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Rural Crowdfunding

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RURAL CROWDFUNDING

ANDREW A. SCHWARTZ*

ABSTRACT

One reason that economic development in rural America lags behind its urban counterpart is the persistent lack of venture capital for rural entrepreneurs. Geography deserves much of the blame, as angel investors and venture capitalists tend to live and work in metropolitan areas on the coasts, in places like Silicon Valley and Boston. Many rural areas are literally thousands of miles away, with the result that venture capital has rarely found its way to rural regions.

Recent federal legislation, however, has the potential to change this dynamic. The JOBS Act authorizes the sale of securities over the Internet to large numbers of investors, each of whom only invests a small dollar amount. This “crowdfunding” of securities is a promising means for rural entrepreneurs, as well as farmers and others, to access venture and business capital.

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INTRODUCTION

Economic development in rural America has long lagged behind its urban counterpart. One reason for this disparity is the persistent lack of venture capital for rural entrepreneurs, hindering the development of wealth- and job-creating startup companies in rural regions.

Geography deserves much of the blame: Angel investors and venture capitalists¹ tend to live and work in metropolitan areas, mostly on the coasts, in

* Associate Professor of Law, University of Colorado Law School. For thoughtful comments on prior drafts, I thank Trevor Mottl, Lisa Pruitt, Allison Schwartz, and participants at the U.C. Davis Business Law Journal’s symposium, “The JOBS Act: Challenges and Opportunities,” where this paper was originally delivered. For helpful research assistance, I thank Garrett Anderson. This Essay is dedicated to my infant son, Elijah Norman Schwartz.

places like Silicon Valley, Los Angeles or Boston. Many rural areas are literally thousands of miles away. And because early-stage investing is such a localized phenomenon,² venture capital rarely finds its way to rural regions.³

The upshot is that an entrepreneur with big dreams is still given the same advice today that Horace Greely is said to have offered in the late 1800s: “Go west, young man, go west!”⁴ The conventional thinking is that the ambitious among us must physically relocate from one part of the country to another in order to find early-stage business financing. Even for rural entrepreneurs that would prefer to remain in, say, Iowa, rather than move to California, the siren song of wealthy and experienced angel investors is near impossible to resist. You can’t keep the kid on the farm, as they say.

This clichéd view may, however, be upset by recent federal legislation, namely the JOBS Act, which authorizes the sale of securities over the Internet to large numbers of investors, each of whom only invests a small dollar amount.⁵ This so-called “crowdfunding” of securities makes it possible for rural entrepreneurs to pitch to a nationwide audience of angel investors, thus providing the access to capital they have long lacked, just as Kickstarter and other “reward” crowdfunding websites have brought artists and patrons of the arts together in recent years.⁶ Perhaps the kid can stay on the farm, after all—so long as she has an Internet connection.

This Essay claims that the crowdfunding of securities, while not a panacea, can make a real difference in encouraging and enabling entrepreneurs to pursue their business ventures in rural areas. Part I describes how and why rural entrepreneurs often lack access to venture capital. Part II introduces the concept of securities crowdfunding and briefly summarizes the new federal CROWDFUND Act that authorizes it. Putting the previous parts together, Part III demonstrates that crowdfunding is a promising means for rural entrepreneurs, as well as farmers and others, to access venture and business capital.

¹ This Essay uses the terms venture capitalist and angel investor interchangeably. While they are not necessarily synonymous, they may be treated as such for present purposes.

² *E.g.*, RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS: AND HOW IT’S TRANSFORMING WORK, LEISURE, COMMUNITY AND EVERYDAY LIFE* 48-51 (2002).

³ *E.g.*, John Eligon, *Tech Start-Ups Find a Home on the Prairie*, N.Y. TIMES, Nov. 22, 2012, at A1 (reporting that capital for start-ups “remains relatively sparse” in the Great Plains region, in part because most venture capital firms are located on the coasts).

