulation D is considered a "safe harbor" under Section 4(a)(2). It provides objective standards that a company can rely on to meet the requirements of the Section 4(a)(2) exemption. Companies conducting an offering under Rule 506(b) can raise an unlimited amount of money and can sell securities to an unlimited number of accredited investors. An offering under Rule 506(b), however, is subject to the following requirements: • no general solicitation or advertising to market the securities • securities may not be sold to more than 35 non-accredited investors (all non-accredited investors, either alone or with a purchaser representative, must meet the legal standard of having sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment) If non-accredited investors are participating in the offering, the company conducting the offering: • must give any non-accredited investors disclosure documents that generally contain the same type of information as provided in registered offerings (the company is not required to provide specified disclosure documents to accredited investors, but, if it does provide information to accredited investors, it must also make this information available to the non-accredited investors as well)

	• must give any non-accredited investors financial statement information specified in Rule 506 and • should be available to answer questions from prospective purchasers who are non-accredited investors **General solicitation — Rule 506(c)** Rule 506(c) permits issuers to broadly solicit and generally advertise an offering, provided that: • all purchasers in the offering are accredited investors • the issuer takes reasonable steps to verify purchasers' accredited investor status and • certain other conditions in Regulation D are satisfied Purchasers in a Rule 506(c) offering receive "restricted securities." A company is required to file a notice with the Commission on Form D within 15 days after the first sale of securities in the offering. Although the Securities Act provides a federal preemption from state registration and qualification under Rule 506(c), the states still have authority to require notice filings and collect state fees.
Regulation A	**Regulation A**

	Regulation A is an exemption from registration for public offerings. Regulation A has two offering tiers: Tier 1, for offerings of up to $20 million in a 12-month period; and Tier 2, for offerings of up to $50 million in a 12-month period. For offerings of up to $20 million, companies can elect to proceed under the requirements for either Tier 1 or Tier 2. There are certain basic requirements applicable to both Tier 1 and Tier 2 offerings, including company eligibility requirements, bad actor disqualification provisions, disclosure, and other matters. Additional requirements apply to Tier 2 offerings, including limitations on the amount of money a non-accredited investor may invest in a Tier 2 offering, requirements for audited financial statements and the filing of ongoing reports. Issuers in Tier 2 offerings are not required to register or qualify their offerings with state securities regulators.
Regulation CF	Regulation Crowdfunding Regulation Crowdfunding enables eligible companies to offer and sell securities through crowdfunding. The rules: ● require all transactions under Regulation Crowdfunding to take place online through an SEC-registered intermediary, either a broker-dealer or a funding portal ● permit a company to raise a maximum aggregate amount of $1,070,000 through crowdfunding offerings in a 12-month period

	• limit the amount individual investors can invest across all crowdfunding offerings in a 12-month period and • require disclosure of information in filings with the Commission and to investors and the intermediary facilitating the offering
Accredited Investor Updates	On August 26, 2020, the Commission adopted final rules implementing the proposal. The amendments maintain the financial thresholds in the rule and also permit natural persons to qualify as accredited investors based on, among other things, certain professional certifications, designations or credentials. In a related order, the Commission designated holders in good standing of the Series 7 (Licensed General Securities Representative), Series 65 (Licensed Investment Adviser Representative), and Series 82 (Licensed Private Securities Offerings Representative) licenses as accredited investors. What is an accredited investor? Certain securities offerings that are exempt from registration may only be offered to, or purchased by, persons who are "accredited investors." An "accredited investor" is: • a bank, savings and loan association, insurance company, registered investment company, business development company, or small business investment company or rural business investment company

	• an SEC-registered broker-dealer, SEC- or state-registered investment adviser, or exempt reporting adviser • a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5 million • an employee benefit plan (within the meaning of the Employee Retirement Income Security Act) if a bank, insurance company, or registered investment adviser makes the investment decisions, or if the plan has total assets in excess of $5 million • a tax exempt charitable organization, corporation, limited liability corporation, or partnership with assets in excess of $5 million • a director, executive officer, or general partner of the company selling the securities, or any director, executive officer, or general partner of a general partner of that company • an enterprise in which all the equity owners are accredited investors • an individual with a net worth or joint net worth with a spouse or spousal equivalent of at least $1 million, not including the value of his or her primary residence • an individual with income exceeding $200,000 in each of the two most recent calendar years or joint income

with a spouse or spousal equivalent exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year or

- a trust with assets exceeding $5 million, not formed only to acquire the securities offered, and whose purchases are directed by a person who meets the legal standard of having sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment

- an entity of a type not otherwise qualifying as accredited that own investments in excess of $5 million

- an individual holding in good standing any of the general securities representative license (Series 7), the investment adviser representative license (Series 65), or the private securities offerings representative license (Series 82)

- a knowledgeable employee, as defined in rule 3c-5(a)(4) under the Investment Company Act, of the issuer of securities where that issuer is a 3(c)(1) or 3(c)(7) private fund or

- a family office and its family clients if the family office has assets under management in excess of $5 million and whose prospective investments are directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment

Investment Company Act of 1940 – Section 7 and Rule 3c-5
Managed Funds Association

February 6, 2014

Response of the Investment Adviser Regulation Office and Chief Counsel's Office, Division of Investment Management

You request guidance regarding various parts of the definition of knowledgeable employee in rule 3c-5 under the Investment Company Act of 1940 ("Investment Company Act"). You also request our assurance that we will not recommend enforcement action to the Securities and Exchange Commission ("Commission") under Section 7 of the Investment Company Act against Covered Funds (as defined below) that treat certain employees of Covered Separate Accounts (as defined below) as knowledgeable employees.

Background

Rule 3c-5 permits a knowledgeable employee of a private fund ("Covered Fund"), or a knowledgeable employee of an affiliated person that manages the investment activities of a Covered Fund ("Affiliated Management Person"), to invest in a Covered Fund without being counted for purposes of the 100-person limit in Section 3(c)(1) or regardless of whether the knowledgeable employee is a "qualified purchaser" for purposes of Section 3(c)(7).

Executive officer and policy-making employees

Rule 3c-5(a)(4)(i) defines the first category of knowledgeable employee of a Covered Fund as any natural person who is an

"Executive Officer, director, trustee, general partner, advisory board member, or person serving in a similar capacity" of a Covered Fund or an Affiliated Management Person of a Covered Fund.

Rule 3c-5(a)(3) defines the term "Executive Officer" as the "president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions" for a Covered Fund or for the Affiliated Management Person of a Covered Fund.

Principal business unit. You argue that, depending on the adviser, different business functions can be an integral part of the operations of many investment managers and that the heads of certain business units generally are sophisticated professionals with a broad understanding of the investment manager's operations and investment program.

You also argue that whether a business function carries principal status should not depend on the size of the department in question because principal business functions may be implemented by one individual who may not have a staff. Accordingly, you ask for confirmation that:

- (i) the principal status of a unit, division, or function depends on the relevant facts and circumstances of a particular investment manager's business operations;

- (ii) several business units, divisions, or functions within an investment manager may each be considered a principal unit, division, or function, and

- (iii) the unit, division, or function need not be part of the investment activities of a Covered Fund to be considered a principal unit, division, or function.

