

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for**  
**Rules 300-304 of Crowdfunding (Intermediaries)**

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

The Jumpstart our Business Startups Act (the “JOBS Act”)<sup>1</sup> enacted on April 5, 2012 establishes the foundation for a regulatory structure for startups and small businesses to conduct securities offerings using the Internet through crowdfunding under new Section 4(a)(6) of the Securities Act of 1933 (“Section 4(a)(6)”). The crowdfunding provisions of the JOBS Act require persons who act as intermediaries in a transaction involving the offer or sale of securities pursuant to Section 4(a)(6) to register with the Securities and Exchange Commission (the “Commission”) as a broker or a funding portal.

On October 23, 2013, the Commission proposed Rules 300-304 under the Securities Act of 1933 (“Securities Act”), which will impose certain burdens and recordkeeping requirements on intermediaries.<sup>2</sup> The Commission reviewed and considered all of the comment letters that it received on the Proposing Release, and on October 30, 2015, the Commission adopted final rules and forms to implement Rules 300-304 of Regulation Crowdfunding.<sup>3</sup> The rules are based on an intermediary developing an electronic platform to offer or sell securities in reliance on Section 4(a)(6).

Rule 300 requires an intermediary to be registered with the Commission as a broker or as a funding portal and be a member of a registered national securities association.<sup>4</sup> Registration for brokers requires the filing of Form BD and, if withdrawing from registration, the filing of Form BDW. Brokers must also promptly amend Form BD when information changes or becomes inaccurate. Registration of funding portals will be addressed in another submission.

Rule 301 requires intermediaries to have a reasonable basis for believing that an issuer seeking to offer and sell securities in reliance on Section 4(a)(6) through the intermediary’s platform complies with the requirements in Section 4A(b) of the Securities Act and the related requirements in Regulation Crowdfunding. In satisfying this requirement, an intermediary may rely on the representations of the issuer concerning compliance with these requirements unless

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<sup>1</sup> Pub. L. No. 112-106, 126 Stat. 306 (2012).

<sup>2</sup> See *Regulation Crowdfunding*, Exchange Act Release No. 70741, (Oct. 23, 2013) 78 Fed. Reg. 66428, 66559-62 (Nov. 5, 2013) (“Proposing Release”).

<sup>3</sup> See *Regulation Crowdfunding*, Exchange Act Release No. 76324 (Oct. 30, 2015), 80 Fed. Reg. 71387 (Nov. 16, 2015) (Final Rule) (“Regulation Crowdfunding”).

<sup>4</sup> Today, FINRA is the only registered national securities association.

the intermediary has reason to question the reliability of those representations. Rule 301 further requires intermediaries to have a reasonable basis for believing that an issuer has established means to keep accurate records of the holders of the securities it would offer and sell through the intermediary's platform, provided that an intermediary may rely on the representations of the issuer concerning its means of recordkeeping unless the intermediary has reason to question the reliability of those representations. Rule 301 also requires intermediaries to conduct a background and securities enforcement regulatory history check on each issuer whose securities are to be offered by the intermediary and on each officer, director or beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities to determine whether the issuer or specified person is subject to a disqualification.

Rule 302 provides that no intermediary or associated person of an intermediary may accept an investment commitment in a transaction involving the offer or sale of securities made in reliance on Section 4(a)(6) until the investor has opened an account with the intermediary and the intermediary has obtained from the investor consent to electronic delivery of materials. The rule further requires intermediaries to deliver educational materials to such investors. Additionally, an intermediary is required to inform investors that any person who promotes an issuer's offering for compensation, whether past or prospective, or who is a founder or an employee of an issuer that engages in promotional activities on behalf of the issuer on the intermediary's platform, must clearly disclose in all communications on the intermediary's platform, respectively, the receipt of the compensation and that he or she is engaging in promotional activities on behalf of the issuer.

Rule 303 requires an intermediary to make publicly available on its platform the information that an issuer of crowdfunding securities is required to provide to potential investors, in a manner that reasonably permits a person accessing the platform to save, download or otherwise store the information, for a minimum of 21 days before any securities are sold in the offering, during which time the intermediary may accept investment commitments. This information, including any additional information provided by the issuer, must remain publicly available on the intermediary's platform until the offer and sale of securities is completed or cancelled. Rule 303 also requires intermediaries to comply with the requirements related to the maintenance and transmission of funds. An intermediary that is a registered broker is required to comply with the requirements of Rule 15c2-4 of the Securities Exchange Act of 1934 ("Exchange Act") (Transmission or Maintenance of Payments Received in Connection with Underwritings).<sup>5</sup> An intermediary that is a registered funding portal must direct investors to transmit the money or other consideration directly to a qualified third party that has agreed in writing to hold the funds for the benefit of, and to promptly transmit or return the funds to, the persons entitled thereto in accordance with Regulation Crowdfunding. For purposes of Regulation Crowdfunding, a qualified third party means (i) a registered broker or dealer that carries customer or broker or dealer accounts and holds funds or securities for those persons or (ii) a bank or credit union (where such credit union is insured by National Credit Union Administration) that has agreed in writing either to hold the funds in escrow for the persons who have the beneficial interests therein and to transmit or return such funds directly to the persons entitled thereto when so directed by the funding portal as described in Regulation Crowdfunding. A funding portal is also required to promptly direct the qualified third party to either (i) transmit

<sup>5</sup> 17 CFR 240.15c2-4.

funds from the qualified third party to the issuer when the aggregate amount of investment commitments from all investors is equal to or greater than the target amount of the offering; (ii) return to funds to an investor when an investment commitment has been cancelled; or (iii) return funds to investors when an issuer does not complete the offering.

The rules also require intermediaries to implement and maintain systems to comply with the information disclosure, communication channels, and investor notification requirements. These requirements include providing disclosure about compensation at account opening (Rule 302), obtaining investor acknowledgements to confirm investor qualifications and review of educational materials (Rule 303), providing investor questionnaires (Rule 303), providing communication channels with third parties and among investors (Rule 303), notifying investors of investment commitments (Rule 303), confirming completed transactions (Rule 303) and confirming or reconfirming offering cancellations (Rule 304).

## **2. Purpose and Use of the Information Collection**

The provisions of Rule 301 will help ensure that intermediaries take measures to reduce the risk of fraud with respect to transactions made in reliance on Section 4(a)(6). Specifically, the duty placed on intermediaries to have a reasonable basis for believing that an issuer complies with applicable requirements would provide an additional layer of assurance that issuers had followed regulations. Likewise, the requirement that intermediaries have a reasonable basis for believing that an issuer has established a means to keep accurate records of security holders would aid in ensuring that records exist and could be accessed by regulators, if requested. The requirement that intermediaries conduct a background and securities enforcement regulatory history check on each issuer and specified persons to determine whether the issuer or person is subject to a disqualification would help ensure that Section 4(a)(6) could be appropriately relied upon by the issuer.

The requirement under Rule 302 that an investor open an account with the intermediary provide the intermediary with basic information about the investor and could help ensure that the intermediary knows the identity of the person using its platform. An intermediary's obligation to provide information through electronic delivery of materials would help ensure the timely transmission of information necessary under the proposed rules. The provisions requiring intermediaries to provide educational materials to investors and to inform investors about disclosures relating to promoters aid investors in understanding risks and making appropriate investment decisions. Likewise, the requirement that an intermediary disclose the manner in which it is compensated further informs investors about the offering and any potential conflicts of interest.