⁴ *THE SOCIAL NETWORK* (Columbia Pictures 2010) (Napster founder, Sean Parker, advises Mark Zuckerberg, founder of Facebook, to move to Silicon Valley, which he promptly does).

⁵ *See generally* Andrew A. Schwartz, *Crowdfunding Securities*, 88 NOTRE DAME L. REV. 1457 (2013).

⁶ STEVEN JOHNSON, *FUTURE PERFECT: THE CASE FOR PROGRESS IN A NETWORKED AGE* 34-38 (2012).

I. A LACK OF VENTURE CAPITAL IN RURAL AREAS

Rural America⁷—home to about one-fifth of the population⁸—has a long history of economic hardship.⁹ The Dust Bowl in the 1930s¹⁰ and the farm crisis of the 1980s¹¹ are some of the more infamous episodes. But this is not a problem from the past. Rather, our rural regions continue to experience low wages and high prices, as well as substantial poverty, to this very day.¹² Furthermore, this is not strictly an agricultural phenomenon, as it turns out that less than ten percent of the rural workforce is employed in farming these days.¹³

There are many causes for the lack of adequate economic development in rural areas—far too many to analyze in the present format. This Essay examines just one of those causes, namely the unavailability of financing for startup companies and small businesses.¹⁴ This is a major problem, not only for rural entrepreneurs, but also for the entire rural economy, as entrepreneurship and startup companies are widely viewed as the key to job- and wealth-creation in

⁷ Academics in the field have struggled to define the term “rural.” See, e.g., Lisa R. Pruitt, *Gender, Geography & Rural Justice*, 23 BERKELEY J. OF GENDER L. & JUST. 338, 344-48 (2008) (describing the “contested nature” of “the rural”); *id.* at 344 (“Judges, legislatures, and administrative agencies offer myriad definitions of ‘rural,’ and contemporary society similarly contests the term’s meaning.”); Debra Lyn Bassett, *Ruralism*, 88 IOWA L. REV. 273, 285-90 (2003) (grappling with the definition of rural). For present purposes, a precise definition of rural is not necessary, but to the extent a definition would be helpful, this Essay uses the term “rural” to refer primarily to “communities of 2,500 or fewer people, which are located at least fifty miles from a community of 20,000 or more people.” *Id.* at 290.

⁸ Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, 20 STAN. L. & POL’Y REV. 359, 361, 361 n.8 (2009) (citing data from the 2000 U.S. Census).

⁹ Pruitt, *supra* note 7, at 348-49.

¹⁰ See generally JOHN STEINBECK, *THE GRAPES OF WRATH* (1939).

¹¹ See Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969, 976 (2005).

¹² Pruitt, *supra* note 7, at 349 (“rural places have long been associated with cheap labor and bad jobs”); *id.* at 348 (“Poverty rates in rural parts of the United States have long been higher and more enduring than those in urban areas.”); Lisa R. Pruitt, *Missing the Mark: Welfare Reform and Rural Poverty*, 10 J. GENDER RACE & JUST. 439, 447 (2007) (“All of our nation’s ‘persistently poor’ counties—those with poverty rates of 20% or higher for the last forty years—are rural.”); *id.* at 463-64 (“rural areas did not benefit as much as urban areas from the economic growth of the 1990s”); Porter, *supra* note 11, at 972 (“rural America is home to extraordinary . . . economic distress.”).

¹³ Porter, *supra* note 11, at 977-78 (“It is a myth that most rural Americans are farmers. Rural employment is no longer synonymous with the agriculture industry. Today, most rural Americans work in the service sector. Overall, two out of three rural adults work in either a service or manufacturing job. Only 7.6 percent of the rural workforce is employed in farming.”); Bassett, *supra* note 7, at 280 (reporting that “only approximately six percent of all rural dwellers are farmers”).