By way of example, you argue that an investment manager's information technology ("IT") department may be deemed a principal business unit given certain facts and circumstances. You describe the following circumstances as those under which an investment manager could deem the IT department as a principal unit:

- (i) an investment manager that employs one or more technologically driven trading models, whose IT professionals are charged with building the models and systems that translate certain quantitative signals into trade orders, and

- (ii) an investment manager that employs technology professionals to build performance and risk monitoring systems that interact with the investment program.

Employee who participates in the investment activities of a Covered Fund

Rule 3c-5(a)(4)(ii) defines the second category of knowledgeable employee as any employee of a Covered Fund or the Affiliated Management Person of such Covered Fund who, in connection with his or her regular function or duties, participates in the investment activities of such Covered Fund, other Covered Funds, or investment companies the investment activities of which are managed by such Affiliated Management Person of the Covered Fund, provided that such employee has been performing such functions and duties for or on behalf of the Covered Fund or

	the Affiliated Management Person of the Covered Fund, or substantially similar functions or duties for or on behalf of another company for at least 12 months ("Participating Employee"). Employees who participate in investment activities. In previous guidance, the staff has stated that whether an employee was participating in investment activities is a factual determination that must be made on a case-by-case basis. While stating that certain types of non-executive employees would not generally be knowledgeable employees because they were not participating in the investment activities, the staff stated that "some research analysts (e.g., a research analyst who researches all potential portfolio investments and provides recommendations to the portfolio manager)" would be knowledgeable employees.[You argue that a research analyst who researches only a portion of the portfolio of a Covered Fund and provides analysis or advice to the portfolio manager with respect to only a portion of the Covered Fund's portfolio could be regarded as participating in the investment activities for purposes of the rule. We believe that a research analyst who researches only a portion of the portfolio of a Covered Fund and provides analysis or advice to the portfolio manager with respect to such portion of the Covered Fund's portfolio is participating in the investment activities of the Covered Fund for purposes of the rule. Accordingly, we believe that such a research analyst could be a knowledgeable employee under rule 3c-5(a)(4)(ii).

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QIB and IAI	**QUALIFIED INSTITUTIONAL BUYER DEFINITION** The amendments make the following changes to the definition of QIB under Rule 144A: add LLCs and RBICs to the types of entities that are eligible for QIB status if they meet the $100 million in securities owned and investment threshold in the Rule 144A definition; and add a "catch-all" category that will permit entities that are "institutional accredited investors" (as defined in Rule 501(a)) but are not one of the categories of entities currently included in the definition of QIB to qualify as QIBs if they satisfy the $100 million threshold.
Why were the crowdfunding rules updated?	Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets On March 4, 2020, the Securities and Exchange Commission (the "SEC" or "Commission") proposed amendments to simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections. Specifically, the Commission proposed amendments that ● (1) address the ability of issuers to move from one exemption to another, ● (2) set clear and consistent rules governing offering communications between investors and issuers,

- (3) address potential gaps and inconsistencies in our rules relating to offering and investment limits, and

- (4) harmonize certain disclosure requirements and bad actor disqualification provisions.

The Securities Act requires that every offer and sale of securities be registered with the Commission, unless an exemption from registration is available. The Securities Act, however, also contains a number of exemptions from its registration requirements and authorizes the Commission to adopt additional exemptions.

Section 3 of the Securities Act generally provides exemptions that are based on characteristics of the securities themselves.

Section 4 of the Securities Act identifies transactions that are exempt from the registration requirements.

In addition, Section 28 of the Securities Act authorizes the Commission to exempt other persons, securities, or transactions to the extent necessary or appropriate in the public interest and consistent with the protection of investors.

The current exempt offering framework is complex and made up of differing, exemption-specific requirements and conditions.

The scope of the exempt offering framework has evolved over time through Commission rules and legislative changes, including most recently through the Jumpstart Our Business Startups Act of 2012 (“JOBS Act”), the Fixing America's Surface Transportation Act of 2015, and the Economic

	Growth, Regulatory Relief, and Consumer Protection Act of 2018. On June 18, 2019, the Commission issued a concept release that solicited public comment on possible ways to simplify, harmonize, and improve the exempt offering framework under the Securities Act to ***promote capital formation and expand investment opportunities while maintaining appropriate investor protections.*** Building on the comments received in response to the Concept Release and other comments and recommendations received from the SEC Small Business Capital Formation Advisory Committee, the SEC Investor Advisory Committee, the annual Government-Business Forums on Small Business Capital Formation (each a "Small Business Forum"), and other market participants, the Commission proposed a set of amendments that would generally retain the current exempt offering structure and reduce potential friction points. **The proposed amendments were intended to facilitate capital formation while preserving and in some cases enhancing investor protections.** **The proposed amendments were further intended to address gaps and complexities in the exempt offering framework and help provide viable alternatives to the dominant capital raising tools.**
What is the Federal Register?	The Federal Register: The Daily Journal of the United States Government

	Each day Federal agencies publish documents in the Federal Register, including proposed rules, final rules, public notices, and Presidential actions. The print-based, official format of the Federal Register displays information in a dense format (3-column PDF) that makes it difficult to read and to process regulatory data in meaningful and innovative ways. This unofficial, HTML (XML-based) format of the Federal Register on FederalRegister.gov overcomes the technical limitations of the official PDF format and demonstrates how an alternate format can effectively convey regulatory information to the public. Adopted rules go into effect 60 days after being posted to the Federal Register.
Asset-Backed Securities	Dodd-Frank Act Rulemaking: Asset-Backed Securities **Background:** Asset-backed securities (ABS) are created by buying and bundling loans – such as residential mortgage loans, commercial loans or student loans – and creating securities backed by those assets, which are then sold to investors. Often, a bundle of loans is divided into separate securities with different levels of risk and returns. Payments on the loans are distributed to the holders of the lower-risk, lower-interest securities first, and then to the holders of the higher-risk securities.

	Most public offerings of ABS are conducted through expedited SEC registration procedures known as “shelf offerings.” ABS offerings also are sold as private placements which are exempt from SEC registration. Privately-issued ABS are typically sold to large institutional investors known as qualified institutional buyers or QIBs.
Integration	**A. Integration** The integration doctrine seeks to prevent an issuer from improperly avoiding registration by artificially dividing a single offering into multiple offerings such that Securities Act exemptions would apply to the multiple offerings that would not be available for the combined offering. The Securities Act integration framework for registered and exempt offerings consists of a mixture of rules and Commission guidance for determining whether multiple securities transactions should be considered part of the same offering. As the number of exemptions from registration available to issuers has evolved over time, the integration framework has grown more complex In adopting Regulation D in 1982, the Commission relied on the five-factor test in establishing a framework used to determine whether two offerings that fall outside of the 17 CFR 230.502(a) (“Rule 502(a)”) safe harbor should be integrated and treated as one offering.[26] The Rule 502(a) safe harbor provided that offers and sales more than six months before a Regulation D offering or more than six months after the completion of a Regulation D offering will not be considered part of the same offering.