Rule 303's provision requiring an intermediary to make publicly available on its platform the information that an issuer of crowdfunding securities is required to provide to potential investors help ensure that investors have full and continuing access to this information. The requirements that an intermediary must have a reasonable basis for believing that the investor satisfies investment limitations, obtain certain representations from investors, and obtain a questionnaire demonstrating certain aspects of an investor's understanding of the investment serve to protect investors. The obligation that intermediaries comply with the requirements

related to the maintenance and transmission of funds would assist in safeguarding investor funds. Finally, the requirement that intermediaries send notices of investment commitments and confirmations enable investors to track their investments.

The requirements under Rules 302 through 304 mandating that intermediaries implement and maintain systems to comply with information disclosure requirements and communication channels aid information flow to investors. Additionally, an intermediary's development of an electronic platform to offer or sell securities in reliance on Section 4(a)(6) help facilitate transactions expeditiously and in the manner contemplated by Congress in Title III of the JOBS Act.

### **3. Consideration Given to Information Technology**

The rules require that all crowdfunding transactions under Section 4(a)(6) be conducted through a registered intermediary on an Internet website or other similar electronic medium to help ensure that the offering is accessible to the public and that members of the crowd can share information and opinions. The rules do not permit offerings to be conducted through means other than the Internet or similar electronic medium because allowing other non-electronic means would be inconsistent with the underlying principles of crowdfunding and the statute.

Under the rules, all information to be provided by intermediaries must be provided electronically, and investors would be permitted to participate only if they agree to accept electronic delivery of all documents in connection with the offering. Requiring investors to consent to electronic delivery of documents relating to the offering, and requiring that intermediaries provide information electronically, facilitates the ability of the investor, intermediary, and issuer to comply with, and act in a timely manner, with respect to certain requirements of Regulation Crowdfunding.

### **4. Duplication**

Intermediaries will be involved in a new market sector. Intermediaries that are brokers will be subject to existing broker-dealer requirements; however, Regulation Crowdfunding was drafted taking into account existing regulation so as to avoid any duplication. Funding portals, in particular, are new entities for which no rules are yet adopted or in effect. As detailed below, the regulatory scheme for intermediaries has been crafted from existing broker rules which are either expressly applied to intermediaries or tailored to fit the new market.

Rule 302 requires intermediaries to open an account for investors, to provide educational materials, and to disclose information about promoters' and the intermediary's compensation. The requirement to open an account is standard practice by brokers in the securities industry. The additional requirements under Rule 302 provide a regulatory framework for the new, Internet-based market and would not be duplicative of rules currently in effect.

Rule 303 requires intermediaries to make certain issuer information available, make determinations as to investor qualifications, provide communication channels, give investor notifications concerning commitments, maintain and transmit funds in accordance with the rule,

and send confirmations. To avoid duplication, the Commission did not impose obligations on brokers regarding the maintenance and transmission of investor funds beyond those currently required by existing Rule 15c2-4, to which they are already subject. To tailor the regulatory scheme to the new market, however, Rule 303(f)(2) allows an intermediary to be exempt from the confirmation requirements of Exchange Act Rule 10b-10<sup>6</sup> (Confirmation of Transactions) if the intermediary satisfies certain requirements outlined in Regulation Crowdfunding. All other requirements under Rule 303 are new requirements and not duplicative.

Rule 301 (requiring an intermediary to take measures to reduce the risk of fraud) and Rule 304 (requiring intermediaries to give notices regarding certain events related to an offering) are tailored to the new crowdfunding market for which rules are not yet in place.

## 5. Effect on Small Entities

The Commission's rules do not define "small business" or "small organization" for purposes of intermediaries involved in the offer or sale of securities in reliance on Section 4(a)(6). Paragraph (c) of Rule 0-10 under the Exchange Act provides that, for purposes of the Regulatory Flexibility Act, "[w]hen used with reference to a broker or dealer, the Commission has defined the term "small entity" to mean a broker or dealer that: (1) had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a-5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section."<sup>7</sup> Currently, based on FOCUS Report data, there are 871 broker-dealers that are classified as "small" entities under this definition.<sup>8</sup> We apply comparable criteria to those intermediaries that are *not* already registered as brokers that will choose to be registered as funding portals under Regulation Crowdfunding. Based on discussions with industry participants, we estimate that, of the anticipated 50 funding portals we expect to register each year under Regulation Crowdfunding, 30 would be classified as "small" entities for purposes of the Regulatory Flexibility Act.<sup>9</sup>

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<sup>6</sup> 17 CFR 240.10b-10.

<sup>7</sup> 17 CFR 240.0-10(c).

<sup>8</sup> FOCUS Reports, or "Financial and Operational Combined Uniform Single" Reports, are monthly, quarterly, and annual reports that broker-dealers generally are required to file with the Commission and/or self-regulatory organizations pursuant to Exchange Act Rule 17a-5 (17 CFR 240.17a-5).

<sup>9</sup> For PRA purposes, the number of small business entities is calculated by multiplying the number of respondents by the 30/50 percentage or 60%. However, only those newly registered intermediaries as well as the new funding portals will be included in the calculation. The brokers already registered with the Commission would be excluded from the calculation.

Intermediaries are required by statute to register with the Commission. As such, the final rules and forms will affect intermediaries, which could be small entities. The Commission does not believe differing compliance or reporting requirements or an exemption from coverage of the final rules and forms, or any part thereof, for small entities would be appropriate or consistent with investor protection or with the Commission's understanding of Congress's intent to have the Commission register intermediaries and oversee their activities. Thus, the final rules and forms are designed to impose only those burdens necessary to accomplish the objectives of the JOBS Act and minimize any significant adverse impact on small entities.

## **6. Consequences of Not Conducting Collection**

The collection of information under the final rules and forms is designed to establish a regulatory framework for intermediaries. The registration regime will allow the Commission to retrieve and analyze the data it needs more efficiently, which should enhance the Commission's ability to carry out its mission with respect to intermediaries involved in the offer and sale of securities in reliance on Section 4(a)(6) effectively. Absent this registration regime, funding portals would not have a permanent mechanism through which to satisfy the requirement in the JOBS Act that they register with the Commission. Additionally, the consequence of not imposing other obligations on intermediaries would be contrary to the purposes of the JOBS Act.

## **7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)**

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

## **8. Consultations Outside the Agency**

The Commission issued a release soliciting comment on the new "collection of information" requirements and associated paperwork burdens. A copy of the release is attached. Comments on Commission releases were generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Comments received on this proposed rulemaking were posted on the Commission's public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission considered all comments received prior to publishing the final rule, and explained in the adopting release how the final rule responds to such comments, as applicable, in accordance with 5 CFR 1320.11(f).

## **9. Payment or Gift**

Not applicable.

## **10. Confidentiality**

The records required by Rules 301 through 304 are available only for the examination of the SEC staff, state securities authorities, and self-regulatory organizations. Subject to the provisions of

the Freedom of Information Act, 5 U.S.C. § 552 (2012), and the SEC’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the SEC does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation. This information is useful in connection with the Commission’s enforcement and examination functions pursuant to Section 15B(c) of the Exchange Act. Nonetheless, as stated in the instructions to the Form BD, social security numbers (“SSNs”) are not required to be given. Furthermore, SSNs are not included in publicly available versions of the form.

## **11. Sensitive Questions**

As discussed above in Item 10, the collection of information includes Personally Identifiable Information (“PII”).<sup>10</sup> In particular, the collection of information includes SSNs of sole proprietors on Form BD and Form BDW only if the sole proprietor does not provide an IRS Employer Identification Number.<sup>11</sup> Likewise, the collection of information on Form BD includes SSNs of direct and indirect owners and executive officers of the broker-dealer if such persons did not have a CRD number.