¹⁴ E.g., David L. Barkley & Deborah M. Markley, *Nontraditional Sources of Venture Capital for Rural America*, RURAL AM., May 2001, at 19 (identifying this problem).

America today.¹⁵ Indeed, it appears that startup firms in their first year have been responsible for all net job creation in the United States since at least the 1970s.¹⁶ Beyond jobs, startups are in the public interest because they are vital to general economic growth.¹⁷ However, just as fire needs oxygen, startup companies need financing to live and grow.¹⁸

Theoretically, there are many potential sources of early-stage financing for startup companies.¹⁹ In practice, however, bank loans are generally unavailable, due to the high-risk nature of nearly all startups, leaving many entrepreneurs to depend primarily on personal savings and credit cards.²⁰ Once those (usually modest) sums are exhausted, the entrepreneur must obtain financing from arms-length investors, known as angels or venture capitalists.²¹

And where can one find such people? For some time now, most venture capital firms (and venture capitalists) have been concentrated in just a few metropolitan locales, including notably Silicon Valley and Los Angeles in California, and New York and Boston on the East Coast.²² And even though there are angel investors all over the country, even they tend to be found in urban oases among rural regions, such as Boulder, Colorado, or Austin, Texas.

In part, this is an artifact of SEC rules that have long restricted certain high-risk investments to wealthy people (so-called “accredited investors”). It stands to reason that there are simply more wealthy people in cities compared with rural areas, and clearly a higher density of them.

Moreover, angel investing is a highly localized phenomenon that is closely associated with high-tech, “creative” cities, like the ones listed

¹⁵ See generally Andrew A. Schwartz, *Old Enough to Fight, Old Enough to Swipe: A Critique of the Infancy Rule in the Federal Credit Card Act*, 2011 UTAH L. REV. 407, 428-29 (2011).

¹⁶ *Id.* at 428.

¹⁷ See, e.g., 15 U.S.C. § 631a(a) (2006) (“For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to . . . provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.”).

¹⁸ Barkley & Markley, *supra* note 14, at 19 (“The availability of venture capital for entrepreneurs and businesses is recognized as critical for new business startups and business expansions. Consequently, a community’s prospects for economic development are linked to local businesses’ access to venture capital.”).

¹⁹ Schwartz, *supra* note 15, at 430.

²⁰ *Id.* at 430-31.

²¹ FLORIDA, *supra* note 2, at 49 (observing that “venture finance” is a “necessary ingredient” for “what would come to be called high-tech ‘startup’ companies”).

²² Compare *id.* at 48 (emphasizing that the author’s concept of a “Creative Class” employed in a “Creative Economy” depends on “an extensive venture capital system that accelerates the processes of new firm formation”) with *id.* at 11 (opining that the “Creative Class” is centered in “major East Coast regions like Washington, D.C., Boston and the greater New York region, and leading high-tech centers like the San Francisco Bay Area, Seattle and Austin,” as well as “[s]maller places like Boulder, Colorado and Santa Fe, New Mexico”).

immediately above.²³ Angel groups commonly have “local” names, like the “Pasadena Angels” or the “New York Angels,” and they tend to invest with people within their localities.²⁴ The result is that rural areas are left out of the loop.²⁵

This preference on the part of angels to limit their investment activities to their own urban areas is primarily due to basic economic factors, most notably transaction costs. In their home city, an angel investor can meet repeatedly with many entrepreneurs in short order and at low cost, due to the close physical proximity of urban areas. Indeed, some venture capital firms in Silicon Valley go so far as to adhere to a “twenty minute rule,” which provides that “if a start-up company seeking venture capital is not within a 20-minute drive of the venture firm’s offices, it will not be funded.”²⁶ In a rural area, by contrast, the transaction costs to hold physical meetings would be much higher, meaning the investor can explore many fewer opportunities.²⁷ And early-stage financiers strongly prefer to diversify their investments, with good reason.