	This provided issuers with a bright-line test on which they could rely to avoid the integration of multiple offerings. However, for offerings occurring within six months of each other, the determination as to whether separate sales of securities were part of the same offering (i.e., were considered integrated) depended on the particular facts and circumstances of the offerings, including an analysis of the five-factor test. More recently, in connection with the Regulation A and Regulation Crowdfunding rulemakings in 2015 and the Rule 147 and Rule 147A rulemaking in 2016, the Commission set forth a facts-and-circumstances integration framework in the context of concurrent exempt offerings. The facts-and-circumstances integration framework applies to situations where one offering permits general solicitation and the other does not, as well as situations where both offerings rely on exemptions permitting general solicitation. Under this analysis, where an integration safe harbor is not available, integration of concurrent or subsequent offers and sales of securities with any offering conducted under Regulation A, Regulation Crowdfunding, Rule 147, or Rule 147A will depend on the particular facts and circumstances, including whether each offering complies with the requirements of the exemption on which the particular offering is relying.

Core Topic	
What was updated?	II. Discussion of Final Amendments We are amending the exempt offering framework to close gaps and reduce complexities that may impede access to capital for issuers and thereby limit investment opportunities, while preserving or enhancing important investor protections. The amendments generally: ● Modernize and simplify the Securities Act integration framework for registered and exempt offerings; ● Set clear and consistent rules governing offering communications between issuers and investors; ● Increase offering and investment limits for certain exemptions; and ● Harmonize certain disclosure requirements and bad actor disqualification provisions.
Integration Updates	We believe that statutory and regulatory changes to the Securities Act exemptive structure, including those arising from the JOBS Act, developments in the capital markets, and the evolution of communications technology make it necessary and appropriate for the Commission to modernize and simplify the Securities Act integration framework for registered and exempt offerings and its application throughout the Securities Act rules.

New Rule 152 builds on the approach to integration in the Commission's recent rulemakings and provides a comprehensive integration framework composed of a general principle of integration, as set forth in new 17 CFR 230.152(a) (“Rule 152(a)”), and four safe harbors applicable to all securities offerings underthe Securities Act, including registered and exempt offerings, as set forth in new 17 CFR 230.152(b) (“Rule 152(b)”).

Integration Principle in New Rule 152(a)	
General Principle of Integration	If the safe harbors in Rule 152(b) do not apply, in determining whether two or more offerings are to be treated as one for the purpose of registration or qualifying for an exemption from registration under the Securities Act, offers and sales will not be integrated if, based on the particular facts and circumstances, the issuer can establish that each offering either complies with the registration requirements of the Securities Act, or that an exemption from registration is available for the particular offering.
Application of the General Principle to an exempt offering prohibiting general solicitation. 17 CFR 230.152(a)(1)	The issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering prohibiting general solicitation, that the issuer (or any person acting on the issuer's behalf) either: • (i) Did not solicit such purchaser through the use of general solicitation; or • (ii) Established a substantive relationship

("Rule 152(a)(1)")	with such purchaser prior to the commencement of the exempt offering prohibiting general solicitation.
Application of the General Principle to concurrent exempt offerings that each allow general solicitation. 17 CFR 230.152(a)(2) ("Rule 152(a)(2)")	In addition to satisfying the requirements of the particular exemption relied on, general solicitation offering materials for one offering that include information about the material terms of a concurrent offering under another exemption may constitute an offer of the securities in such other offering, and therefore the offer must comply with all the requirements for, and restrictions on, offers under the exemption being relied on for such other offering, including any legend requirements and communications restrictions.

Non-Exclusive Integration Safe Harbors in New Rule 152(b)	
Safe Harbor 1: 17 CFR 230.152(b)(1) ("Rule 152(b)(1)")	Any offering made more than 30 calendar days before the commencement of any other offering, or more than 30 calendar days after the termination or completion of any other offering, will not be integrated with such other offering; provided that, for an exempt offering for which general solicitation is not permitted that follows by 30 calendar days or more an offering that allows general solicitation, the provisions of Rule 152(a)(1) shall apply.

Safe Harbor 2: 17 CFR 230.152(b)(2) (“Rule 152(b)(2)”)	Offers and sales made in compliance with Rule 701, pursuant to an employee benefit plan, or in compliance with 17 CFR 230.901 through 230.905 (“Regulation S”) will not be integrated with other offerings.
Safe Harbor 3: 17 CFR 230.152(b)(1) (“Rule 152(b)(3)”)	An offering for which a Securities Act registration statement has been filed will not be integrated if it is made subsequent to: • (i) A terminated or completed offering for which general solicitation is not permitted; • (ii) a terminated or completed offering for which general solicitation is permitted that was made only to qualified institutional buyers (“QIBs”) and institutional accredited investors (“IAIs”); or • (iii) an offering for which general solicitation is permitted that terminated or completed more than 30 calendar days prior to the commencement of the registered offering. See 17 CFR 230.144(a)(1) for the definition of “qualified institutional buyer,” and 17 CFR 230.501(a)(1), (2), (3), (7), (8), (9), (12), and (13) for a list of entities that are considered “institutional accredited investors.”
Safe Harbor 4:	Offers and sales made in reliance on an

17 CFR 230.152(b)(1) (“Rule 152(b)(4)”)	exemption for which general solicitation is permitted will not be integrated if made subsequent to any terminated or completed offering.

I. INTEGRATION FRAMEWORK AND GENERAL PRINCIPLE

The general principle of integration we are adopting in Rule 152(a) looks to the particular facts and circumstances of each offering.[67] Specifically, the general principle provides that, for all offerings not covered by a safe harbor in Rule 152(b), offers and sales will not be integrated if, based on the particular facts and circumstances, the issuer can establish that each offering either complies with the registration requirements of the Securities Act, or that an exemption from registration is available for the particular offering.

We continue to believe that providing additional clarity on how securities offerings interrelate, including the relationship between exempt and registered offerings, and when two or more securities offerings will be considered integrated as one offering, will reduce perceived risk among issuers when considering and planning possible capital raising alternatives, while preserving investor protections built into the respective offering exemptions.

We are not persuaded by commenters who raised concerns that our proposed integration framework may promote greater reliance on exempt offerings and thereby reduce the need or incentive for issuers to undertake registered public offerings.

Rather, we are of the view that the greater clarity that the integration framework will provide on how securities offerings interrelate:

- (1) Will facilitate capital-raising in exempt markets when using the public markets is not practical, and
- (2) will provide issuers the flexibility to choose between types of offerings, which may encourage more issuers to raise more capital in our securities markets, including in both exempt and registered offerings.

Because the amended framework will provide certainty to an issuer conducting exempt and registered offerings close in time, it may ultimately result in more issuers undertaking the risks, time, and expense of conducting a registered public offering.

It may also facilitate some small issuers in raising enough external financing to develop their business model and scale up to a point where they may become viable candidates for a registered public offering, thereby providing Main Street investors with more registered investment options, as well as all the benefits that flow from registration.

The final rules replace the five-factor test with the Commission's more recent approach to integration adopted in rulemakings involving Regulation A, Regulation Crowdfunding, and Rules 147 and 147A.

IV. INTEGRATION WITH EXEMPT OFFERINGS PERMITTING GENERAL SOLICITATION (RULE 152(A)(2))

Under new Rule 152(a)(2), an issuer may undertake an offering in reliance on Rule 506(c), so long as the issuer meets all of the conditions of that exemption, including taking reasonable steps to verify that all purchasers in the Rule 506(c) offering are accredited investors, while conducting a concurrent offering in reliance on Regulation A, so long as the concurrent offering complies with all the requirements of Regulation A.