The Commission has also published a System of Records Notice for the collection of information relating to Form BD and Form BDW.<sup>12</sup> In addition, a Privacy Impact Assessment (“PIA”) has been completed for the EDGAR system.<sup>13</sup>

## **12. Burden of Information Collection**

The rules would require intermediaries to register with us as either a broker or funding portal. We estimate that the collections of information would apply to approximately 10 intermediaries per year that are not currently registered with the Commission and that will choose to register as brokers, rather than funding portals, to act as intermediaries for offerings made in reliance on Section 4(a)(6). However, we believe that, given the cost that an unregistered entity would incur to register as a broker with us, compared with the lower cost of becoming a funding portal, unregistered entities that choose to act as crowdfunding intermediaries will generally be more likely to register as funding portals than as brokers.

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<sup>10</sup> The term “Personally Identifiable Information” (PII) refers to information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. See Rule 305(c) of Regulation Crowdfunding. PII could include any information that can be used to identify an individual, such as their name, social security number, date or place of birth, mother’s maiden name or biometric records, as well as any other information that is linked directly to an individual, such as such as financial, employment, educational or medical information.

<sup>11</sup> In addition, the forms also request data on private residential addresses.

<sup>12</sup> See *System of Records Notices* SEC-55, SEC-49 and SEC-1 available at <http://www.sec.gov/about/privacy/secprivacyoffice.htm>.

<sup>13</sup> The PIA will be included in the PRA submission to OMB.

We further estimate that approximately 50 intermediaries per year that are already registered as brokers with the Commission will choose to add to their current service offerings by also becoming crowdfunding intermediaries. These entities will not have to file a new application for registration with us, and if currently doing business with the public, they will already be members of FINRA (the applicable national securities association registered under Exchange Act Section 15A). Because of the nascent nature of the equity-based crowdfunding market, we do not have any data or other evidence indicating the number of currently-registered brokers that will be interested in becoming crowdfunding intermediaries. Nor have we received comments on our estimates of the number of broker-dealers that will act as intermediaries. Therefore, we recognize that the number of brokers per year that may engage in crowdfunding activities could differ significantly from our current estimate.<sup>14</sup> We also believe that 50 intermediaries per year that are not already registered as brokers will choose to be registered as funding portals.

a. Development of Intermediary Platform

The rules are based on an intermediary developing an electronic platform to engage in transactions involving the offer or sale securities in reliance on Section 4(a)(6). A broker or funding portal that develop its initial platform in-house will incur an initial time burden associated with setting up their systems. Based on our discussions with potential intermediaries prior to the publication of our proposed rules, we estimate that intermediaries creating the initial platform in-house will typically have a team of approximately 4 to 6 developers that will work on all aspects of platform development, including, but not limited to, front-end programming, data management, systems analysis, communication channels, document delivery, and Internet security. To develop a platform in-house, we estimate, based on our discussions with potential intermediaries prior to the publication of our proposed rules, that intermediaries will spend an average of 1,500 hours for planning, programming and implementation.<sup>15</sup>

As discussed above, we anticipate that each year 10 intermediaries would newly register as brokers, 50 intermediaries would be brokers that are already registered and 50 intermediaries would register as funding portals. It is difficult to estimate the number of intermediaries that would develop their initial platforms in-house, but if we assume that half of the 110 newly-registered intermediaries were to do so each year for the first three years, the total number of

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<sup>14</sup> Similarly, we do not have any data or other evidence indicating with any degree of certainty how many unregistered “finders” would potentially choose to enter the securities-based crowdfunding market. *See, e.g.*, Task Force on Private Placement Broker-Dealers, note 894 (stating that quantifying the number of “finders” that help small businesses to obtain sources of capital “is an impossibility, since there is no effective measuring device.”).

<sup>15</sup> This average takes into account intermediaries that will develop a brand new platform and those that will modify an existing platform to function in accordance with Regulation Crowdfunding.



intermediary respondents would be 165<sup>16</sup> with a total initial one-time burden of 247,500 hours over the three-year period.<sup>17</sup>

We estimate that annually updating the features and functionality of an intermediary's platform would require approximately 20% of the hours required to initially develop the platform, for an average burden of 300 hours per year. If we assume that each year half of the 110 newly-registered intermediaries updated their systems accordingly (which would be 16,500 hours for the first year), the total ongoing burden would be 99,000 hours over the three-year period including the newly-registered intermediaries from each year before.<sup>18</sup>

**In summary, the Commission estimates that, over a three-year period, the total burden for the development of an intermediary platform would be 346,500 hours, or 115,500 hours per year<sup>19</sup> when annualized over three years. The burden per intermediary would be approximately 2,100 hours, or approximately 700 hours per year<sup>20</sup> when annualized over three years. We estimate that approximately half of this burden is a recordkeeping burden, and half is a third-party disclosure burden.<sup>21</sup>**

b. Measures to Reduce the Risk of Fraud

The rules require intermediaries to have a reasonable basis for believing that an issuer seeking to offer and sell securities in reliance on Section 4(a)(6) through the intermediary's platform complies with the requirements in Section 4A(b) and the related requirements in Regulation Crowdfunding.<sup>22</sup> The rules also require intermediaries to have a reasonable basis for

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<sup>16</sup>  $55$  (estimated number of intermediaries  $Y^1$ ) +  $55$  (estimated number of intermediaries  $Y^2$ ) +  $55$  (estimated number of intermediaries  $Y^3$ ) =  $165$ .

<sup>17</sup>  $Y^1$  ( $1,500$  hours  $\times$   $55$  new intermediaries) +  $Y^2$  ( $1,500$  hours  $\times$   $55$  new intermediaries) +  $Y^3$  ( $1,500$  hours  $\times$   $55$  new intermediaries) =  $247,500$  hours.

<sup>18</sup>  $Y^1$  ( $300$  hours  $\times$   $55$  intermediaries) +  $Y^2$  ( $300$  hours  $\times$   $110$  intermediaries) +  $Y^3$  ( $300$  hours  $\times$   $165$  intermediaries) =  $99,000$  hours.

<sup>19</sup>  $247,500$  hours (burden for developing an intermediary platform in-house, over three years) +  $99,000$  hours (burden to update system, over three years) =  $346,500$  hours  $\div$   $3$  =  $115,500$  hours per year.

<sup>20</sup>  $346,500$  hours (total burden to develop an intermediary platform, over three years)  $\div$   $165$  (intermediaries which will develop an intermediary platform, over three years) =  $2,100$  hours  $\div$   $3$  =  $700$  hours per respondent.

<sup>21</sup>  $173,250$  of the  $346,500$  hours, or  $57,750$  of the  $115,500$  hours per year would be attributed to the recordkeeping burden and the other  $173,250$  of the  $346,500$  hours, or  $57,750$  of the  $115,500$  hours per year would be attributed to the third-party disclosure burden when annualized over three years.  $1,050$  of the  $2,100$  hours, or approximately  $350$  of the  $700$  hours per year would be attributed to the recordkeeping burden and the other  $1,050$  of the  $2,100$  hours, or approximately  $350$  of the  $700$  hours per year would be attributed to the third-party disclosure burden when annualized over three years.

<sup>22</sup> See Rule 301(a) of Regulation Crowdfunding.

believing that an issuer has established means to keep accurate records of the holders of the securities it would offer and sell through the intermediary's platform. For both requirements, an intermediary may reasonably rely on the representations of the issuer, unless the intermediary has reason to question the reliability of those representations.