Furthermore, many rural businesses are in low-growth and low-tech sectors, which are unappealing from a venture capital investment perspective.²⁸ In addition, rural regions tend to have limited business infrastructure and human capital, compared with urban areas. It is therefore easy to understand why rural entrepreneurs have a hard time getting the attention of venture capitalists.²⁹

A variety of measures have been proposed and attempted to encourage the flow of venture capital to rural entrepreneurs, such as publicly funded venture capital funds, small business investment companies, community-level equity

²³ See generally FLORIDA, *supra* note 2, at 11 (asserting that the “Creative Class is strongly oriented to large cities and regions that offer a variety of economic opportunities, a stimulating environment and amenities for every possible lifestyle.”).

²⁴ Eligon, *supra* note 3, at A1 (“We’re just not aware of, potentially, the opportunities that exist in a variety of places in the middle of the country,” said Stephen T. Zarrilli, the president and chief executive of Safeguard Scientifics, a Philadelphia venture capital firm that has invested in companies across the country but not in the Great Plains.”); *id.* (reporting that “a relatively small share of the country’s ‘angel investment’ deals—5.7 percent—are done in the Great Plains”); Barkley & Markley, *supra* note 14, at 19 (“the supply of venture capital is concentrated geographically, and venture capital investments are focused in a small number of regions”).

²⁵ BILL BISHOP WITH ROBERT G. CUSHING, *THE BIG SORT: WHY THE CLUSTERING OF LIKE-MINDED AMERICA IS TEARING US APART* 140 (Houghton Mifflin Harcourt et al. eds., 2008); Eligon, *supra* note 3, at A1.

²⁶ Randall Stross, *It’s Not Who You Know. It’s Where You Are.*, N.Y. TIMES, Oct. 22, 2006, at C1.

²⁷ Barkley & Markley, *supra* note 14, at 19-20.

²⁸ *Id.*

²⁹ Eligon, *supra* note 3, at A1 (reporting that when an entrepreneur in Des Moines, Iowa, “sought money for the mobile-payment company he began developing here three years ago, investors responded with rejections by the dozens”). *Cf.* Stross, *supra* note 26, at C1 (“If you live in Santa Clara, it’s doable,’ . . . ‘If you live in Dubuque, it’s not.”) (quoting Silicon Valley venture capitalist).

funds, and microfinance.³⁰ None have altered the fundamental advantage that cities—from “classical Athens and Rome, to the Florence of the Medici and Elizabethan London, to Greenwich Village and the San Francisco Bay Area”—hold over the countryside.³¹

The result is that rural entrepreneurs must physically relocate to an urban area (probably Silicon Valley) to meet with, impress, and hopefully obtain financing from angel investors and venture capitalists. The rural entrepreneur that would have preferred to stay home is out of luck.³² Or so she has been in the past.

As discussed in Part II, a new method of raising business financing online, known as securities crowdfunding, was recently authorized by Congress. As will be shown, securities crowdfunding has the potential to de-localize the market for angel investments which, in turn, may greatly benefit rural entrepreneurs.

II. THE NEW CROWDFUND ACT

The new CROWDFUND Act, a component of the federal JOBS Act, was enacted in 2012 and is scheduled to go into effect in 2013.³³ The Act provides a new means for companies to raise capital from investors by establishing an exemption to the Securities Act of 1933 for crowdfunded securities.³⁴ The idea of crowdfunding is to gather capital from large numbers of people in the “crowd” (i.e., the public), and have each individual provide only a very small amount.³⁵ Securities crowdfunding opens up new opportunities for entrepreneurs, who will now have the ability to raise capital from investors without having to comply with the costly federal registration requirements, as well as for investors of modest

³⁰ Barkley & Markley, *supra* note 14, at 21-25; George Wallace, *Microlending is Latest Trend in Business Assistance*, RURAL CONDITIONS AND TRENDS: FEDERAL PROGRAMS ISSUE, Jul. 1999, at 19, available at <http://www.ers.usda.gov/publications/rcat/rcat101/rcat101d.pdf>. (“International experiences [in microlending] have taught us important lessons over the years. The most important is that capital access is the main issue, not capital cost.”).