If this issuer were to discuss in its Rule 506(c) general solicitation materials the material terms of the Regulation A offering, new Rule 152(a)(2) would require the Rule 506(c) general solicitation to comply with all the requirements for offers under Regulation A, including all necessary legends and comply with any restrictions on the use of general solicitation imposed on issuers making offers under Regulation A.

Similarly, an issuer undertaking a Rule 506(c) offering concurrently with a Regulation Crowdfunding offering must make sure that any general solicitation materials used in connection with the Rule 506(c) offering that mention the material terms of the Regulation Crowdfunding offering comply with the off-portal offering limitations in Rule 204 of Regulation Crowdfunding

A. 30-DAY INTEGRATION SAFE HARBOR (RULE 152(B)(1))

Current Securities Act integration safe harbors generally provide for a six-month safe harbor time period, outside of which other offerings will not be integrated or considered as part of the same offering.

III. FINAL AMENDMENTS

After considering the comments received, we are adopting the 30-day non-exclusive safe harbor in Rule 152(b)(1) with modifications consistent with certain commenters' suggestions. We are also harmonizing current Securities Act exemptions by replacing their existing integration provisions with a reference to Rule 152. This safe harbor will apply to both offerings for which a registration statement has been filed under the Securities Act and exempt offerings.

	We are also not persuaded by commenters that suggested that a 90-day time frame is preferable because it would allow needed time for investors and the market to assess an offering, in light of the accelerating speed and consumption of electronically disseminated information in today's financial marketplace, and especially the rapidly evolving informational environment since the adoption of a six-month safe harbor in Regulation D in 1982. Because of this informational access, we also think it likely that the effects of any offers made more than 30 days prior to or after commencement of another offering would be sufficiently diluted by intervening market developments so as to render an integration analysis unnecessary.
	C. SUBSEQUENT REGISTERED OFFERINGS (RULE 152(B)(3)) Existing Rule 152 provides that the phrase “transactions by an issuer not involving any public offering” in Section 4(a)(2) shall be deemed to apply to transactions that did not involve any public offering at the time of the unregistered offering even if the issuer decides subsequently to make a public offering and/or files a registration statement. In 2007, the Commission clarified that an issuer's contemplation of filing a Securities Act registration statement at the same time that it is conducting an unregistered offering under Section 4(a)(2) would not cause the Section 4(a)(2) exemption to be unavailable for that unregistered offering. So long as all of the applicable requirements of the exemption prohibiting general solicitation were met for offers and sales that

occurred prior to the use of general solicitation in connection with the registered public offering, the offers and sales of the exempt offering prohibiting general solicitation would not be integrated with the subsequent registered offering.

Once the public offering is commenced or the registration statement is filed, the safe harbor in existing Rule 152 is no longer available for any concurrent or subsequent offers or sales made in connection with an exempt offering prohibiting general solicitation.

III. FINAL AMENDMENTS

After considering these comments, we are adopting new Rule 152(b)(3), as proposed, providing a non-exclusive safe harbor for certain offerings made prior to the commencement of an offering for which a Securities Act registration statement has been filed.

We continue to believe that capital raising around the time of a public offering, in particular an initial public offering, including immediately before the filing of a registration statement, is often critical if issuers are to have sufficient funds to continue to operate while the public offering process is ongoing.

We believe that Rule 152 as currently written is unnecessarily restrictive, given the changing financial requirements and circumstances of issuers, particularly smaller issuers, immediately prior to a registered public offering and may be revised without compromising investor protections.

A lengthy waiting period prior to a registered offering combined with a potentially uncertain registration process are particular concerns for smaller issuers contemplating a registered public offering, whose financing needs are often erratic and unpredictable, due in

	part to limited amounts of working capital, cash reserves, and access to credit.
	D. OFFERS OR SALES PRECEDING EXEMPT OFFERINGS PERMITTING GENERAL SOLICITATION (RULE 152(B)(4)) Rule 251(c) of Regulation A, and the intrastate offering safe harbor and exemption in Rule 147(g) and Rule 147A(g), respectively, currently provide that offers and sales made pursuant to these exemptive provisions and safe harbors that permit general solicitation will not be integrated with terminated or completed offers and sales made prior to the commencement of these exempt offerings **II. COMMENTS** One commenter supporting the proposal recommended that the integration safe harbor should be the same whether the new or terminated offering involves general solicitation or not. Another commenter recommended an additional safe harbor providing that any offering commenced in reliance on an exemption that does not permit general solicitation may be continued in reliance on an exemption that does permit general solicitation. According to this commenter, such a safe harbor would be particularly beneficial to issuers commencing an offering in reliance on Rule 506(b) and desiring to continue it in reliance on Rule 506(c) and would permit the issuer to use the same or substantially identical materials to continue the offering in reliance on Rule 506(c).

III. FINAL AMENDMENTS

After considering comments, we are adopting new Rule 152(b)(4), as proposed, to provide a non-exclusive safe harbor for all offers and sales made in reliance on an exemption for which general solicitation is permitted that follow any other terminated or completed offering.

This new safe harbor expands on the current integration safe harbors in Regulation A and Rules 147 and 147A to include offerings relying on: Regulation Crowdfunding; Rules 504(b)(1)(i), (ii), or (iii) that, depending on State registration requirements, permit general solicitation; and Rule 506(c).

Table 3—Summary of Types of Offerings Not Integrated Under the Safe Harbor

Offering 1	Offering 2
Any offering, which includes: Exempt offering permitting general solicitation, including: • Regulation A. • Regulation Crowdfunding. • Rule 147 or 147A. • Rules 504(b)(1)(i), (ii), or (iii). • Rule 506(c). Exempt offering prohibiting general solicitation, including: • 17 CFR 230.504(b)(1). • Rule 506(b). • Section 4(a)(2). Securities Act registered offering.	Exempt offering permitting general solicitation, including: • Regulation A. • Regulation Crowdfunding. • Rule 147 or 147A. • Rules 504(b)(1)(i), (ii), or (iii). • Rule 506(c).

In response to a commenter's request, we are providing guidance with respect to an issuer's ability to rely on Rule 152(b)(4) with respect to an offering that was commenced in reliance on an

	exemption that does not permit general solicitation, but that the issuer wishes to continue in reliance on an exemption that does permit general solicitation. We are of the view that an issuer may rely on the safe harbor in new Rule 152(b)(4) if, for example, the issuer commences an offering under Rule 506(b) and thereafter engages in general solicitation in reliance on Rule 506(c) so long as once the issuer engages in general solicitation, it relies on Rule 506(c) for all subsequent sales, thereby effectively terminating the Rule 506(b) offering, including by selling exclusively to accredited investors and taking reasonable steps to verify the accredited investor status of each purchaser. The use of general solicitation in reliance on Rule 506(c) will not affect the exempt status of prior offers and sales of securities made in reliance on Rule 506(b). It is also not necessary for an issuer to use different offering materials for offerings that rely on different exemptions, so long as the issuer satisfies the disclosure and other requirements of each applicable exemption.
Demo Days	**1. EXEMPTION FROM GENERAL SOLICITATION FOR "DEMO DAYS" AND SIMILAR EVENTS** "Demo days" and similar events are generally organized by a group or entity (such as a university, angel investors, an accelerator, or an incubator) that invites issuers to present their businesses to potential investors, with the aim of securing investment.

