

Helping Angels Lead Our Startups (HALOS) Act

On July 10, 2013, the SEC adopted Regulation D 506(c) in accordance with provisions in the Jumpstart Our Business Startup (JOBS) Act. Intended to support startups and provide small businesses across the country with the means to raise capital, 506(c) permits start-ups to use general solicitation when raising capital for non-publicly traded corporations, but only if investors are deemed accredited. Currently, an investor may either provide financial and wealth documentation to a third party such as a broker, banker, or accountant; or provide financial or wealth documentation to the entrepreneur.

This rule change has its heart in the right place: allowing businesses to take advantage of vastly expanded information technologies to advertise, while seeking to protect these businesses from investors with financial means but little experience in managing risk. However, with a collective median 9 years of experience in investing, and 15 years of experience as entrepreneurs angels are distinctly different from these less experienced investors. In addition, handing over personal wealth and financial documentation to a single third party poses privacy concerns, and asking entrepreneurs -- which may not have the physical or financial means to vet investors -- puts them at risk of violating compliance.

The HALOS Act would alleviate some of the burden posed by this new rule by protecting certain events – like demo days – from being classified as general solicitation and subject to the accreditation process. These types of events, frequented by angels and startups, existed for years during the ban on general solicitation. As the JOBS Act was meant to expand access to capital, it doesn't make sense to add additional hoops for angels to jump through in an effort to fix something that isn't broken.

The HALOS Act would clarify the definition of general solicitation as not applying to a presentation, communication, or event:

- Sponsored by federal, state, or local government; a college or university; non-profit; established angel group; venture forum, venture capital association or trade association; or any other group approved by the SEC.
- Whose advertising does not make any specific investment offering.
- Whose sponsor does not make investment recommendations or provide investment advice to attendees or engage in investment negotiations with investors attending the event.
- Where no specific information regarding investments is communicated by the issuer other than that they are offering securities, the type and amount of securities being offered, the amount of securities still available, and the intended use of the securities.