³¹ FLORIDA, *supra* note 2, at 7; Pruitt, *supra* note 12, at 463 (“Job markets in rural areas are rarely as promising as those in cities . . .”).

³² FLORIDA, *supra* note 2, at 11-12 (“The geographic trends [relating to the “Creative Class”] do not favor the tightly knit old-style communities that are so often celebrated in our songs, stories and sentimental TV commercials.”).

³³ This Part is adapted from Schwartz, *supra* note 5.

³⁴ Jumpstart Our Business Startups Act, Pub. L. No. 112-106 §§ 301–05 (codified in 15 U.S.C. § 77).

³⁵ See Joan MacLeod Heminway & Shelden Ryan Hoffman, *Proceed at Your Peril: Crowdfunding and the Securities Act of 1933*, 78 TENN. L. REV. 879, 881 (2011) (describing the crowdfunding process).

means, who now have the ability to invest over the Internet in strangers' startup companies.³⁶

Crowdfunding has its origins in “crowdsourcing,” which is “a type of participative online activity in which an individual, an institution, a non-profit organization, or company proposes to a group of individuals . . . via a flexible open call, the voluntary undertaking of a task.”³⁷ Wikipedia³⁸ and Yelp!³⁹ are among the better known crowdsourced projects to date.

Crowdfunding differs from crowdsourcing in that the crowd is asked to contribute capital, as opposed to labor, to the project. In so-called “reward” crowdfunding, the funding participants receive the fruits of the project, such as a music CD or a consumer product, in return for their investment.⁴⁰ Reward crowdfunding has been practiced on websites including Kickstarter and IndieGoGo since about 2009, and its popularity and success has been phenomenal, growing into a \$1.5 billion market in just a couple of years.⁴¹

Securities crowdfunding is a new idea that takes the concept one step further.⁴² Rather than receive, say, a copy of an author's to-be-written book, the funding participants receive a share in the profits of the book, or some other security, such as a bond or preferred share, in the book. This was previously banned, or effectively so, by federal securities regulations. The CROWDFUND Act, however, creates a new exemption to those regulations, thereby blessing this

³⁶ See Press Release, President Barack Obama, Remarks at JOBS Act Bill Signing (Apr. 5, 2012), <http://www.whitehouse.gov/the-press-office/2012/04/05/remarks-president-jobs-act-bill-signing> (“Right now, you can only turn to a limited group of investors—including banks and wealthy individuals—to get funding. Laws that are nearly eight decades old make it impossible for others to invest. But a lot has changed in 80 years, and it's time our laws did as well. Because of this bill, start-ups and small business will now have access to a big, new pool of potential investors—namely, the American people. For the first time, ordinary Americans will be able to go online and invest in entrepreneurs that they believe in.”).

³⁷ Enrique Estellés-Arolas & Fernando González-Ladrón-de-Guevara, *Towards an Integrated Crowdsourcing Definition*, 38 J. INFO. SCI. 189, 197 (2012).

³⁸ See *Wikipedia*, WIKIPEDIA, <http://en.wikipedia.org/wiki/Wikipedia> (last visited Nov. 24, 2012) (explaining the purpose of Wikipedia).

³⁹ See *What is Yelp?*, YELP, http://www.yelp.com/faq#what_is_yelp (last visited Nov. 24, 2012) (listing the purpose of Yelp).

⁴⁰ See JOHNSON, *supra* note 6, at 35-44.