As the Commission stated in the Proposing Release, if the issuer's presentation at a “demo day” or similar event constitutes an offer of securities, the issuer would not be deemed to have engaged in general solicitation if the organizer of the event has limited participation in the event to individuals or groups of individuals with whom the issuer or the organizer has a pre-existing substantive relationship or that have been contacted through an informal, personal network of experienced, financially sophisticated individuals, such as angel investors.

However, we understand that in many cases it may not be practical for the organizer of the event to limit participation in such a manner.

A. PROPOSED AMENDMENTS

The Commission proposed new Rule 148 to provide that certain “demo day” communications would not be deemed general solicitation or general advertising.

Specifically, as proposed, an issuer would not be deemed to have engaged in general solicitation if the communications are made in connection with a seminar or meeting sponsored by a college, university, or other institution of higher education, a local government, a nonprofit organization, or an angel investor group, incubator, or accelerator.

With respect to the organization and conduct of the event, proposed Rule 148 stated that a sponsor would not be permitted to:

- Make investment recommendations or provide investment advice to attendees of the event;

- Engage in any investment negotiations between the issuer and investors attending the event;

- Charge attendees of the event any fees, other than reasonable administrative fees;

- Receive any compensation for making introductions between attendees and issuers, or for investment negotiations between the parties;

- Receive any compensation with respect to the event that would require it to register as a broker or dealer under the Exchange Act or as an investment adviser under the Advisers Act.

In addition, proposed Rule 148 specified that the advertising for the event may not reference any specific offering of securities by the issuer and that the information conveyed at the event regarding the offering of securities by or on behalf of the issuer would be limited to:

- Notification that the issuer is in the process of offering or planning to offer securities;

- The type and amount of securities being offered; and

- The intended use of the proceeds of the offering.

C. FINAL AMENDMENTS

As discussed above, the Commission proposed to include local governments in the list of entities permitted to rely on the exemption.

	In response to comments, we are expanding the types of entities that may sponsor an event to include State governments and instrumentalities of State and local governments. **We are also revising the definition of "angel investor group" to specify that such a group must have "defined" processes and procedures for making investment decisions, but that such processes and procedures do not necessarily need to be written.** In addition, to address concerns raised by commenters with respect to the possibility of offering-related communications being made broadly to non-accredited investors, we are adopting certain limitations on the types of investors that may attend virtual events as a condition to the availability of Rule 148. In a change from the proposal, we have also added a requirement that more than one issuer participate in the seminar or meeting in order for new Rule 148 to apply. As proposed, under the final rule the sponsor will not be permitted to: ● Make investment recommendations or provide investment advice to attendees of the event; ● Engage in any investment negotiations between the issuer and investors attending the event; ● Charge attendees of the event any fees, other than reasonable administrative fees; ● Receive any compensation for making introductions between event attendees and issuers, or for investment negotiations

between the parties; or

- Receive any compensation with respect to the event that would require it to register as a broker or dealer under the Exchange Act, or as an investment adviser under the Advisers Act.

As noted above, some commenters raised concerns about these events allowing for broad offering-related communications to non-accredited investors. We share this concern, particularly in light of the increasing prevalence of virtual “demo days” that are more accessible and widely attended by the general public.

In light of these concerns, we are persuaded that an incremental approach to relaxing “demo day” communication restrictions is warranted with respect to events that are conducted, in whole or in part, in a virtual format.

Accordingly, we are narrowing the scope of the proposed exemption so that online participation in the event is limited to:

- (a) Individuals who are members of, or otherwise associated with the sponsor organization (for example, members of an angel investor group or students, faculty, or alumni of a college or university);

- (b) individuals that the sponsor reasonably believes are accredited investors; or

- (c) individuals who have been invited to the event by the sponsor based on industry or investment-related experience reasonably selected by the sponsor in good faith and disclosed in the public communications about the event.

Testing the Waters	**2. SOLICITATIONS OF INTEREST** As discussed in the Proposing Release, we believe that it is helpful for issuers to be able to gauge interest in a securities offering prior to incurring the expense of preparing and conducting an offering. Securities Act Rule 163B permits issuers and those authorized to act on their behalf to gauge market interest in a registered securities offering through discussions with QIBs and IAIs prior to, or following, the filing of a registration statement. Regulation A also permits issuers to test the waters with, or solicit interest in a potential offering from, the general public either before or after the filing of the offering statement. These solicitations of interest are deemed to be offers of a security for sale for purposes of the antifraud provisions of the Federal securities laws. **A. GENERIC SOLICITATION OF INTEREST EXEMPTION** **I. PROPOSED AMENDMENTS** The Commission proposed new Rule 241 to permit an issuer to use generic solicitation of interest materials for an offer of securities prior to making a determination as to the exemption under which the offering may be conducted. As proposed, Rule 241 would not permit an issuer to identify the specific exemption from registration on which it intends to rely for a subsequent offer and sale of the securities. Proposed Rule 241(b) would Start Printed Page 3521require the generic testing-the-waters materials to provide specific disclosures notifying potential investors about the limitations of the generic solicitation of interest.

As proposed, these solicitations would be deemed to be offers of a security for sale for purposes of the antifraud provisions of the Federal securities laws.

Furthermore, depending on the method of dissemination of the information, such offers may be considered a general solicitation. Proposed Rule 241 would provide an exemption from registration only with respect to the generic solicitation of interest, not for a subsequent offer or sale. Should the issuer move forward with an exempt offering following the generic solicitation of interest, the issuer would need to comply with an available exemption for the subsequent offering, and investors would have the benefit of the investor protections encompassed in such exemption.

III. FINAL AMENDMENTS

We are adopting the proposed amendments substantially as proposed, using our exemptive authority under Section 28 of the Securities Act to create a new offering exemption.

New Rule 241 exempts the class of persons who are issuers and use generic solicitation of interest materials pursuant to the conditions of the rule from the prohibitions on offers prior to filing a registration statement in Section 5(c) of the Securities Act.

As discussed in the Proposing Release and below, we believe that the proposed amendments include appropriate investor protections and further the public interest by allowing issuers to gauge market interest, tailor the size and other terms of the offering (possibly with input from potential investors), and reduce the costs of conducting an exempt offering.

