IIB
Independent Investment Bankers

Marcia E. Asquith
Office of Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1508

August 31,2012

RE: FINRA Regulatory Notice 12-34; Request for Comment on Regulation of Crowdfunding Activities

Dear Ms. Asquith,

Independent Investment Bankers Corp. appreciates the opportunity to provide this letter in response to FINRA Regulatory Notice 12-34 ("Notice 12-34"), which seeks public comments on the appropriate scope of FINRA rules that should apply to member firms engaging in crowdfunding activities either as funding portals or as brokers pursuant to Title III of the Jumpstart Our Business Startups Act (the "JOBS Act"). This letter also includes our response to FINRA's request for comments regarding the development of proposed rules relating to funding portals pursuant to Title III of the JOBS Act that are not registered as broker-dealers and may become subject to FINRA rules pending further regulatory guidance from the Securities and Exchange Commission ("SEC").

INDEPENDENT INVESTMENT BANKERS CORP.

Independent Investment Bankers Corp. is a registered broker-dealer dedicated to supporting middle market investment bankers engaged in M&A and raising capital for public and private companies. Our transactions involve institutional investors only (Private Equity Funds, Venture Capital, Strategic Investors and the like). We do not solicit investments from individual accredited investors.

OVERVIEW - CROWDFUNDING

The JOBS Act is aimed at increasing American job creation and economic growth, and it contains key provisions relating to securities offered or sold through funding portals in the transactions contemplated in Title III of the JOBS Act. The JOBS Act, as well as more specifically the Capital Raising Online While Deterring Fraud and Unethical Non-Disclosure Act of 2012 or the "CROWDFUND Act", establishes a new exemption from registration under the Securities Act of 1933 ("1933 Act"). The new exemption allows issuers to sell up to $1 million of securities in a 12-month period without 1933 Act registration. Under the exemption, each investor is limited in the amount he/she can invest based on the investor's unique circumstances. If an investor's annual income or net worth is less than $100,000, the investor may invest up to the greater of $2,000 or 5% of that annual income or net worth. If an investor's annual income or net worth is equal to or more than $100,000, the per-investor cap equals 10% of the annual income or net worth, not to exceed a maximum aggregate amount sold of $100,000.

Issuers must be "qualified" in order to offer securities in a crowdfunded offering. An issuer using the crowdfunding exemption is responsible for certain mandatory disclosures about Itself (including its capital structure and financial information), its principals, the purpose and use of proceeds of the offering, the offering amount, and the pricing and terms of the units being sold. Financial information

must undergo a review by an independent accountant for offerings over $100,000 and an audit is required for offerings over $500,000. Issuers also are required to comply with certain advertising limits, promotion compensation restrictions, and periodic reporting requirements.

Finally, issuers must subject themselves to a new Section 12(a)(2)-type liability regime. For the purposes of this new exemption from registration, in assessing who may share liability for material misstatements and misleading omissions, the term "issuer" includes the issuer's directors or partners, CEO, and CFO. So, any of them can be held liable as a primary violator. So the directors and officers are subject to statutory liability for the accuracy and completeness of offering information.

Under the new law, intermediaries performing crowdfunding on behalf of issuers must register with the SEC as a "funding portal" or broker and must register with an applicable self-regulatory organization ("SRO"). A new type of registered, regulated entity has been defined by the CROWDFUND Act by means of amendments of both the 1933 Act and the Securities Exchange Act of 1934 (the "1934 Act"). Under the 1934 Act, these funding portals have a limited scope of permitted activities, and while they generally (absent the case of a portal receiving compensation in the form of a selling commission) are exempt from registration as a broker or dealer, they are always subject to regulation as members of national securities associations.

Intermediaries, like issuers, are subject to many obligations in connection with their role in the offering. Like issuers, these intermediaries are subject to certain mandatory disclosure requirements. Each intermediary also is responsible for:

- ensuring investor review of required investor-education materials and understanding of the risk of the offering,
- implementing fraud risk reduction of some kind,
- funneling issuer information to the SEC and investors,
- ensuring that the offering proceeds are held until a specific funding target is met,
- ensuring compliance with the investment limits (per-investor caps) described above,
- instituting investor privacy protections,
- not selling investor information, and
- preventing self-dealing by its principals.

The required involvement of a registered broker or funding portal, together with the misstatements and omissions liability and mandatory disclosures included in the CROWDFUND Act, constitute the key investor and market protection tools provided for in the legislation.

MY COMMENTS

The obvious argument in favor of the CROWDFUND Act is that it should stimulate capital formation activity for smaller businesses which in turn should create jobs. The obvious argument against the CROWDFUND Act is simply the increased risk of FRAUD. While the new law may assist smaller companies to gain access to capital, it will come at cost. The costs are those that will be incurred by the issuer in order to comply with the new law. Those costs will include legal, accounting, education and marketing materials and funding portal fees, which may be significant as a percentage of the cost of the offering. Also, I would argue that it will open the door for internet scam artists, boiler rooms and con-

artists worldwide to take advantage of unsuspecting investors. The Act could stimulate this activity by creating an environment where the primary regulation is "caveat emptor" and inviting non-regulated entities and individuals to effectively conduct securities transactions outside the oversight of the SEC, FINRA, and other regulatory bodies.

Also, as a byproduct, funding portals will create databases of individual small investor information that may become targets for hackers. The mere participation of investors in a particular funding effort guarantees that each has a measurable net worth, making them prime targets for scams and frauds by those outside the prevue of the investment community.