⁴¹ *Id.*

⁴² Securities crowdfunding is indeed a new concept, though it was foreshadowed by what this author has called “consumer contract exchanges” in previous work. Andrew A. Schwartz, *Consumer Contract Exchanges and the Problem of Adhesion*, 28 YALE J. ON REG. 313, 359 (2011) (“Theoretically, a peer-to-peer angel exchange for standardized business loans for hundreds of thousands, or even millions, of dollars, could be organized on the Internet. This would have the positive effect of democratizing entrepreneurship by allowing those who lack access to wealthy investors to have a more equal chance of obtaining sufficient funding for their fledgling business. Unfortunately, no such exchange exists at present.”).

novel method for entrepreneurs and investors to find one another on the Internet.⁴³

In the CROWDFUND Act, the government authorized the crowdfunding of unregistered securities, subject to a number of important limitations. There are limits on the amount of money issuers can raise and people can invest. As for issuers, they may not raise more than \$1,000,000 annually via crowdfunding.⁴⁴ And as for investors, the maximum annual aggregate amount of crowdfunded securities that any one investor may purchase is determined by an income-based sliding scale, with the maximum being 10% of her annual salary (up to \$100,000) per year.⁴⁵

Furthermore, crowdfunding transactions cannot be consummated directly between issuer and investor, but rather must be executed through a financial intermediary registered with the SEC.⁴⁶ The intermediary can register either as a broker-dealer,⁴⁷ or a “funding portal,” which is a new classification of intermediary created by the Act.⁴⁸ These financial intermediaries are required to ensure that each investor is disclosed the risk of total financial loss, the problems of illiquidity, and other key matters.⁴⁹ Also, directors, officers, or partners of an intermediary may not have any financial interest in an issuer that has listed thereon.⁵⁰

Although the purpose of the Act is to lower the cost of capital for startups by alleviating burdensome disclosure requirements, a crowdfunding business must provide some very basic disclosures to the SEC, designated intermediaries, and potential investors:

(A) the name, legal status, physical address, and website address of the issuer; (B) the names of the directors, . . . officers[, and substantial investors] . . . ; (C) a description of the business of the issuer and the anticipated business plan of the issuer; and (D) a description of the financial condition of the issuer⁵¹

⁴³ Crowdfunding is not universally available, and is an option only for private domestic companies. Investment companies, foreign private companies, and public companies (whether domestic or foreign) cannot take advantage of the crowdfunding exemption. *See* 15 U.S.C.A. § 77d-1(f)(1) (West, Sept. Supp. 2012).

⁴⁴ 15 U.S.C.A. § 77d(a)(6)(A).

⁴⁵ *Id.* § 77d(a)(6)(B)(ii).

⁴⁶ *Id.* § 77d(a)(6)(C).

⁴⁷ *See* 15 U.S.C. § 78c(a)(4), (5) (2006) (defining broker and dealer).

⁴⁸ 15 U.S.C.A. § 78c(a)(80).

⁴⁹ *Id.* § 77d-1(a)(3)-(5).

⁵⁰ *Id.* § 77d-1(a)(11).

⁵¹ 15 U.S.C.A. § 77d-1(b)(1).

The SEC has authority to expand this list.⁵² The disclosure requirements regarding the financial condition of the business (requirement “D”) vary depending on the size of the offering. For offerings of \$100,000 or less, income tax returns for the last fiscal year and unaudited financial statements certified as accurate by the principle executive officer are required.⁵³ For offerings of between \$100,000 and \$500,000, financial statements reviewed by an independent public accountant are required.⁵⁴ And for offerings of between \$500,000 and the maximum of \$1 million, audited financial statements are required.⁵⁵

Issuers must also provide a description of the purpose and intended use of the proceeds, the target offering amount, the deadline to reach that amount, regular updates regarding the progress of the issuer meeting its target amount, the price of the securities to be offered, and a description of the ownership and capital structure of the issuer.⁵⁶ Issuers are prohibited from advertising the offering themselves, and any solicitation of the offering must go through the registered funding portal.⁵⁷ Finally, following a crowdfunding round, an issuer must annually file with the SEC, and provide investors with financial statements and a report on the results of operations.⁵⁸