	As noted above, commenters that addressed the proposal were generally supportive of the proposed changes. We are not persuaded by commenters who recommended that we revise the rule to permit an issuer to conduct a general solicitation ofinterest after the issuer has identified the specific exemption on which it intends to rely. We believe that limiting generic solicitations of interest to solicitations prior to the issuer's determination of which exemption to use appropriately and adequately differentiates these testing-the-waters communications, which are meant to gauge preliminary market interest, from offers that occur closer to the time of sale. Under new Rule 241, an issuer or any person authorized to act on behalf of an issuer may communicate orally or in writing to determine whether there is any interest in a contemplated offering of securities exempt from registration under the Securities Act. The rule provides an exemption from registration only withrespect to the generic solicitation of interest and the solicitation will be deemed to be an offer of a security for sale for purposes of the antifraud provisions of the Federal securities laws. **In addition, no solicitation or acceptance of money or other consideration, nor of any commitment, binding or otherwise, from any person is permitted until the issuer makes a determination as to the exemption on which it will rely and commences the offering in compliance with the exemption**. Rule 241 further requires the generic testing-the-waters materialsto provide specified disclosures notifying potential investors about the limitations of the generic solicitation. The issuer's communications must state that:

- (1) The issuer is considering an offering of securities exempt from registration under the Act, but has not determined a specific exemption from registration the issuer intends to rely on for the subsequent offer and sale of the securities;

- (2) No money or other consideration is being solicited, and if sent in response, will not be accepted;

- (3) No offer to buy the securities can be accepted and no part of the purchase price can be received until the issuer determines the exemption under which the offering is intended to be conducted and, where applicable, the filing, disclosure, or qualification requirements of such exemption are met; and

- (4) A person's indication of interest involves no obligation or commitment of any kind. The rule additionally provides that the communication may include a means for a person to indicate interest in a potential offering and an issuer may require such indication to include the person's name, address, telephone number, and/or email address. We are adopting these provisions as proposed as commenters were generally supportive of this aspect of Rule 241, providing no recommendation to further revise these requirements.

In addition, we are adopting amendments to Regulation A and Regulation Crowdfunding as proposed to require that the Rule 241 generic solicitation materials be made publicly available as an exhibit to the offering materials filed with the Commission if the Regulation A or Regulation Crowdfunding offering is commenced within 30 days of the generic solicitation

B. REGULATION CROWDFUNDING

Rule 255 of Regulation A permits an issuer to test the waters prior to filing the offering statement with the Commission. In contrast to Regulation A, an issuer conducting an offer pursuant to Regulation Crowdfunding currently may not solicit interest or make offers or sales under Regulation Crowdfunding prior to filing a Form C with the Commission.

I. PROPOSED AMENDMENTS

The Commission proposed to permit Regulation Crowdfunding issuers to test the waters orally or in writing prior to filing a Form C with the Commission under proposed Rule 206, which is based on existing Rule 255 of Regulation A.

As proposed, Rule 206 would permit issuers to test the waters with potential investors, and such testing-the-waters materials would be considered offers subject to the antifraud provisions of the Federal securities laws. Similar to Rule 255, proposed Rule 206 would require issuers to include legends providing that:

- No money or other consideration is being solicited, and if sent, will not be accepted;
- No sales will be made or commitments to purchase accepted until the Form C offering statement is filed with the Commission and only through an intermediary's platform; and
- Prospective purchaser's indications of interest are non-binding.

III. FINAL AMENDMENTS

We are adopting the amendments as proposed to permit Regulation Crowdfunding issuers to test the waters orally or in writing prior to filing a Form C with the Commission under Rule 206, which is based on existing Rule 255 of Regulation A.

For the reasons discussed below, we believe that permitting Regulation Crowdfunding issuers to engage in such communications will further the public interest while being consistent with the protection of investors.

Unlike Rule 255 of Regulation A, which permits issuers to use testing-the-waters materials both before and after the filing of the offering statement with the Commission, Rule 206 will only permit issuers to use testing-the-waters materials before the Form C is filed.

Once the Form C is filed, any offering communications are required to comply with the terms of Regulation Crowdfunding, including the Rule 204 advertising restrictions.

We believe this is appropriate because, while sales under Regulation A may not occur until after the offering statement is qualified, a Regulation Crowdfunding intermediary may accept investment commitments from the time of filing the Form C.

Although some commenters suggested that we require testing the waters to be conducted only through intermediary platforms, we believe that such a requirement would unnecessarily limit the flexibility provided by the new rule by effectively requiring an issuer to enter into a formal relationship with an intermediary prior to determining whether it will proceed with an offering under Regulation Crowdfunding.

Nevertheless, we believe issuers may choose to engage an intermediary before testing the waters so that they have a readily available means to receive feedback and questions from prospective investors

3. OTHER REGULATION CROWDFUNDING OFFERING COMMUNICATIONS

An issuer may not advertise the terms of a Regulation Crowdfunding offering outside of the intermediary's platform except in a notice that directs investors to the intermediary's platform and is limited to the information enumerated in Rule 204 of Regulation Crowdfunding.

An issuer may communicate with investors and potential investors about the terms of the offering through communication channels provided on the intermediary's platform.

A. PROPOSED AMENDMENTS

The Commission proposed to amend Rule 204 to permit oral communications with prospective investors once the Form C is filed, so long as the communications comply with the requirements of Rule 204.

The proposed changes would align the Regulation Crowdfunding communication rules more closely with Rule 255 of Regulation A.

C. FINAL AMENDMENTS

We are adopting the amendments substantially as proposed to permit oral communications with prospective investors once the Form C is filed, so long as the communications comply with the requirements of Rule 204.

	In connection with this amendment to 17 CFR 227.204(a), we have revised 17 CFR 227.204(b)(1) (“Rule 204(b)(1)”), as proposed, to indicate that a link to the intermediary's platform is only required to be provided when the communications are in writing. In response to comment, we are also expanding the information that an issuer may provide in accordance with Rule 204 to include: ● A brief description of the planned use of proceeds of the offering; and ● Information on the issuer's progress toward meeting its funding goals. In a further change from the proposal, in response to comments, we are adding a new 17 CFR 227.204(d) to specify that an issuer may provide information about the terms of an offering under Regulation Crowdfunding in the offering materials for a concurrent offering, such as in an offering statement on Form 1-A for a concurrent Regulation A offering or a Securities Act registration statement filed with the Commission, without violating Rule 204. To do so, the information provided about the Regulation Crowdfunding offering must be in compliance with Rule 204, including the requirement to include a link directing the potential investor to the intermediary's platform as required by Rule 204(b)(1). However, in accordance with the Commission's rules with respect to the use of hyperlinks in electronic filings, such link may not be a live hyperlink.

	We believe the change to Rule 204 will allow issuers to conduct concurrent offerings more easily under different exemptions, without sacrificing investor protection.
Raise Updates	**E. Offering and Investment Limits** Regulation A, Regulation Crowdfunding, and Rule 504 of Regulation D contain a variety of requirements and investor protections, including limits on the amount of securities that may be offered and sold under the exemptions. Regulation A and Regulation Crowdfunding also include limits on how much an individual may invest. The Commission has estimated that approximately $2.7 trillion of new capital was raised through exempt offering channels in 2019, of which approximately $1.3 billion (0.05 percent) was raised under Regulation A, Regulation Crowdfunding, and Rule 504 combined

Type of offering	Offering limit within 12-month period	General solicitation	Issuer requirements	Investor requirements	SEC filing requirements	Restrictions on resale	Preemption of state registration and qualification
17 CFR 230.506(b) ("Rule 506(b)" of Regulation D)	None	No	"Bad actor" disqualifications apply	Unlimited accredited investors. Up to 35 sophisticated but non-accredited investors in a 90-day period	17 CFR 239.500 ("Form D")	Yes. Restricted securities	Yes.
17 CFR 230.506(c) ("Rule 506(c)") of Regulation D	None	Yes	"Bad actor" disqualifications apply	Unlimited accredited investors. Issuer must take reasonable steps to verify that all purchasers are	Form D	Yes. Restricted securities	Yes.

1. REGULATION A

Regulation A establishes two tiers of offerings: Tier 1, for offerings that do not exceed $20 million in a 12-month period; and Tier 2, for offerings that do not exceed $50 million in a 12-month period.