For the purposes of the PRA analysis, we expect that 100% of intermediaries would rely on the representations of issuers. This would impose an estimated time burden in the first year of five hours per intermediary to establish standard representations it will request from issuers, and 6 minutes per intermediary per issuer to obtain the issuer representation. These estimates are consistent with estimates we have used for other regulated entities to obtain similar documentation, such as consents, from customers. Based on our estimate that there would be approximately 1,900<sup>23</sup> offerings per year, that each issuer would conduct one offering per year, and that there would be 110 intermediaries, we calculate that each intermediary would facilitate approximately 17 offerings per year.<sup>24</sup> Therefore, we estimate that the total number of intermediary respondents would be 330<sup>25</sup> with a total initial one-time burden of 2,211 hours over the three-year period.<sup>26</sup>

We believe that the ongoing time burdens for this requirement would be approximately one hour per intermediary per year to review and check that the standard representations it requests from issuers remain appropriate, and 6 minutes per intermediary per issuer to obtain the representation. Therefore, we estimate that the ongoing total burden hours necessary for intermediaries to rely on the representations of the issuers would be approximately 1,782 hours over the three-year period.<sup>27</sup>

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<sup>23</sup> This estimate differs from our estimate in the proposal. It uses more recent data than the proposal and is based on the average number of issuers per year rather than the average number of unique issuers. According to filings made with the Commission, an average of approximately 4,559 issuers per year conducted new Regulation D offerings of up to \$1 million from 2009 to 2014. 22%, or 1,003, of those issuers reported having no revenues.  $(0.22 \times 4,559 = 1,003)$ . 19%, or 866, of those issuers reported having less than \$1 million in revenues.  $(0.19 \times 4,559 = 866)$ . Therefore, the average number of issuers per year is  $1,003 + 866 = 1,869$ , or approximately 1,900 issuers.

<sup>24</sup>  $1,900 \text{ offerings} \div (10 \text{ newly registered broker-dealers} + 50 \text{ previously registered broker-dealers} + 50 \text{ funding portals}) = 17.3$ .

<sup>25</sup>  $110 \text{ (estimated number of intermediaries } Y^1) + 110 \text{ (estimated number of intermediaries } Y^2) + 110 \text{ (estimated number of intermediaries } Y^3) = 330$ .

<sup>26</sup>  $Y^1 ((5 \text{ hours/intermediary} \times 110 \text{ new intermediaries}) + (6 \text{ minutes/issuer} \times 17 \text{ offerings} \times (110 \text{ new intermediaries}))) + Y^2 ((5 \text{ hours/intermediary} \times 110 \text{ new intermediaries}) + (6 \text{ minutes/issuer} \times 17 \text{ offerings} \times (110 \text{ new intermediaries}))) + Y^3 ((5 \text{ hours/intermediary} \times 110 \text{ new intermediaries}) + (6 \text{ minutes/issuer} \times 17 \text{ offerings} \times (110 \text{ new intermediaries}))) = 2,211 \text{ hours}$ .

<sup>27</sup>  $Y^1 ((1 \text{ hour/intermediary} \times 110 \text{ intermediaries}) + (6 \text{ minutes/issuer} \times 17 \text{ offerings} \times (110 \text{ intermediaries}))) + Y^2 ((1 \text{ hour/intermediary} \times 220 \text{ intermediaries}) + (6 \text{ minutes/issuer} \times$

**In summary, the Commission estimates that, over a three-year period, the total recordkeeping burden associated with measures taken to reduce the risk of fraud would be 3,993 hours or 1,331 hours per year<sup>28</sup> when annualized over three years. The recordkeeping burden per intermediary would be approximately 12.1 hours, or approximately 4.03 hours per year<sup>29</sup> when annualized over three years.**

c. Account Opening: Accounts and Electronic Delivery

The rules provide that no intermediary or associated person of an intermediary may accept an investment commitment in a transaction involving the offer or sale of securities made in reliance on Section 4(a)(6) until the investor has opened an account with the intermediary and consented to electronic delivery of materials.<sup>30</sup> This requirement will impose certain information gathering and recordkeeping burdens on intermediaries. For the purposes of the PRA, we expect that the functionality required for an investor to open an account with an intermediary and obtain consents will result in an initial time burden of approximately 10 hours per intermediary in the first year. Therefore, we estimate that the total number of intermediary respondents would be 330<sup>31</sup> with a total initial one-time burden of 3,300 hours over the three-year period.<sup>32</sup>

We believe that the ongoing time burdens for this requirement will be significantly less than the initial time burden, and thus we are estimating approximately two hours per intermediary per year, to review and assess the related processes. Therefore, we estimate that the ongoing total burden hours necessary for this functionality would be approximately 1,320 hours over the three-year period.<sup>33</sup>

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17 offerings x (220 intermediaries)) + Y<sup>3</sup> ((1 hour/intermediary x 330 intermediaries) + (6 minutes/issuer x 17 offerings x (330 intermediaries)) = 1,782 hours.

<sup>28</sup> 2,211 hours (burden to develop and obtain standard issuer representations, over three years) + 1,782 hours (burden associated with ongoing review of representations, over three years) = 3,993 hours ÷ 3 = 1,331 hours per year.

<sup>29</sup> 3,993 hours (total burden associated with measures taken to reduce the risk of fraud, over three years) ÷ 330 (intermediaries required to take measures to reduce the risk of fraud, over three years) = 12.1 hours ÷ 3 = 4.03 hours per respondent.

<sup>30</sup> See Rule 302(a) of Regulation Crowdfunding.

<sup>31</sup> 110 (estimated number of intermediaries Y<sup>1</sup>) + 110 (estimated number of intermediaries Y<sup>2</sup>) + 110 (estimated number of intermediaries Y<sup>3</sup>) = 330.

<sup>32</sup> Y<sup>1</sup> (10 hours/intermediary x 110 new intermediaries) + Y<sup>2</sup> (10 hours/intermediary x 110 new intermediaries) + Y<sup>3</sup> (10 hours/intermediary x 110 new intermediaries) = 3,300 hours.

<sup>33</sup> Y<sup>1</sup> (2 hours/intermediary x 110 intermediaries) + Y<sup>2</sup> (2 hours/intermediary x 220 intermediaries) + Y<sup>3</sup> (2 hours/intermediary x 330 intermediaries) = 1,320 hours.

**In summary, the Commission estimates that, over a three-year period, the total recordkeeping burden associated with account opening would be 4,620 hours, or 1,540 hours per year<sup>34</sup> when annualized over three years. The recordkeeping burden per intermediary would be approximately 14 hours, or approximately 4.67 hours per year<sup>35</sup> when annualized over three years.**

d. Account Opening: Educational Materials

The rules require intermediaries to provide educational materials to investors,<sup>36</sup> about the risks and costs of investing in securities offered and sold in reliance on Section 4(a)(6). Given that the intermediary will determine what electronic format will prove most effective in communicating the requisite contents of the educational material, the expected costs for intermediaries to develop the educational material is expected to vary widely and are difficult to estimate. For the purposes of the PRA, we are assuming that half of the intermediaries will develop their educational materials in-house, potentially including online presentations and written documents, and that the other half will employ third-parties to produce educational materials, such as professional-quality online video presentations. We estimate that, to develop their non-video educational materials in-house, each intermediary would incur an initial time burden of approximately 20 hours. Therefore, we estimate that the total number of intermediary respondents would be 165<sup>37</sup> with a total initial one-time burden of 3,300 hours over the three-year period.<sup>38</sup>

Assuming that half of the intermediaries will develop their educational materials in-house, we expect that these intermediaries also will update their educational materials in-house, as needed. We estimate that to update their educational materials in-house, each intermediary will incur an ongoing time burden of approximately 10 hours per year. Therefore, we estimate that the ongoing total burden hours will be approximately 3,300 hours over the three-year period.<sup>39</sup>

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<sup>34</sup> 3,300 hours (burden associated with opening accounts and obtaining consents to electronic delivery of materials, over three years) + 1,320 hours (burden associated with ongoing reviews, over three years) = 4,620 hours ÷ 3 = 1,540 hours per year.

<sup>35</sup> 4,620 hours (total burden associated with accounts and electronic delivery, over three years) ÷ 330 (intermediaries with accounts and electronic delivery, over three years) = 14 hours ÷ 3 = 4.67 hours per respondent.