The secondary market for crowdfunded securities is sharply limited by the Act, as it provides that such securities may not be transferred or sold by investors for one year after the date of purchase, unless being transferred to the issuer, an accredited investor, a family member of the purchaser, or as part of an offering registered with the SEC.⁵⁹

Beyond these federal requirements, the CROWDFUND Act expressly pre-empts state law regarding registration or qualification of securities, including so-called “Blue Sky” laws.⁶⁰ States are not permitted to impose additional regulations upon crowdfunding offerings, issuers, or intermediaries before the securities may be sold.⁶¹

Finally, the Act attempts to combat the potential for fraud in two ways. First, it limits the amount a person can invest each year, and thus caps their

⁵² *Id.* § 77d-1(b)(1)(I) (requiring that issuers disclose any “other information as the [SEC] may, by rule, prescribe, for the protection of investors and in the public interest”).

⁵³ *Id.* § 77d-1(b)(1)(D)(i)(I)–(II).

⁵⁴ *Id.* § 77d-1(b)(1)(D)(ii).

⁵⁵ *Id.* § 77d-1(b)(1)(D)(iii).

⁵⁶ *Id.* § 77d-1(b)(1)(E)–(H).

⁵⁷ *Id.* § 77d-1(b)(2).

⁵⁸ *Id.* § 77d-1(b)(4).

⁵⁹ *Id.* § 77d-1(e). In addition, as a practical matter, there will be a very small secondary market for any given crowdfunded security, simply due to the very small number of shares outstanding and the lack of a formal market, such as the New York Stock Exchange.

⁶⁰ *Id.* § 77r(a).

⁶¹ *Id.* § 77r(a)(1)(A), (b)(4)(C).

potential losses. Second, it expressly authorizes civil actions for fraud against an issuer, its directors, and its officers.⁶² In addition, the SEC is granted “examination, enforcement and other rulemaking authority” over funding portals,⁶³ and presumably retains authority to enforce the various statutory and regulatory mandates for both issuers and intermediaries. And state authorities retain jurisdiction over issuers or intermediaries that engage in fraud, deceit, or unlawful conduct.⁶⁴

In short, the CROWDFUND Act can be expected to offer entrepreneurs and small business owners a relatively simple and low-cost method of raising significant amounts of business capital through the Internet.

III. RURAL CROWDFUNDING

Cities are often seen as the center of economic and entrepreneurial activity.⁶⁵ The conventional wisdom is that new businesses are most commonly founded in “creative” cities like Austin, Boulder or Seattle.⁶⁶ It cannot be denied that the exciting diversity of people and offerings found in a cosmopolitan city has a positive effect on entrepreneurship.⁶⁷

But this is only one model of entrepreneurship. The quiet contemplation available in a rural setting may also be a fertile ground for entrepreneurship.⁶⁸ Just as writers and artists have long found inspiration in rural areas, for example Henry David Thoreau, Ken Kesey and John Denver,⁶⁹ so too may entrepreneurs. Even so, to the extent that entrepreneurship exists in rural areas, it has largely remained small and off-the-radar due to the persistent lack of venture capital there.⁷⁰

Securities crowdfunding⁷¹ is an ideal vehicle to bring venture capital to rural areas. By allowing rural entrepreneurs to connect with and obtain financing

⁶² *Id.* § 77d-1(c)(1)(A), (c)(2)(A), (c)(3).

⁶³ *Id.* § 78c(h)(1)(A).

⁶⁴ *Id.* § 77r(c)(1).

⁶⁵ *E.g.*, FLORIDA, *supra* note 2, at 219; JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* (1961).

⁶⁶ RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS, REVISITED* 339-41 (2012).

⁶⁷ FLORIDA, *supra* note 2, at 227; *id.* at 245 (“Large places have an apparent advantage in spawning and capturing creativity.”); *id.* at 287 (“cities have become the prime location for the creative lifestyle.”).