If the goal is to stimulate capital formation activity for smaller businesses, it would in my opinion make more sense to create another class of security that could be offered through a regulated broker-dealer. This way the broker-dealer community has the ability to offer a security class that has similar characteristics to those described in the Act, while at the same time offering investors some level of comfort that those securities are offered through a regulated financial institution with the processes, licensing, registrations and supervision to effectively manage such offerings.

Other considerations are as follows:

- COST OF CAPITAL –The Act requires a financial statement review or audit, legal work, educational and marketing materials and funding portals services which in the end will require significant costs to be incurred as a percentage of the funds raised. In addition, in a $500,000 offering there may be as many as 200 investors and the reporting, tax and administrative work to manage those relationships would be cumbersome to the issuer and funding portal. The rules should be created so that it will be simpler to comply with and less expensive while at the same time affording the investors some level of protection.

- FIDUCIARY RISK – The issuers and their principals will be subject to new Section 12(a)(2)-type liability I doubt any legitimate principals and directors of the funding portal will want to personally be sharing in the liability and the risk of loss related to selling an inherently risky investment. Material misstatements and omissions are impossible to entirely avoid in these circumstances. In a startup environment, there are many unknown factors and unknown risks. Investors have generally by contract accepted responsibility for doing due diligence and in essence have waived claims resulting from material misstatements in disclosures that relate to some matters.

- SUITABILITY - There are no explicit suitability requirements for the investor other than the investment limits based on the investors' income. However, the implicit effect of limiting the individual's annual investment amount is to match the total investment exposure in a 12-month rolling period to the investor's income, as a measure of the investor's financial resources. It would not seem that any additional regulation should be required in this respect.

- PRICING – How will valuations be determined? Unreasonable valuations based on pie-in-the-sky projections could be of significant concern for investors, and it seems like some kind of Fairness Opinion or third party valuation service should be useful to provide investors some kind of assurance that the pricing is reasonable. Otherwise, these matters could best be dealt with by

market forces and free enterprise, and certainly many resources are available to investors in regard to investment advice.

- DUE DILIGENCE - There are no due diligence requirements such as those required under Notice to Member 10-22. Other than what is required for financial information there are not any other due diligence requirements that the funding portal must follow. In most cases the issuer may have no financial statements other than projections based on numerous assumptions as it is sometimes a concept-stage Company. The funding portal, beyond checking through reasonably available public data sources to verify information, should not be required to check other funding portals or broker-dealers to determine if the offering exceeds the $1 million limit. The funding portal should be required to make a cursory review, but not be required to verify the accuracy, completeness or reasonableness, of the issuer's disclosures in the offering. If the funding portal were required to comply with Notice to Member 10-22, then the cost to conduct the due diligence could be significantly too high for the issuer to afford. Broker-dealers should be provided the same exemptions as funding portals for similar offerings.

- LICENSING & CONTINUING EDUCATION – The anticipated licensing requirements for funding portals are registration with the SEC and SRO. The funding portals are expected to provide supervision, review advertising, vet investors, conduct AML, and prevent fraud. These are all regulated and well defined functions for which licensing and continuing training are required. These requirements are very similar to those required by broker-dealers, and therefore such representative licensing should be required for funding portal personnel including some kind of Written Supervisory Procedures ("WSPs").

- BROKER DEALER AUTO QUALIFICATION – Broker-dealers are already subject to ongoing regulatory requirements, monitored and enforced by FINRA and the SEC through the surveillance and examination process. It appears that funding portals will be under less scrutiny than broker-dealers that offer similar limited services. Therefore, broker-dealers should automatically be granted similar exemptions if they are currently approved for private placements and don't handle customer funds or securities. So broker-dealers that want to sell a crowdfunding offering will automatically be approved to do so and afforded the same exemptions and regulations as a funding portal. This will provide for a level playing field and give existing broker-dealers that want to add this line of business an opportunity to expand without going through an application process. Moreover, broker-dealers engaged in private placements will have WSPs in place to supervise such activities.

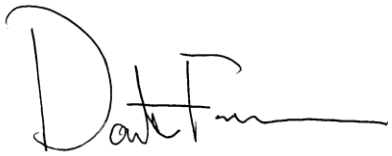
- GENERAL SOLICITATION - There is no restriction on general solicitation and advertising, although it must be done by the intermediary and not the issuer. I do believe that any materials disseminated to investors should include information regarding any disciplinary history of the funding portal and the issuers. There should be a disclosure of all crowdfunding offerings that failed meaning that the company ran out of money and closed down operations. Also if any parties have ever been convicted of a securities related offense EVER that they be barred from crowdfunding.

- SECURITIES OFFERED – The CROWDFUND Act does not limit the type of security that may be offered and sold in a crowdfunded offering or the terms of that security. An issuer may offer and sell common stock, preferred stock, debt, investment contracts, or any other instrument classified as a security. This includes convertibles and exchangeables and redeemables.

I believe that the concept of crowdfunding under Article III of the JOBS Act will be beneficial for seed and early stage companies and make it easier for these companies to raise capital. In addition, it conceptually should allow sophisticated investors who do not qualify as accredited investors to have access to wealth-creating startup-up company investments. However, I do believe the cost of capital and the risk of fraud is going to be high, and it has yet to be determined if the benefits will exceed the cost.

Thank you for the opportunity to provide my thoughts to FINRA's request for my comments on the proposed regulation of crowdfunding activities.

Sincerely,



Dante Fichera
Chief Executive Officer / President
Independent Investment Bankers Corp.