<sup>36</sup> See Rule 302(b) of Regulation Crowdfunding.

<sup>37</sup> 55 (estimated number of intermediaries Y<sup>1</sup>) + 55 (estimated number of intermediaries Y<sup>2</sup>) + 55 (estimated number of intermediaries Y<sup>3</sup>) = 165.

<sup>38</sup> Y<sup>1</sup> (20 hours/intermediary x 55 new intermediaries) + Y<sup>2</sup> (20 hours/intermediary x 55 new intermediaries) + Y<sup>3</sup> (20 hours/intermediary x 55 new intermediaries) = 3,300 hours.

<sup>39</sup> Y<sup>1</sup> (10 hours/intermediary x 55 intermediaries) + Y<sup>2</sup> (10 hours/intermediary x 110 intermediaries) + Y<sup>3</sup> (10 hours/intermediary x 165 intermediaries) = 3,300 hours.

**In summary, the Commission estimates that, over a three-year period, the total third-party disclosure burden associated with educational materials would be 6,600 hours, or 2,200 hours per year<sup>40</sup> when annualized over three years. The third-party disclosure burden per intermediary would be approximately 40 hours, or approximately 13.33 hours per year<sup>41</sup> when annualized over three years.**

e. Account Opening: Promoters

The rules require an intermediary, at the account opening stage, to disclose to users of its platform that any person who receives compensation to promote an issuer's offering, or who is a founder or employee of an issuer engaging in promotional activities on behalf of the issuer, must clearly disclose the receipt of compensation and his or her engagement in promotional activities on the platform.<sup>42</sup> For purposes of the PRA, we expect that this requirement will result in an estimated time burden of five hours per intermediary in the first year, to prepare this particular disclosure and incorporate it into the account opening process. Therefore, we estimate that the total number of intermediary respondents would be 330<sup>43</sup> with a total initial one-time burden of 1,650 hours over the three-year period.<sup>44</sup>

We believe that the ongoing time burdens for this requirement will be approximately one hour per intermediary per year to review and check that the disclosures remain appropriate. Therefore, we estimate that the ongoing total burden hours will be approximately 660 hours over the three-year period.<sup>45</sup>

**In summary, the Commission estimates that, over a three-year period, the total burden associated with preparing the initial disclosure and ongoing reviews of the disclosure would be 1,980 hours, or 660 hours<sup>46</sup> per year when annualized over three years.**

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<sup>40</sup> 3,300 hours (burden on intermediaries engaged in developing educational materials in-house, over three years) + 3,300 hours (burden on intermediaries engaged in updating educational materials in-house, over three years) = 6,600 hours ÷ 3 = 2,200 hours per year.

<sup>41</sup> 6,600 hours (total burden on intermediaries engaged in developing and updating educational materials in-house, over three years) ÷ 165 (intermediaries engaged in developing and updating educational materials in-house, over three years) = 40 hours ÷ 3 = 13.33 hours per respondent.

<sup>42</sup> See Rule 302(c) of Regulation Crowdfunding.

<sup>43</sup> 110 (estimated number of intermediaries Y<sup>1</sup>) + 110 (estimated number of intermediaries Y<sup>2</sup>) + 110 (estimated number of intermediaries Y<sup>3</sup>) = 330.

<sup>44</sup> Y<sup>1</sup> (5 hours/intermediary x 110 new intermediaries) + Y<sup>2</sup> (5 hours/intermediary x 110 new intermediaries) + Y<sup>3</sup> (5 hours/intermediary x 110 new intermediaries) = 1,650 hours.

<sup>45</sup> Y<sup>1</sup> (1 hour/intermediary x 110 intermediaries) + Y<sup>2</sup> (1 hour/intermediary x 220 intermediaries) + Y<sup>3</sup> (1 hour/intermediary x 330 intermediaries) = 660 hours.

<sup>46</sup> 1,650 hours (burden on intermediaries associated with preparing the initial disclosure, over three years) + 660 hours (burden on intermediaries associated with ongoing reviews

**The third-party disclosure burden per intermediary would be approximately 7 hours, or approximately 2.33 hours per year<sup>47</sup> when annualized over three years.**

f. Issuer Disclosures to be Made Available

The rules would require an intermediary to make publicly available on its platform the information that an issuer of crowdfunding securities is required to provide to potential investors, in a manner that reasonably permits a person accessing the platform to save, download or otherwise store the information, until the offer and sale of securities is completed or cancelled.<sup>48</sup>

For purposes of the PRA, our estimate of the hourly burdens related to the public availability of the issuer information is included as part of our estimate of the third-party disclosure hourly burdens associated with overall platform development, as discussed above. The platform functionality would include not only the ability to display, upload and download issuer information as required under the rules, but also the ability to provide users with required online disclosures, as discussed below.

We recognize that, over time, intermediaries may need to update their systems that allow issuer information to be uploaded to their platforms. We do not expect a significant ongoing burden for providing issuer disclosures, primarily because the functionality required for required issuer disclosure information to be uploaded is a standard feature offered on many websites and will not require frequent or significant updates.

g. Other Disclosures to Investors and Potential Investors

Intermediaries would be required to implement and maintain systems to comply with the information disclosure, communication channels, and investor notification requirements of Regulation Crowdfunding. These requirements include providing disclosure about compensation at account opening, obtaining investor acknowledgements to confirm investor qualifications and review of educational materials, providing investor questionnaires, maintaining communication channels with third parties and among investors, notifying investors of investment commitments, confirming completed transactions and confirming or reconfirming offering cancellations. Based on our discussions with industry participants, we expect these functionalities will generally be part of the overall platform development process and costs. We discuss platform development costs above, and note that these will include developing the functionality that will allow intermediaries to comply with disclosure and notification requirements.

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of disclosure, over three years) = 2,310 hours ÷ 3 = 770 hours per year.

<sup>47</sup> 2,310 hours (total burden associated with preparing the initial disclosure and ongoing reviews of the disclosure, over three years) ÷ 330 (intermediaries involved in the preparation and reviews of disclosure, over three years) = 7 hours ÷ 3 = 2.33 hours per respondent.

<sup>48</sup> See Rule 303(a) of Regulation Crowdfunding.

We do not expect a significant ongoing burden for providing disclosures, as required by the final rules, because the functionality required to provide information and communication channels would likely not require frequent updates. We incorporate the total burden to update the required functionality for processing issuer disclosure and investor acknowledgment information in the total burden estimates relating to platform development discussed above

h. Maintenance and Transmission of Funds

Intermediaries will be required to comply with the requirements related to the maintenance and transmission of funds. An intermediary that is a registered broker will be required to comply with the requirements of Rule 15c2-4 of the Exchange Act.<sup>49</sup> An intermediary that is a registered funding portal will be required to enter into a written agreement with a qualified third party that has agreed to hold its client funds, or to open a bank account for the exclusive benefit of the investors and issuer, and it also will be required to send directions to the qualified third party depending on whether an investing target is met or an investment commitment or offering is cancelled. For purposes of the PRA, we are providing an estimate for the time that a funding portal will incur to enter into on an initial basis and review and update on an ongoing basis, a written agreement with the qualified third party. We expect that the burden associated with the website functionality required to send directions to third parties would be included as part of the platform development discussed above. Based on discussion with industry participants, we estimate that 50 funding portals would incur an initial burden of approximately 20 hours each to comply with these requirements. Therefore, we estimate that the total number of intermediary respondents would be 150<sup>50</sup> with a total initial one-time burden of 3,000 hours over the three-year period.<sup>51</sup>

We expect that, on an ongoing basis, a registered funding portal will have to periodically review and update its written agreement with the qualified third party to hold its client funds. A registered funding portal also will be required to send directions on an ongoing basis to a qualified third party depending on whether an investing target is met or an investment commitment or offering is cancelled. Based on discussion with industry participants, we estimate that funding portals would incur an ongoing annual burden of approximately 5 hours each to comply with these requirements. Therefore, we estimate that the ongoing total burden hours would be approximately 1,500 hours over the three-year period.<sup>52</sup>

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<sup>49</sup> For purposes of this PRA discussion, the burdens associated with this rule, as well as for any other rule to which brokers are subject regardless of whether they engage in transactions pursuant to Section 4(a)(6), are not addressed here; rather, they are included in any OMB approvals for the relevant rule. Rule 15c2-4, however, does not include any information collection requests for purposes of the PRA, and so there is no relevant approval or control number from OMB for this rule.