The Commission is required by Section 3(b)(5) of the Securities Act to review the $50 million Tier 2 offering limit specified in Section 3(b)(2) of the Securities Act every two years, and the statute authorizes the Commission to increase the annual offering limit if the Commission determines that it would be appropriate to do so.

Earlier this year, the Divisions of Corporation Finance and Economic and Risk Analysis conducted a Regulation A Lookback Study and Offering Limit Review Analysis ("2020 Regulation A Review") as required by the 2015 Regulation A Release.

The 2020 Regulation A Review found that from June 2015 to December 2019, $2.4 billion was reported raised by 183 issuers in ongoing and closed Regulation A offerings, including $230 million in Tier 1 and $2.2 billion in Tier 2 offerings

C. FINAL AMENDMENTS

In order to facilitate use of Tier 2 Regulation A offerings and having considered the comments on the Proposing Release, the 2020 Regulation A Review, feedback that the Commission received from the Small Business Forums and in response to the Concept Release, we are increasing the maximum offering amount under Tier 2 of Regulation A from $50 million to $75 million as proposed. Section 3(b)(5) of the Securities Act expressly authorizes the Commission to review and raise the offering limit as appropriate.

Consistent with the Commission's approach to limitations on secondary sales when adopting the Regulation A amendments, we are also increasing the maximum offering amount for secondary sales under Tier 2 of Regulation A from $15 million to $22.5 million.

Type of offering	Offering limit within 12-month period	General solicitation	Issuer requirements	Investor requirements	SEC filing requirements	Restrictions on resale	Preemption of state registration and qualification
Regulation A: Tier 1	$20 million	Permitted; before qualification, testing the waters permitted before and after the offering statement is filed	U.S. or Canadian issuers. Excludes blank check companies, registered investment companies, business development companies, issuers of certain securities, certain issuers subject to a Section 12(j) order, and Regulation A and Exchange Act reporting companies that have not filed certain required reports. "Bad actor" disqualifications apply.* No asset-backed securities	None	Form 1-A, including two years of financial statements Exit report	No	No.
Regulation A: Tier 2	$75 million			Non-accredited investors are subject to investment limits based on the greater of annual income and net worth, unless securities will be listed on a national securities exchange	Form 1-A, including two years of audited financial statements. Annual, semi-annual, current, and exit reports	No	Yes.

3. REGULATION CROWDFUNDING

Regulation Crowdfunding provides an exemption from registration for certain crowdfunding transactions including limits on the amount an issuer may raise; limits on the amount an individual may invest; and a requirement that the transactions be conducted through an intermediary that is registered as either a broker-dealer or a "funding portal."

C. FINAL AMENDMENTS

Based on our consideration of the available data, the staff's 2019 Regulation Crowdfunding Report, and the feedback that we

	received on the Concept Release, the Proposing Release and from Small Business Forums [438] and the Small Business Capital Formation Advisory Committee, and in order to facilitate use of Regulation Crowdfunding for capital raising, we are amending the rules as proposed: ● (1) To raise the issuer offering limits in Regulation Crowdfunding; and ● (2) to remove or increase the investment limits by no longer applying those limits to accredited investors and allowing investors to rely on the greater of their income or net worth in calculating their investment limit. We are raising the offering limit in Regulation Crowdfunding from $1.07 million to $5 million and are adjusting the investment limits in reliance on the general exemptive authority under Securities Act Section 28. We believe that reliance on Section 28 to raise the offering limit is an appropriate use of our exemptive authority because the amendments will extend the exemption under Section 4(a)(6) of the Securities Act to additional classes of transactions (i.e., those that would cause the aggregate amount sold to all investors by the issuer in the 12 months preceding the transaction to be greater than $1 million, but not more than $5 million, and those involving accredited investors who invest above the statutory investment limits) We are also extending certain temporary rules relating to the financial statement requirements for Regulation Crowdfunding.

	<table><tr><th>Type of offering</th><th>Offering limit within 12-month period</th><th>General solicitation</th><th>Issuer requirements</th><th>Investor requirements</th><th>SEC filing requirements</th><th>Restrictions on resale</th><th>Preemption of state registration and qualification</th></tr><tr><td>Regulation Crowdfunding; Section 4(a)(6)</td><td>$5 million</td><td>Testing the waters permitted before Form C is filed. Permitted with limits on advertising after Form C is filed. Offering must be conducted on an internet platform through a registered intermediary</td><td>Excludes non-U.S. issuers, blank check companies, Exchange Act reporting companies, and investment companies. "Bad actor" disqualifications apply</td><td>No investment limits for accredited investors. Non-accredited investors are subject to investment limits based on the greater of annual income and net worth</td><td>Form C, including two years of financial statements that are certified, reviewed or audited, as required. Progress and annual reports</td><td>12-month resale limitations</td><td>Yes.</td></tr></table>
Special Purpose Vehicles	**F. Regulation Crowdfunding and Regulation A Eligibility** The Commission's exempt offering framework includes specific eligibility restrictions excluding certain types of entities or activities by issuers that apply to both Regulation A and Regulation Crowdfunding. While Regulation Crowdfunding does not restrict the types of securities eligible to be sold under the exemption, the types of securities eligible for sale under Regulation A are limited to equity securities, debt securities, and securities convertible or exchangeable to equity interests, including any guarantees of such securities.[469] The Commission proposed to amend Regulation Crowdfunding: ● To permit the use of certain special purpose vehicles to facilitate investing in Regulation Crowdfunding issuers; and ● To limit the securities eligible to be sold under Regulation Crowdfunding.

The Commission additionally proposed to amend Regulation A to exclude Exchange Act registrants that are delinquent in their Exchange Act reporting obligations from relying on the exemption.

A. PROPOSED AMENDMENTS

The proposed rule included several conditions for crowdfunding vehicles intended to address specific investor protection concerns raised by a vehicle that acts as a conduit for investments in a crowdfunding issuer. Specifically, under the proposed rule, the crowdfunding vehicle:

- Must be organized and operated for the sole purpose of acquiring, holding, and disposing of securities issued by a single crowdfunding issuer and raising capital in one or more offerings made in compliance with Regulation Crowdfunding;

- Would not be permitted to borrow money and would be required to use the proceeds of the securities it sells solely to purchase a single class of securities of a single crowdfunding issuer;

- Would be permitted to issue only one class of securities in one or more offerings under Regulation Crowdfunding in which the crowdfunding vehicle and the crowdfunding issuer are deemed to be co-issuers under the Securities Act;

- Would be required to obtain a written undertaking from the crowdfunding issuer to fund or reimburse the expenses associated with the crowdfunding vehicle's formation, operation, or winding up, and the crowdfunding vehicle would not be permitted to receive other compensation, and any compensation paid to any person operating the vehicle would

	be required to be paid solely by the crowdfunding issuer; ● Would be required to maintain the same fiscal year end as the crowdfunding issuer, and maintain a one-to-one relationship between the number, denomination, type and rights of crowdfunding issuer securities it owns and the number, denomination, type and rights of its securities outstanding; ● Would be required to vote the crowdfunding issuer securities, and participate in tender or exchange offers or similar transactions, only in accordance with instructions from the investors in the crowdfunding vehicle; ● Would receive all of the disclosures and other information required under Regulation Crowdfunding from the crowdfunding issuer and would then be required promptly to provide such disclosures and information to the investors and potential investors in the crowdfunding vehicle's securities and to the relevant intermediary; and ● Would be required to provide to each investor the right to direct the crowdfunding vehicle to assert the rights under State and Federal law that the investor would have if he or she had invested directly in the crowdfunding issuer and provide each investor any information that it receives from the crowdfunding issuer as a shareholder of record of the crowdfunding issuer.
Eligible Securities	**2. REGULATION CROWDFUNDING ELIGIBLE SECURITIES**

Unlike Regulation A, which limits the types of securities eligible for sale to equity securities, debt securities, and securities convertible or exchangeable to equity interests, including any guarantees of such securities, Regulation Crowdfunding does not restrict the type of security that may be offered and sold in reliance on the exemption.

As a result, issuers using Regulation Crowdfunding have offered and sold a number of non-traditional securities, such as Simple Agreements for Future Equity ("SAFEs"), Simple Agreements for Future Tokens, and certain revenue sharing agreements.

A. PROPOSED AMENDMENTS

The Commission proposed to amend Regulation Crowdfunding to harmonize the rule with Regulation A and limit the types of securities that may be offered under the exemption to correspond with the eligible securities provision of Regulation A.

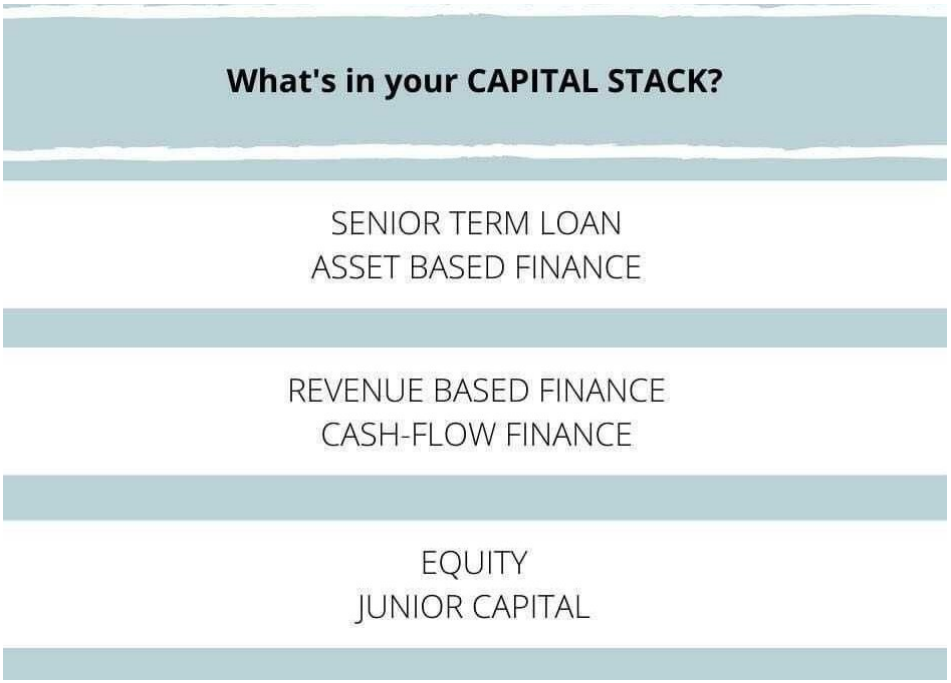
As proposed, the types of securities eligible for sale in an offering under Regulation Crowdfunding would be limited to equity securities, debt securities, and securities convertible or exchangeable to equity interests, including any guarantees of such securities.

C. FINAL AMENDMENTS

We are not adopting the proposed amendments to harmonize the securities eligible under Regulation Crowdfunding with the securities eligible under Regulation A at this time in light of commenters' concerns that doing so would limit the utility of Regulation Crowdfunding.

	We are also not adopting rule changes that would specifically prohibit SAFEs under Regulation Crowdfunding. We recognize the concern that the offer and sale of non-traditional securities to retail investors in an exempt offering could result in harm to investors who may face challenges in analyzing and valuing such securities or who may be confused by the descriptions of such securities on the funding portals. However, we believe that many of these concerns can be addressed by providing adequate disclosure to investors. To this end, issuers assessing their compliance with Regulation Crowdfunding should carefully consider whether they are clearly describing the terms of the offered securities, especially in the case of non-traditional securities, such as SAFEs. 17 CFR 227.201(m) requires issuers to disclose the terms of the securities being offered whether or not such securities have voting rights, any limitations on such voting rights, how the terms of the securities being offered may be modified and a summary of the differences between such securities and each other class of security of the issuer, and how the rights of the securities being offered may be materially limited, diluted or qualified by the rights of any other class of security of the issuer. We remind issuers of non-traditional securities of the need to carefully consider their obligations under this rule.
Capital Market Slingshot	**What is a capital markets strategy?** Whenever we work with issuers, we aren't focused solely on the raise in question. Our goal is to develop a multi-year strategy that allows the issuer to raise capital in the most efficient way possible. This means we are looking for a combination of equity and debt financing opportunities as the business scales to continually drive

momentum, and eventually “launch” the company into the public markets.



The Capital Markets Slingshot

Seed - <$5m (Friends & Family, Angel)

- Reg-D / 506(b): Venture Preferred
- Reg-CF: Common Shares + Voting Rights
    - **Benefits to founders**
        - They can avoid “predatory capital” from the traditional VC model.
        - Everyone is equal in terms of liquidation preferences, which creates a more equitable

relationship with early shareholders

- **Benefits to investors**
  - Early customers can have the chance to partner with a company who is creating products and services for their needs
  - Allows for a more customer centric incentive model (do the right thing for the customers) vs VC return centric incentive model (generate maximum returns as fast as possible)

- **Benefits to future investors**
  - Many founders are concerned a Reg-CF would "mess up" their cap table and make their deal less interesting to venture and institutional investors.
  - Data suggests the opposite: early confirmation of the founders ability to raise capital from the crowd provides more confidence in follow-on rounds.

Series A - $5m - $15m ("Venture Debt")

- Reg-CF: Convertible Note
  - 20% Discount to Next Round
  - No Valuation Cap

- **Benefits to founders**
  - More growth capital with less dilution early on.
  - This reduces the potentially demoralizing impact of giving up too much equity too soon, while also giving the team incentive to grow as fast as possible into the next priced round
- **Benefit to investor**
  - Interest payments "de-risk" investment in the form of regular return of capital

- Equity kicker provides “moonshot” upside.

Series B – $15m - $100m

- Reg-A+ (“Priced Round”)
  - Common Shares + Voting Rights

IPO

- Direct Listed IPO
  - Most efficient form of capital raising + most founder friendly terms

- Reverse Take Over (RTO)
  - Distressed asset that is publicly listed.
  - Take it over and change the symbol
    - You see ticker SHIT and it trades at 1/10th penny, behind of filings, and it’s garbage.
    - You acquire that vehicle, then clean up the entire share structure.
      - Make the float really small and kill all the previous shareholders
      - Get current on your filings (K’s and Q’s)
      - Roll your asset in with all your shareholders
  - This is not a great option. Comes with lots of problems and legal risk.

- SPAC

Q&A