⁶⁸ BISHOP WITH CUSHING, *supra* note 25, at 209 (“Rural places are filled with pioneers and capitalists, do-it-yourselfers.”).

⁶⁹ *See* HENRY DAVID THOREAU, *WALDEN* (1854); TOM WOLFE, *THE ELECTRIC KOOL-AID ACID TEST* (1968) (describing the goings on at Ken Kesey’s rural homestead in La Honda, California); JOHN DENVER, *ROCKY MOUNTAIN HIGH* (RCA Records 1972).

⁷⁰ *See supra* Part I.

⁷¹ *See supra* Part II.

from angel investors on the Internet, crowdfunding frees them from the geographic constraint that has long hindered entrepreneurship in rural areas.⁷²

Moreover, our contemporary telecommunications and transportation systems could allow rural entrepreneurs to conduct business in real time with partners and customers around the world. For instance, a company with a single office in South Dakota could have its product fabricated in China and distributed globally via Amazon.com.

Now, it is certainly true that geography remains important.⁷³ This Essay does not mean to suggest that rural crowdfunding will cure all the ills of rural economies. Nevertheless, crowdfunding can be expected to create a new, realistic avenue for rural entrepreneurs to obtain venture capital without having to physically travel or relocate to Silicon Valley or another of the major venture capital centers. And this could benefit their broader rural communities, thanks to positive spillovers from entrepreneurship.⁷⁴

This Essay has focused on startup companies, but the benefits of crowdfunding are not limited to such entities. To the contrary, other rural businesses, such as farms, may also utilize this method of raising capital. In particular, farms that promise sustainable, organic agriculture may be especially attractive investment opportunities for “foodies” and others. And the “authenticity” value⁷⁵ that comes with such investment offers could conceivably lower the cost of capital for the farm. Whereas a previous generation of urban and suburban dwellers physically moved “back to the land” for personal fulfillment,⁷⁶ the next generation may be able to achieve that same level of equanimity by making a crowdfunding investment in a sustainable farm.

This is only the tip of the iceberg. As mentioned above,⁷⁷ many more rural workers are employed in the service and manufacturing sectors, rather than farming. Crowdfunding can work for them, too. For instance, a restaurant in a rural area that seeks to expand or renovate might look to crowdfund the capital. In

⁷² See *supra* Part I.

⁷³ FLORIDA, *supra* note 2, at 219 (“Perhaps the greatest of all the New Economy myths is that ‘geography is dead.’ . . . Not only do people remain highly concentrated, but the economy itself—the high-tech, knowledge-based and creative-content industries that drive so much of economic growth—continues to concentrate in specific places from Austin and Silicon Valley to New York City and Hollywood. . . . Place and community are more critical factors than ever before.”).

⁷⁴ Schwartz, *supra* note 15, at 428-29.

⁷⁵ FLORIDA, *supra* note 2, at 228-29.

⁷⁶ See, e.g., JEFFERSON AIRPLANE, THE FARM, *on* VOLUNTEERS (RCA Records 1969) (“Bought myself a farm, way out in the country/Took to growing lettuce, milkin’ cows and honey . . . Yes it’s good, living on the farm/Oh so good, living on the farm.”).

⁷⁷ Porter, *supra* note 11, at 977-78.

fact, crowdfunding may soon play a significant role in everyday business finance across the country.⁷⁸

CONCLUSION

The crowdfunding of securities under the CROWDFUND Act has the potential to give rural entrepreneurs, farmers and small business owners a new source for venture capital and other business finance. What they choose to do with it, we can only wait and see.

⁷⁸ See Amy Cortese, *The Crowdfunding Crowd is Anxious*, N.Y. TIMES, Jan. 6, 2013, at BU1 (“We think this is literally going to change the banking system.”) (quoting founder and CEO of crowdfunding firm).