<sup>50</sup>  $50 \text{ (estimated number of funding portals } Y^1) + 50 \text{ (estimated number of funding portals } Y^2) + 50 \text{ (estimated number of funding portals } Y^3) = 150.$

<sup>51</sup>  $Y^1 \text{ (20 hours/funding portal } \times 50 \text{ new funding portals)} + Y^2 \text{ (20 hours/funding portal } \times 50 \text{ new funding portals)} + Y^3 \text{ (20 hours/funding portal } \times 50 \text{ new funding portals)} = 3,000 \text{ hours.}$

In summary, the Commission estimates that, over a three-year period, the total third-party disclosure burden associated with maintenance and transmission of funds would be 4,500 hours, or 1,500 hours per year<sup>53</sup> when annualized over three years. The third-party disclosure burden per intermediary would be approximately 30 hours, or approximately 10 hours per year<sup>54</sup> when annualized over three years.

i. Summary of Hourly Burdens

The table below summarizes the Commission’s estimates of the total hourly reporting burden for intermediaries under Rules 300 to 304 except burdens associated with registration for funding portals, which are included in a separate submission.

Crowdfunding PRA - Intermediaries - Hourly Burden									
	Nature of Information Collection Burden	Type of Burden	Number of Respondents	Number of Responses Per Year	Initial Burden Per Response Per Year Per Respondent	Ongoing Burden Per Response Per Year Per Respondent	Annualized Burden Estimate Per Respondent	Annualized Hourly Burden Estimate Industry-Wide	Small Business Entities Affected
a.	<u>Development of the Intermediary Platform</u>								
	i. Recordkeeping	Recordkeeping	165	1	250.00	100.00	350.00	57,750.00	54
	ii. Third-Party Disclosure	Third-Party Disclosure	165	1	250.00	100.00	350.00	57,750.00	54
b.	<u>Measures to Reduce the Risk of Fraud</u>	Recordkeeping	330	1	2.23	1.80	4.03	1,331.00	108
c.	<u>Account Opening: Accounts and Electronic Delivery</u>	Recordkeeping	330	1	3.33	1.33	4.67	1,540.00	108
d.	<u>Account Opening: Educational Materials</u>	Third-Party Disclosure	165	1	6.67	6.67	13.33	2,200.00	54
e.	<u>Account Opening: Promoters</u>	Third-Party Disclosure	330	1	1.67	0.67	2.33	770.00	108
f.	<u>Issuer Disclosures to be Made Available</u>	Third-Party Disclosure			Estimate included in a. <u>Development of the Intermediary Platform</u>				
g.	<u>Other Disclosures to Investors and Potential Investors</u>	Recordkeeping			Estimate included in a. <u>Development of the Intermediary Platform</u>				
h.	<u>Maintenance and Transmission of Funds</u>	Third-Party Disclosure	150	1	6.67	3.33	10.00	1,500.00	90
	<b>TOTAL</b>							<b>122,841.00</b>	

**13. Costs to Intermediaries**

<sup>52</sup>  $Y^1$  (5 hours/funding portal x 50 funding portals) +  $Y^2$  (5 hours/funding portal x 100 funding portals) +  $Y^3$  (5 hours/funding portal x 150 funding portals) = 1,500 hours.

<sup>53</sup> 3,000 hours (burden on funding portal intermediaries associated with initially entering into a written agreement with a qualified third party, over three years) + 1,500 hours (burden on funding portal intermediaries associated with periodic reviews of written agreements and the ongoing sending of directions, over three years) = 4,500 hours ÷ 3 = 1,500 hours per year.

<sup>54</sup> 4,500 hours (total burden on funding portal intermediaries associated with entering into and reviewing written agreements with qualified third parties and sending directions, over three years) ÷ 150 (funding portal intermediaries engaged in entering into and reviewing written agreements with qualified third parties and sending directions, over three years) = 30 hours ÷ 3 = 10 hours per respondent.



a. Development of Intermediary Platform

There will be a cost to developing a platform for an intermediary that hires a third-party to develop its platform rather than developing it in-house. Based on our discussions with potential intermediaries prior to the publication of our proposed rules, we estimate that it will cost an intermediary approximately \$250,000 to \$600,000<sup>55</sup> to build a new Internet-based crowdfunding portal and all of its basic functionality. For purposes of this PRA, we will use an average of these two numbers or \$425,000.<sup>56</sup> Assuming that half of the 110 newly-registered intermediaries hire outside developers to build or to tailor their platforms, the total number of intermediary respondents would be 165<sup>57</sup> with a total initial one-time cost of \$70,125,000 over the three-year period.<sup>58</sup>

We estimate that it will typically cost an intermediary approximately one-fifth of the initial development cost per year to use a third-party developer to provide annual maintenance on an Internet-based crowdfunding portal, including updating and basic functionality, or \$85,000 per year on average.<sup>59</sup> We assume that half of the 110 newly-registered intermediaries updated their systems accordingly. Therefore, we estimate that the ongoing total cost would be approximately \$28,050,000 over the three-year period.<sup>60</sup>

**In summary, the Commission estimates that, over a three-year period, the total cost for intermediaries to develop a platform would be approximately \$98,175,000, or \$32,725,000 per year<sup>61</sup> when annualized over three years. The total cost per intermediary would be approximately \$595,000, or approximately \$198,333.33<sup>62</sup> when annualized over**

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<sup>55</sup> See, e.g., ASSOBS Letter (suggesting that the cost to establish a funding portal would run at least \$480,000, which is within the range of our estimate).

<sup>56</sup> Our estimate of the average initial external cost per intermediary to develop a crowdfunding platform is the average of the cited range of \$250,000 to \$600,000, or  $((\$250,000 + \$600,000) \div 2) = \$425,000$ .

<sup>57</sup>  $55$  (estimated number of intermediaries  $Y^1$ ) +  $55$  (estimated number of intermediaries  $Y^2$ ) +  $55$  (estimated number of intermediaries  $Y^3$ ) =  $165$ .

<sup>58</sup>  $Y^1$  ( $\$425,000 \times 55$  new intermediaries) +  $Y^2$  ( $\$425,000 \times 55$  new intermediaries) +  $Y^3$  ( $\$425,000 \times 55$  new intermediaries) =  $\$70,125,000$ .

<sup>59</sup> Our estimate of the average initial external cost per intermediary to develop a crowdfunding platform is the average of the cited range of \$250,000 to \$600,000, or  $((\$250,000 + \$600,000) \div 2) = \$425,000$ . One-fifth of the cost of \$425,000 is  $(\$425,000 \div 5) = \$85,000$ .

<sup>60</sup>  $Y^1$  ( $\$85,000/\text{intermediary} \times 55$  intermediaries) +  $Y^2$  ( $\$85,000/\text{intermediary} \times 110$  intermediaries) +  $Y^3$  ( $\$85,000/\text{intermediary} \times 165$  intermediaries) =  $\$28,050,000$ .

<sup>61</sup>  $\$70,125,000$  (costs associated with developing an intermediary platform, over three years) +  $\$28,050,000$  (costs associated with updating an intermediary platform, over three years) =  $\$98,175,000 \div 3 = \$32,725,000$  per year.

**three years. We estimate that approximately half of this burden is a recordkeeping burden, and half is a third-party disclosure burden.<sup>63</sup>**

b. Measures to Reduce the Risk of Fraud

The rules require intermediaries to conduct a background and securities enforcement regulatory history check on each issuer and each officer, director, or beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities to determine whether the issuer or such person is subject to a disqualification. We anticipate that most intermediaries will employ third parties to perform background and securities enforcement regulatory history checks, and for the purposes of this PRA discussion, we assume that 100% of intermediaries would use these third-party service providers in light of the costs of developing the capability to conduct background and securities enforcement regulatory history checks in-house. The cost to perform a background check is estimated to be between \$200 and \$500, depending on the nature and extent of the information provided.<sup>64</sup> We recognize that some issuers will require more than one background check (*e.g.*, for officers or directors of the issuer), and we estimate that intermediaries will perform four background checks per issuer, on average. We base this number on the assumption that most crowdfunding issuers will be startups and small businesses with small management teams and few owners. For purposes of this PRA, we will use an average of these two numbers or \$350.<sup>65</sup> Assuming that there is an average of approximately 1,900 offerings made in reliance on Section 4(a)(6) per year,<sup>66</sup> the total estimated initial cost for

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<sup>62</sup> \$98,175,000 (total cost to develop and update an intermediary platform, over three years) ÷ 165 (estimated number intermediaries which will develop and update an intermediary platform, over three years) = \$595,000 ÷ 3 = \$198,333.33 per respondent.

<sup>63</sup> \$49,087,500 of the \$98,175,000, or \$16,362,500 of the \$32,725,000 per year would be attributed to the recordkeeping burden and the other \$49,087,500 of the \$98,175,000, or \$16,362,500 of the \$32,725,000 per year would be attributed to the third-party disclosure burden when annualized over three years. \$297,500 of the \$595,000, or approximately \$99,166.67 of the \$198,333.33 per year would be attributed to the recordkeeping burden and the other \$297,500 of the \$595,000, or approximately \$99,166.67 of the \$198,333.33 per year would be attributed to the third-party disclosure burden when annualized over three years.

<sup>64</sup> *See, e.g.,* A Matter of Fact, *Background Check FAQ: Frequently Asked Questions*, available at <http://www.amof.info/faq.htm>. (Matter of Fact is a background check provider accredited by the National Association of Professional Background Screeners and the Background Screening Credentialing Council and states that the cost for a comprehensive background check is \$200 to \$500).

<sup>65</sup> Our estimated initial cost for all intermediaries to fulfill the required background and securities enforcement regulatory history checks is the average of the cited range of \$200 to \$500, or  $((\$200 + \$500) \div 2) = \$350$ .

<sup>66</sup> Because crowdfunding transactions in reliance on Section 4(a)(6) are a new approach to capital formation, it is difficult for us to accurately estimate an average number of offerings per year. As stated above, we assume that there would be approximately 1,900 offerings made in reliance on Section 4(a)(6) per year.

all 110 intermediaries to fulfill the required background and securities enforcement regulatory history checks would be \$2,660,000 per year.<sup>67</sup> Therefore, we estimate that the total number of intermediary respondents would be 330<sup>68</sup> with a total initial cost of \$7,980,000 over the three-year period.<sup>69</sup>

One commenter noted, as a general matter, that the “costs incurred by the intermediary in dealing with an issuer, doing the required due diligence and background screening, establishing a web page describing the offering and so on do not vary linearly with the offering size. As a percentage of the offering amount, they will be disproportionately high for smaller offerings.”<sup>70</sup> This commenter did not, however, question our underlying assumptions or our estimates of these costs. For purposes of this PRA analysis, we believe that these cost estimates are reasonable. We also believe that intermediaries are in a better position to make their own business decisions as to whether such costs would be disproportionately high for smaller offerings.<sup>71</sup>

We believe that, on an ongoing basis, intermediaries will continue to use third-party services to conduct background and securities enforcement regulatory history checks. We also believe that the total estimated ongoing cost for all intermediaries to fulfill the required background and securities enforcement regulatory history checks would be the same as the estimated initial cost of \$2,660,000 per year.<sup>72</sup> Therefore, we estimate that the ongoing cost would be approximately \$7,980,000 over the three-year period.<sup>73</sup>

**In summary, the Commission estimates that, over a three-year period, the total cost for intermediaries to fulfill obligations regarding background and securities enforcement regulatory history checks would be approximately \$15,960,000, or \$5,320,000 per year<sup>74</sup>**

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<sup>67</sup> 1,900 offerings x \$350 x 4 background checks = \$2,660,000 per year.

<sup>68</sup> 110 (estimated number of intermediaries Y<sup>1</sup>) + 110 (estimated number of intermediaries Y<sup>2</sup>) + 110 (estimated number of intermediaries Y<sup>3</sup>) = 330.

<sup>69</sup> Y<sup>1</sup> (\$2,660,000) + Y<sup>2</sup> (\$2,660,000) + Y<sup>3</sup> (\$2,660,000) = \$7,980,000.

<sup>70</sup> Heritage Letter.

<sup>71</sup> We agree with the commenter’s suggestion that there is likely to be a fixed component to these costs that reflects a certain necessary level of due diligence and background screening, which will result in these costs, as a percentage of offering size, being higher for smaller offerings.

<sup>72</sup> 1,900 offerings x \$350 x 4 background checks = \$2,660,000 per year.

<sup>73</sup> Y<sup>1</sup> (\$2,660,000) + Y<sup>2</sup> (\$2,660,000) + Y<sup>3</sup> (\$2,660,000) = \$7,980,000.

<sup>74</sup> \$ 7,980,000 (estimated initial cost for all intermediaries to fulfill the required background and securities enforcement regulatory history checks, over three years) + \$7,980,000 (estimated ongoing cost for all intermediaries to fulfill the required background and securities enforcement regulatory history checks, over three years) = \$15,960,000 ÷ 3 = \$5,320,000 per year.

**when annualized over three years. The total cost per intermediary would be approximately \$48,363.64, or \$16,121.21 per year<sup>75</sup> when annualized over three years.**

c. Account Opening: Accounts and Electronic Delivery

To the extent an intermediary uses a third party to establish account opening functionality, the initial costs relevant to this requirement will be incorporated into the cost of hiring a third party to develop the platform, discussed above. We do not believe that there are any ongoing costs relevant to this requirement.

d. Account Opening: Educational Materials

For the purposes of this PRA analysis, we assume that half of the intermediaries (55) would employ third-party companies to produce educational materials, such as professional-quality online video presentations, instead of developing materials in-house. Public sources indicate that the typical cost to produce a professional corporate training video ranges from approximately \$1,000 to \$3,000 per production minute.<sup>76</sup> For purposes of this PRA, we will use an average of these two numbers or \$2,000.<sup>77</sup> Based on discussions with industry participants prior to the publication of our proposed rules, we assume that, on average, half of the intermediaries will produce a series of short educational videos that will cover all of the requirements of the final rules, and that the video material would be 10 minutes long in total. Based on this assumption, we estimate that the total number of intermediary respondents would be 165<sup>78</sup> with a total initial one-time cost of \$3,300,000 over the three-year period.<sup>79</sup> We note that the estimated initial cost may be significantly lower, because not all intermediaries that outsource the development of educational materials may choose to produce professional-quality online video presentations, while others may produce videos of shorter length or use other types of educational materials.

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<sup>75</sup>  $\$15,960,000$  (total initial and ongoing cost for all intermediaries to fulfill the required background and securities enforcement regulatory history checks, over three years)  $\div$  330 (estimated number of intermediaries which fulfill the requirements regarding background and securities enforcement regulatory history checks, over three years) =  $\$48,363.64 \div 3 = \$16,121.21$  per respondent.

<sup>76</sup> See, e.g., Lee W. Frederiksen, *What Is the Cost of Video Production for the Web?*, Hinge Marketing, available at <http://www.hingemarketing.com/library/article/what-is-the-cost-of-video-production-for-the-web>.

<sup>77</sup> Our estimate of the average initial cost for an intermediary to develop and produce educational materials is the average of the cited range of \$1,000 to \$3,000, or  $((\$1,000 + \$3,000) \div 2) = \$2,000$ .

<sup>78</sup>  $55$  (estimated number of intermediaries  $Y^1$ ) +  $55$  (estimated number of intermediaries  $Y^2$ ) +  $55$  (estimated number of intermediaries  $Y^3$ ) =  $165$ .

<sup>79</sup>  $Y^1$  ( $\$2,000 \times 10$  min  $\times 55$  new intermediaries) +  $Y^2$  ( $\$2,000 \times 10$  min  $\times 55$  new intermediaries) +  $Y^3$  ( $\$2,000 \times 10$  min  $\times 55$  new intermediaries) =  $\$3,300,000$ .

We estimate that, on an ongoing basis, when using a third-party company to update their video educational materials, each intermediary would spend approximately half of the initial average cost. We estimate, therefore, that the average ongoing annual cost for an intermediary to update its video educational materials would range from approximately \$5,000 to \$15,000. For purposes of this PRA, we will use an average of these two numbers or \$10,000.<sup>80</sup> Therefore, we estimate that the ongoing total cost would be approximately \$3,300,000 over the three-year period.<sup>81</sup>

**In summary, the Commission estimates that, over a three-year period, the total cost for intermediaries which use a third-party company to develop and update their video educational material would be approximately \$6,600,000, or \$2,200,000 per year<sup>82</sup> when annualized over three years. The total cost per intermediary would be approximately \$40,000, or approximately \$13,333.33 per year<sup>83</sup> when annualized over three years.**

e. Account Opening: Promoters

To the extent an intermediary uses a third party to develop the functionality for this requirement, the initial costs relevant to this requirement will be incorporated into the cost of hiring a third party to develop the platform, discussed above. We do not believe that there are any ongoing costs relevant to this requirement.

f. Issuer Disclosures to be Made Available

We do not expect a significant ongoing cost for providing issuer disclosures, primarily because the functionality required to upload required issuer disclosure information is a standard feature offered on many websites and will not require frequent updates. Because we are including the burdens that are associated with providing issuer disclosures as part of our estimates for overall platform development, we discuss our cost estimates for ongoing platform development and updates in that section, above.

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<sup>80</sup> Our estimate of the cost for an intermediary to update their educational materials is the average of the cited range of \$5,000 to \$15,000, or  $((\$5,000 + \$15,000) \div 2) = \$10,000$ .

<sup>81</sup>  $Y^1 (\$10,000/\text{intermediary} \times 55 \text{ intermediaries}) + Y^2 (\$10,000/\text{intermediary} \times 110 \text{ intermediaries}) + Y^3 (\$10,000/\text{intermediary} \times 165 \text{ intermediaries}) = \$3,300,000$ .

<sup>82</sup>  $\$3,300,000$  (estimated initial costs for intermediaries using third-party companies to produce professional-quality video materials, over three years) +  $\$3,300,000$  (estimated ongoing costs for intermediaries using a third-party company to update their video educational materials, over three years) =  $\$6,600,000 \div 3 = \$2,200,000$  per year.

<sup>83</sup>  $\$6,600,000$  (total costs of intermediaries using a third-party company to develop and update their video educational materials, over three years)  $\div 165$  (estimated number of intermediaries using a third-party company to develop and update their video educational materials, over three years) =  $\$40,000 \div 3 = \$13,333.33$  per respondent.

g. Other Disclosures to Investors and Potential Investors

We recognize that some intermediaries may add the required functionality for processing issuer disclosure and investor acknowledgments by using a third-party developer. We also do not expect there to be a significant ongoing cost for developing the functionality to process these disclosures and acknowledgments, primarily because this functionality will likely not require frequent updates by third-party developers. The total cost to add the required functionality for processing issuer disclosure and investor acknowledgments, as well as to update the required functionality for processing issuer disclosure and investor acknowledgments, is incorporated into the total cost estimates discussed above relating to platform development.

h. Maintenance and Transmission of Funds

For purposes of the PRA, we are not providing any cost estimate for this requirement, because we expect that the cost associated with developing the functionality to send instructions to third parties would be included as part of the platform development discussed above.

i. Summary of Cost Burdens

The table below summarizes the Commission’s estimate of the annual cost burdens for intermediaries under Rules 300 to 304 except burdens associated with registration for funding portals, which are included in a separate submission.

Crowdfunding PRA - Intermediaries - Cost Burden									
	<u>Nature of Information Collection Burden</u>	<u>Type of Burden</u>	<u>Number of Respondents</u>	<u>Number of Responses Per Year</u>	<u>Initial Cost Per Response Per Year Per Respondent</u>	<u>Ongoing Cost Per Response Per Year Per Respondent</u>	<u>Annualized Cost Estimate Per Respondent</u>	<u>Annualized Hourly Cost Estimate Industry-Wide</u>	<u>Small Business Entities Affected</u>
a.	<u>Development of the Intermediary Platform</u>								
	i. Recordkeeping	Recordkeeping	165	1	\$70,833.33	\$28,333.33	\$99,166.67	\$16,362,500.00	54
	ii. Third-Party Disclosure	Third-Party Disclosure	165	1	\$70,833.33	\$28,333.33	\$99,166.67	\$16,362,500.00	54
b.	<u>Measures to Reduce the Risk of Fraud</u>	Recordkeeping	330	1	\$8,060.61	\$8,060.61	\$16,121.21	\$5,320,000.00	108
c.	<u>Account Opening: Accounts and Electronic Delivery</u>	Recordkeeping			Estimate included in a. <u>Development of the Intermediary Platform</u>				
d.	<u>Account Opening: Educational Materials</u>	Third-Party Disclosure	165	1	\$6,666.67	\$6,666.67	\$13,333.33	\$2,200,000.00	54
e.	<u>Account Opening: Promoters</u>	Third-Party Disclosure			Estimate included in a. <u>Development of the Intermediary Platform</u>				
f.	<u>Issuer Disclosures to be Made Available</u>	Third-Party Disclosure			Estimate included in a. <u>Development of the Intermediary Platform</u>				
g.	<u>Other Disclosures to Investors and Potential Investors</u>	Recordkeeping			Estimate included in a. <u>Development of the Intermediary Platform</u>				
h.	<u>Maintenance and Transmission of Funds</u>	Third-Party Disclosure			Estimate included in a. <u>Development of the Intermediary Platform</u>				
	<b>TOTAL</b>							<b>\$40,245,000.00</b>	

**14. Costs to Federal Government**

There will be no additional costs to the Federal Government.

**15. Changes in Burden**

Not applicable. Rules 300 to 304 would be new rules.

**16. Information Collection Planned for Statistical Purposes**

Not applicable. The information collection is not used for statistical purposes.

**17. OMB Expiration Date Display Approval**

We request authorization to omit the expiration date on the electronic version of the form, although the OMB control number will be displayed. Including the expiration date on the electronic version of this form will result in increased costs, because the need to make changes to the form may not follow the application's scheduled version release dates.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

This collection complies with the requirements in 5 CFR 1320.9.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods.