PROPOSED MERGER

OF CROWDCUBE LIMITED AND SEEDRS LIMITED

SUBMISSION (PHASE 2)

BY CROWDCUBE LIMITED

TO

THE COMPETITION AND MARKETS AUTHORITY

Bird & Bird LLP
12 New Fetter Lane
London
EC4A 1JP

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PROPOSED MERGER OF CROWDCUBE LIMITED AND SEEDRS LIMITED

SUBMISSION (PHASE 2) BY CROWDCUBE LIMITED

TO THE COMPETITION AND MARKETS AUTHORITY

1. EXECUTIVE SUMMARY

Crowdcube was founded to provide a competitive source of funding for SMEs, which challenged the incumbent forms of equity finance, primarily venture capital funds and business angels. Crowdcube is passionate about the impact that equity crowdfunding can have on businesses and believes that it has an important part to play in both the SME equity finance ecosystem and fintech sector which is, in turn, fundamental to the UK economy.

Crowdcube firmly believes that the proposed merger is necessary to ensure [Crowdcube confidential information]. The activity of each of the parties, equity crowdfunding, has (to the best of Crowdcube's knowledge), never been profitable for any service provider anywhere in the world. [Crowdcube confidential information] Further, Crowdcube believes that [Crowdcube confidential information], but it is optimistic of being [Crowdcube confidential information] for existing and new investors following the proposed merger.

Thus the completion of the proposed merger is [Crowdcube confidential information]. There would, absent the proposed merger, be [Crowdcube confidential information]. Crowdcube believes that such an outcome would have a very harmful effect on equity crowdfunding in the UK: this scenario [Crowdcube confidential information] would be complicated, have a negative impact on customers, [Crowdcube confidential information] undermine competition in the provision of equity finance to SMEs.

By contrast, following the proposed merger, the best features of both parties' platforms, various synergies of their operations, and a range of efficiencies can be realised which will improve the competitiveness of the combined platform, improve the unit economics of providing services to SME customers and enable more cost efficient operation of the combined business than is possible for Crowdcube's (or most likely also Seedrs') business.

In the absence of the proposed merger, Crowdcube will be forced to focus on [Crowdcube confidential information], probably meaning that it would not [Crowdcube confidential information]. Crowdcube has continued [Crowdcube confidential information] its mission statement and founding principle - to become a genuine alternative for entrepreneurs seeking to fund their ideas. Crowdcube’s history is one of passion to this cause and its public image and ethos have always reflected that.

While there would be some [Crowdcube confidential information] This is because in practice, Crowdcube has to compete to win the appointment to arrange any such further funding rounds [Crowdcube confidential information] If the proposed merger were not to proceed, Crowdcube would [Crowdcube confidential information]

Following the proposed merger, the combined business' operating cost position would be improved and its resources would be stronger, [Crowdcube confidential information]. However in the absence of the proposed merger, [Crowdcube confidential information].

In this submission and throughout the phase 2 process, Crowdcube intends to explain how its business works within the ecosystem of finance for SMEs, because this is crucial to both the counterfactual, market definition and competitive dynamics. Crowdcube believes that some of the conclusions drawn in the phase 1 decision stem from the phase 1 enquiry not having gone into these details sufficiently.

The submission will then discuss the counterfactual, which is that absent the proposed merger, at least one of the parties will be compelled to discontinue trading, causing significant disruption to many SMEs, a loss of likely synergies and efficiencies, and an undermining of competition in equity finance provision. Crowdcube disagrees with the CMA's belief as stated in the phase 1 decision that the prevailing conditions of competition should be the relevant counterfactual against which to assess the proposed merger, with Crowdcube and Seedrs each remaining in the market as independent competitors (paragraph 26). Similarly Crowdcube disagrees with the counterfactual mentioned in footnote 6 of the Issues Statement as a starting point for the phase 2 investigation. [Crowdcube confidential information]

The following sections of this submission will focus on SMEs and investors and the market conditions for each of these groups. Crowdcube disagrees strongly with the conclusions of the CMA in its phase 1 decision that competition should be assessed by reference to the supply of equity crowdfunding in the UK and the supply of equity crowdfunding platforms to investors in the UK, and that the proposed merger raises competition concerns regarding any such markets. Similarly, Crowdcube disagrees strongly with the approach set out in paragraphs 21 and 25 of the Issues Statement, that the CMA intends to assess whether the proposed merger may be expected to result in a substantial lessening of competition in the supply of equity crowdfunding platforms to SMEs and to investors. Crowdcube believes that the appropriate starting point for the competitive assessment should be to consider afresh the scope of the relevant product market.

Crowdfunding platforms are in fact only a mechanism for competing in the relevant wider market which is the provision of equity finance to SMEs. The relevant end product is equity finance. Crowdfunding, venture capital, business angel funds and other forms of private equity provision are only different means of providing that end product.

Crowdcube has conducted research into equity financings that it has lost to other providers (explained in section 4.4 of this submission), the results of which show that approximately [Crowdcube confidential information] times more of these lost (by Crowdcube) deals were secured by an identified and different type of equity finance provider than the number of deals that were identified as lost by Crowdcube to Seedrs. Also, Crowdcube provides many examples, also in section 4.4, of equity financings that it lost to other types of equity finance provider despite having provided a previous equity financing round for the relevant SME. These data and evidence together show the following:

- There is a wide range of equity financing methods and options for all SMEs at all stages of growth;
- Crowdcube competes at least as much and probably more with other types of equity finance provider than with Seedrs; and
- The provision by Crowdcube of equity financing for an SME customer does not give it any advantage or preferred position for purposes of subsequent equity financings by the same SME.

Crowdcube must compete with other types of equity finance provider at every stage and for every financing.

Despite the similarities between the two parties' businesses, they are not each other's only or main competitor. They each have the most similar model of equity finance provision to the other, but the relevant market for equity finance provision is broad and complex, and includes all types of equity finance provision to SMEs. The proposed merger will result in no substantial lessening of competition because competition in this market is intense, and the merged entity will continue to face strong competitive constraints from incumbent forms of equity finance provision including venture capital firms and business angels.

Finally, the submission will discuss the benefits of the merger to both SME customers and investors.

2. CROWDCUBE'S HISTORY AND PRESENT POSITION

Crowdcube Limited ("Crowdcube") welcomes the opportunity to present its case to the CMA's Inquiry Group and phase 2 case team concerning its proposed merger with Seedrs Limited ("Seedrs").

Crowdcube is a pioneer of equity crowdfunding as a disruptive method of providing equity finance to SME companies. Crowdcube was established to facilitate the raising of finance for ambitious start-up companies seeking a competitive alternative to the established forms of finance provision, in particular venture capital firms, business angels and other private equity investors.

Crowdcube has always been company-focussed, pursuing a philosophy facilitating equity financing for SME companies of all growth stages, on a transparent basis. [Crowdcube confidential information] generating business from good quality SME customers to raise funds on the platform, and on the investment opportunities in interesting SME companies seeking finance on the platform being attractive to investors to the platform.

2.1 The history of Crowdcube

Crowdcube was the world's first equity crowdfunding platform and has pioneered a number of developments in the provision of SME financing services since its launch. However, it is still less than a decade old and remains at an early stage of its potential development as a business.

From the outset, Crowdcube set out to create and develop an online market place that would provide greater transparency and accessibility to the business of raising equity finance for SMEs. It also aimed to do so more cost effectively than the existing established operators in the market. Crowdcube aimed to enable SMEs to raise capital from individual and institutional investors and in so doing to provide competition to the existing providers.

Crowdcube was established in 2010 and launched in 2011, and initially expected that the business would serve the very earliest stage SMEs and primarily raise relatively small sums. However, as early as 2012 the company realised that it could compete with venture capital firms, when its SME customer *Escape the City* turned down a venture capital offer from Index Ventures in order to crowdfund on the Crowdcube platform. In 2014, Crowdcube secured equity finance for its own business from a top venture capital firm, Balderton. This provided institutional validation of Crowdcube's crowdfunding platform, with equity financing of £5 million. Further equity finance from an institution investor was secured in 2015 from Numis, one of the City's most prominent brokers and a corporate finance specialist, of £5.7 million. Also in 2015, Crowdcube secured its first "marquee" deal. "Marquee" deals are equity finance raises for later stage companies with a significant base of customers which both generate a proportionally high level of revenue via commission and which also serve to prove the capability of the crowdfunding platform and to raise its profile.

In 2014, the FCA made changes to the regulatory regime for equity crowdfunding (which it refers to as investment-based crowdfunding), with the stated aim of protecting consumers while helping foster competition and access to finance.[1]

One of the key criticisms levelled at Crowdcube in its early years was (made by a number of venture capital firms seeking to discourage customers or potential customers from considering equity crowdfunding) that equity crowdfunding resulted in a large number of

[1] https://www.fca.org.uk/news/press-releases/financial-conduct-authority-outlines-how-it-will-regulate-crowdfunding

individual shareholders on the company's capitalisation table, which might be a disincentive to subsequent venture capital investment because of the challenges of managing such a large number of small scale shareholders. To adapt its business to address that criticism, Crowdcube created its nominee structure in 2016. This enabled SMEs to utilise a nominee vehicle for large numbers of investors to hold shares through the nominee.

In 2018, the threshold investment level for the requirement to issue a prospectus for offerings to the public was increased under the EU Prospectus Directive from €5 million to €8 million. Since the production of a prospectus is a very burdensome, time-consuming and costly exercise which in many cases is not practical or financially feasible, Crowdcube would not often seek to raise financings on its platform of a level which would require a prospectus to be issued. The raising of the threshold to €8 million substantially increased the size of raises that could be handled by Crowdcube and by equity crowdfunding. For example, where Crowdcube seeks to co-invest with a venture capital firm or business angel fund by obtaining a share of an overall financing, it can now obtain such an allocation of up to the increased level of €8 million.

In late 2018 and early 2019, Crowdcube completed its most recent round of financing – a further investment from Draper and a Crowdcube platform raise.

The graph showing Crowdcube's revenue and EBITDA, set out in section 2.4 below, tracks Crowdcube's finances since 2011.

2.2 Crowdcube's "funnel"

The process of generating business that can ultimately result in financings via Crowdcube's platform is very time-consuming and resource intensive. Crowdcube obtains its revenue by commission only on the finance eventually raised, and this can only occur at the very end of the lengthy process. At any one time, Crowdcube has leads on possible financings for up to [Crowdcube confidential information] of which approximately [Crowdcube confidential information], become qualified opportunities for which a financing campaign can (potentially) be commenced. This equates to approximately [Crowdcube confidential information], but in a typical month only [Crowdcube confidential information] would result in an actual launch of a pitch on Crowdcube's platform, and not even all of these are actually successful in raising the expected finance. Typically, [Crowdcube confidential information] pitches launched would achieve the funding target, and this figure of [Crowdcube confidential information] funded campaigns per month represents approximately only [Crowdcube confidential information] of the monthly opportunities created.

[Crowdcube confidential information]

This campaigns process takes approximately [Crowdcube confidential information] from start to finish, including a typical period of [Crowdcube confidential information] of fundraising on the platform. This is followed by the completion stage during which due diligence is finalised, a seven-day cooling off period is allowed for investors, payments are collected, share certificates are issued, and the funds are then transferred to the company. It is only at this point that Crowdcube is able to obtain its commission, which is typically [Crowdcube confidential information] days from the commencement of the campaign, i.e. approaching [Crowdcube confidential information] from the commencement.

2.3 Crowdcube today

In order to achieve its objectives, it was necessary for Crowdcube to start with relatively small deals in order to develop the concept of crowdfunding and its operation in the UK.

However, it is not sustainable absent the proposed merger for Crowdcube to [Crowdcube confidential information] The economics are such that [Crowdcube confidential information]

Crowdcube's average amounts raised and average revenues for each of the seed, early and growth segments and its segment counts, from 2017 onwards, are set out in the tables below. [Crowdcube confidential information]

[Crowdcube confidential information]

Whilst Crowdcube and crowdfunding more generally is known (amongst other things) as a means of raising finance [Crowdcube confidential information]. In order for Crowdcube to grow and develop as a competitive force in the provision of SME equity financing, it needs to avoid further losses and rapidly achieve greater scale, and the proposed merger is the most effective means of doing so. The merged entity will have greater resources to invest in the development of its business and in the development of the best attributes of the two platforms combined, and will be able to achieve improved economies of scale that will enable continued equity financing of seed-stage deals to be justified as a means of (hopefully) generating repeat business from the same entity through later stage financings.

The importance of being able to take a long-term view and – even then – to be capable of withstanding losses in serving many of these seed-stage customers is further evidenced in Annex 1 to this submission. Annex 1 provides details of a sample of SME customers which have conducted a previous financing on Crowdcube's platform, but which have raised subsequent equity through other equity finance providers. It is very common for Crowdcube to conduct a raise or even more than one raise for a customer and then lose out on a subsequent, larger and potentially more lucrative raise because the SME customer decides that it will not use equity crowdfunding for even a part of its subsequent funding round, but will instead use a different type of equity finance such as venture capital or business angel funding.

2.4 Crowdcube's loss-making situation

[Crowdcube confidential information]

It was incorrect (at least as regards Crowdcube) for the CMA to state in its phase 1 decision (paragraph 25) that the reason that the parties "have not generated profit is due to reinvesting gross profit back into their platforms". Reinvestment into Crowdcube's platform accounts for only a very small part of Crowdcube's operating costs. This statement by the CMA was made in error does not eflect the realities of Crowdcube's financial situation.

Crowdcube's operating or fixed costs are broken down in the following graphic:

[Crowdcube confidential information]

As can be seen from the chart above, the large majority of operating costs are ongoing costs associated with the day-to-day operation Crowdcube's platform. This is even true of the Product & Engineering costs category. The majority of these costs in this category are incurred in providing support to the operational functions that use its platforms (support tickets, code fixes, debugging) and maintaining its platform (deploying new code or product releases to address common problems in its operations). Such support and maintenance involves investigation and engineering work regarding recurrent technical issues affecting Crowdcube's platform.

Crowdfunding remains an unproven model in terms of profitability. Crowdcube believes that no crowdfunding platform anywhere in the world has yet become profitable on a sustained basis. Crowdcube understands that many crowdfunding and other fintech platforms in the UK and in Europe are struggling financially (and were already loss-making before Covid-19 exacerbated their financial position). Crowdcube's annual accounts show significant losses [Crowdcube confidential information], it fails to cover its operating costs [Crowdcube confidential information]

[Crowdcube confidential information]

[Crowdcube confidential information] is symptomatic of the low margins that are typical of investment platform operations. The low margins mean that Crowdcube has to attract a significant volume of business simply to break even and be economically viable, i.e. reach an economically sustainable scale. Achieving an economically sustainable scale requires growth in both volume and value terms.

The ongoing costs of regulatory compliance are an appreciable factor contributing to the high volume of business that Crowdcube will need to attract in order to be economically sustainable in the long term. Crowdcube faces direct FCA costs in a range of [Crowdcube confidential information] per year, including an annual CASS audit [Crowdcube confidential information] and "know your client"/AML costs to verify investors and SME directors and founders (approximately [Crowdcube confidential information]) subject to the volume of transactions.

The CMA incorrectly stated the financial situation of the parties and in particular Crowdcube in its phase 1 decision. The CMA stated (paragraph 26) that the relevant counterfactual against which to assess the proposed merger is "the prevailing conditions of competition…, with Crowdcube and Seedrs each remaining in the market at independent competitors". This assessment is surprising, and it shows a misreading by the CMA of Crowdcube's accounts and financial circumstances. The CMA stated (in paragraph 25) that the parties have healthy gross profit margins, but that they have not generated profit (overall) "due to reinvesting gross profit back into their platforms". As stated above, only a very small amount of Crowdcube's operating costs are reinvestments into its platform. It is clear from Crowdcube's published accounts to September 2019 [Crowdcube confidential information], that whilst Crowdcube did make a gross profit in terms of the margin of its total revenue over the cost of sales, this is before accounting for operating costs, which are necessary fixed costs, management and overheads which must be covered in the operation of the business. These necessary operating costs more than swallow up the gross profit, resulting in a loss of £2.6 million for financial year 2019. It was incorrect of the CMA to state that the lack of profit is due to reinvestment of gross profit back into the parties'/Crowdcube's platform(s).

The proposed merger is not a situation of the two largest suppliers in a sector using combined strength to raise fees and/or dictate terms. Rather, it is a matter of combining the parties' resources to reach a sustainable basis for the parties' operations, so as to provide stronger competition in equity financing with increased transparency, accessibility and efficiency for SMEs. The proposed merger will therefore serve to place Crowdcube's and the merged entity's businesses on a firmer footing enabling sustainability in the longer term and the provision by the merged entity of stronger competition to the established operators in the SME equity finance field.

3. THE COUNTERFACTUAL

3.1 Shortcomings of the CMA's phase 1 decision

Both the CMA's phase 1 assessment and the Issues Statement consider the market in which the parties operate in an entirely static way, that disregards the market context. In reality the economic environment in which the parties operate is very dynamic and has evolved rapidly in recent years and will continue to evolve rapidly in the near future. The counterfactual is not "the prevailing conditions of competition" as stated by the in the CMA's phase 1 decision (paragraph 26) and also as stated as a "starting point" in the Issues Statement (footnote 6).

On the contrary, in assessing the relevant counterfactual, for the reasons explained below the CMA should take into account the following facts:

- Both Crowdcube and Seedrs are unprofitable and cannot both achieve profitability independently of one another in the absence of the proposed merger. The CMA's investigation to date has overlooked the fact that neither of the merging parties and also no crowdfunding service worldwide (to Crowdcube's knowledge) has yet reached an economically sustainable scale that allows it to break even. For the reasons explained below, [Crowdcube confidential information]

- As such, absent the merger, [Crowdcube confidential information]. Therefore the "prevailing conditions of competition" cannot continue for more than approximately [Crowdcube confidential information]. Crowdcube considers that the merged entity would [Crowdcube confidential information] sourcing this financial support following the merger;

- [Crowdcube confidential information].

- In order to have [Crowdcube confidential information], Crowdcube would in any event [Crowdcube confidential information].

More specifically, in the absence of the proposed merger, Crowdcube will be forced to [Crowdcube confidential information]

3.2 The immediate counterfactual

3.2.1 [Crowdcube confidential information]

In the absence of the proposed merger, Crowdcube will continue with its strategy of seeking SME customers for financings, growing its revenue and seeking to achieve an economically sustainable base of operations that will allow it to break even. However, absent the merger, [Crowdcube confidential information]

This change of strategy would be a major reorientation of business focus [Crowdcube confidential information]

Assuming that Seedrs is in a similar position to Crowdcube, in the absence of the merger equity crowdfunding would be curtailed in scope in the UK because [Crowdcube confidential information]

By contrast, if the proposed merger proceeds, Crowdcube anticipates that the combined business [Crowdcube confidential information]

3.2.2 [Crowdcube confidential information]

In any event, absent the merger, Crowdcube will need to seek additional funding [Crowdcube confidential information]. The cost savings that Crowdcube would seek to make would not by themselves be substantial enough to avoid the need for a further financing round, and at best such costs savings would delay the timeframe of such a further financing [Crowdcube confidential information]. Working capital will be needed to finance the development of the business until [Crowdcube confidential information] in profitability (noting that any clear shift in strategy would take at a minimum [Crowdcube confidential information] to filter through to cash (as noted in Crowdcube's sales cycle) but likely longer, given the time to build a focused [Crowdcube confidential information].

The following graph tracks Crowdcube's cash requirement [Crowdcube confidential information], showing that it will be imperative that it raises further finance [Crowdcube confidential information]:

[Crowdcube confidential information]

However, it is doubtful that [Crowdcube confidential information]

[Crowdcube confidential information]

[Crowdcube confidential information] and, it is more optimistic of securing such financing in a post-merger scenario.

3.3 The short-term counterfactual: Likely disorderly exit

The present competitive dynamics are draining each of the parties' cash. [Crowdcube confidential information] would not be beneficial to the wider market or to the SME customers of either party or investors who use the parties' platforms. [Crowdcube confidential information]

The reality is that continued loss-making by the parties (i.e. failure to cover operating costs as opposed to just costs of sale) and depletion of cash reserves will result in [Crowdcube confidential information] is very much part of the short-term counterfactual.

Moreover, it is possible that the situation would be even more serious. [Crowdcube confidential information] the incumbent operators, i.e. venture capital firms and business angel networks.

In any event, [Crowdcube confidential information] SMEs which are in the course of or have just completed an equity financing on the relevant party's platform, [Crowdcube confidential information]:

- **Just completed campaigns (i.e. successfully funded, but in the completions and post-completions process):** These companies would be really stuck and would fall into two categories: (1) the companies who could not complete the round and therefore would not receive their funds, and (2) the companies who were relying on Crowdcube for post-round support, including EIS returns and distribution of certificates.
- **Live campaigns:** Such an exit would cause major disruption for those companies, whose only option would be to try and re-list on another platform, seek alternative finance or attempt to close the entire investment round offline. All of these would be

costly and cause material delay to receipt of funds (as well as potentially damaging PR).

- **Post-funding nominee holdings:** While Crowdcube has an emergency protocol as part of its regulatory business plan to offload the client assets to another provider, failure of Crowdcube would undoubtedly cause some disruption to SMEs, two examples being: (1) disruption caused by sheer volume of investor queries - some of the larger holdings have many thousands of investors who would all be very keen to understand what was happening, and (2) any corporate actions (e.g. shareholder resolutions etc) would probably be delayed while Crowdcube Nominees holdings were transitioned to the new custodian, and therefore this could impact on the SME's ability to execute new funding rounds or other transactions.
- **Campaigns close to launch:** Although the affected companies could switch to another platform or alternative funding source, this would cause real disruption due to the amount of work involved in preparing for a campaign. (On the occasions where a campaign is pulled at a late stage due to failure of due diligence or some other reason, the impact on the company is very real and therefore Crowdcube takes those sort of last minute decisions incredibly seriously, because it is aware of the impact that it can have.)

As the above explanation shows, it is unrealistic of the CMA to state (in its phase 1 decision) that the prevailing conditions of competition should be the relevant counterfactual against which to assess the merger. The immediate counterfactual is a refocusing by Crowdcube of its strategy [Crowdcube confidential information]. Absent the merger, [Crowdcube confidential information] and possibly a serious undermining of the credibility of the crowdfunding model in the UK including a possible weakening of the [Crowdcube confidential information] business.

3.4 The likelihood of market entry

In its phase 1 decision, the CMA stated that 'it had 'not received evidence suggesting that other third parties, including venture capital firms, angel investors or other equity finance sources, are planning to enter or expand into equity crowdfunding platforms' (paragraph 44(c)). However, the CMA's conclusion does not take account of a complex and rapidly evolving market. Crowdcube would like to draw attention to examples of existing new entry and to likely future entry from US crowdfunding platforms expanding into the UK market and by diversification of existing fintech platforms. Such new entry is also expected to increase should the merger proceed and after greater confidence has been generated in equity crowdfunding as a sustainable business model.

There are existing examples of new entry by web-based technology platforms providing services to different elements of the equity funding market. Some platforms cater for angel investors (for example Angels Den, Crowd for Angels, Envestors, Syndicate Room), but also present investment opportunities in the same way as Crowdcube and Seedrs do. While these may require relatively high minimum amounts to be invested (unlike the parties' platforms), they target the same types of SME as the parties and undeniably compete with the parties. Along with Crowdcube and Seedrs, they are members UK Crowdfunding Association (https://www.ukcfa.org.uk/about-us/members/).

In addition, there are more businesses providing technology solutions to SMEs, for example cap table providers (Capdesk, Globacap) and legal services (Seedlegals) who provide elements of the same services that the parties provide to SME customers and therefore exert competitive pressure. For example, both Seedlegals and Globacap provide funding round services that companies use as an alternative to crowdfunding or VC funding.[2]

In Crowdcube's view (and as already demonstrated in Crowdcube's responses to questions 8-11 of RFI 1), there are three types of potential future new entrants:

1. Foreign crowdfunding platforms (predominantly United States (US) based) that are well funded and have clearly indicated a desire to expand into the UK and/or the EU;

2. Existing financial services and/or fintech companies that decide to enter the crowdfunding market; and

3. A new start-up entrant that is well funded and creates a better proposition (technically and commercial) than is already offered by Crowdcube and/or Seedrs.

The first two of these types of entrant could enter the equity crowdfunding market irrespective of whether or not the proposed merger proceeds. In addition, all three types of market entrants could (and would be incentivised to) commence equity crowdfunding operations if the profitability and sustainability of the model were first demonstrated by the parties' combined business following implementation of the proposed merger.

If any of the potential new entrants listed above were to attract a "marquee" deal, it could be an anchor for them to grow and propel them to rapidly become a significant competitive threat. As already mentioned (in section 2.1), "marquee" deals are financing campaigns by relatively established and well-known SMEs with a strong base of customers and supporters who want to invest in them. Such deals are usually on a relatively large scale and are very important to a crowdfunding operation in demonstrating credibility, scale and profile for purposes of attracting further SME equity financings to the platform. As well as being high value revenue opportunities due to the amount of investment, these raises create a huge amount of attention through the existing popularity of the brands and also the profile-raising effect of such raises. Examples of marquee raises over the past few years include Monzo, Brewdog and Nutmeg. A marquee deal could generate a base of users, track record and market awareness that could be a springboard for rapidly growing a crowdfunding operation.

In its phase 1 decision, the CMA stated (paragraph 80) that third party responses including from non-UK crowdfunding platforms did not indicate any third party intention to enter the UK equity crowdfunding market at this stage. However, as explained further below, this does not preclude entry by a US crowdfunding platform as a realistic possibility (particularly once the model is demonstrably profitable), and entry through diversification of existing fintech platforms is already occurring and is likely to increase.

The CMA further stated that 'it would take [equity crowdfunding platforms not active in the UK] two to five years and £5m to £60m to grow to a similar size to that of the Parties combined' (paragraph 80). Crowdcube is of the view that this timeline is longer than would be needed for a US platform or existing fintech platform diversifying into crowdfunding in

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[2] https://seedlegals.com/resources/seedlegals-funding-round-stats/

https://www.linkedin.com/posts/anrose_huge-growth-in-uk-funding-rounds-on-seedlegals-activity-6743508195039289344-F-aZ

https://globacap.com/private-placement-software/

the UK. It is entirely credible (and indeed likely) that a well-known financial services company (e.g. Hargreaves Lansdown) and/or a US crowdfunding platform entering the UK market, with a strong track record in financial services platform operations in either the UK or the USA, would be able to use its profile to attract marquee deals relatively quickly. This could allow it to grow a strong UK crowdfunding operation in a matter of months. Crowdcube entered the market as a totally new start-up entrant, which explains why it took more than three years to achieve its current scale. However, the position would be entirely different for an existing fintech company or an established US-based crowdfunding platform.

(1) Potential entry by a US-based platform:

The regulations which apply to crowdfunding offers in the US were amended in November 2020. The regulatory overhaul has materially increased the ease for US companies to raise capital through crowdfunding by increasing the upper limit on the exemptions which are used by crowdfunding platforms to conduct offerings under US securities law.

The new rules have created a significant competitive advantage for US crowdfunding platforms. Indeed, in the UK / EU the effective caps imposed by the Prospectus rules are of €8m in the UK, €5m in Spain and €5M in France. In contrast, in the US Regulation CF raised the limit from $1m to $5m; Regulation A raised it to $20m for Tier 1 and $50m for Tier 2 offerings. US crowdfunding platforms can therefore now derive more revenue from higher value raises. Given this advantage, plus the fact that US platforms are operating within a market that is significantly larger than that UK market, Crowdcube anticipates that US crowdfunding platforms will soon be in a position to reach a minimum viable economic scale and therefore a much stronger position than EU and UK crowdfunding platforms, and that they will target expansion into the UK and EU markets. Also, it would already be accustomed to operating under similar regulatory controls (in the USA) to those applied by the FCA to crowdfunding in the UK. The infrastructure that US crowdfunding platforms already have, enabling placement of investments, AML checks, payments and so on, would make it relatively easy to satisfy the FCA that they have the necessary systems and processes. Therefore a US crowdfunding provider could become established more quickly than an entirely new UK provider because it would be able to use its track record in financial services platform operations in the USA, and would cover its fixed costs for the UK more quickly than would a new UK start-up operation.

Market entry by US providers will be an even greater possibility if, following the proposed merger, the combined Crowdcube/Seedrs business were to succeed in building sufficient awareness and demand to achieve a sustainable scale to demonstrate profitability. This would be likely to attract the interest of US platforms as well as other potential entrants into equity crowdfunding in the UK.

(2) Potential entry by diversification of an existing fintech platform:

In its phase 1 decision, the CMA noted that network effects are 'likely to act as a substantial obstacle for any potential competitors (paragraph 79). Whether or not network effects might be a barrier to an entirely new entrant, they are not a barrier to existing fintech platforms (such as Hargreaves Landsdown or Fidelity) or established equity investment companies.

Existing fintech platforms and equity investment companies already have significant databases of retails investors to whom to market new crowdfunding operations. They would be able to achieve strong network effects from the outset including the ability to attract a "marquee" financing. Both Hargreaves Landsdown and Fidelity already possess permissions to arrange investments and hold client assets. They also have well developed technology platforms that could be adapted to crowdfunding relatively easily. Their systems and processes could be adapted for regulatory purposes much more easily than the creation of new infrastructure by an entirely new entrant.

Technical factors such as FCA permissions would also not be substantial obstacles to a US crowdfunding operator seeking to commence crowdfunding activities in the UK. The systems and processes that US crowdfunding platforms already use would make it relatively easy to satisfy the FCA that they have appropriate infrastructure for the UK regulatory environment.

Such entry by means of diversification and/or expansion from an existing player is already a competitive threat to the parties insofar as such an existing platform already has most of the required resources, and would certainly be a realistic possibility should the proposed merger demonstrate the attractiveness of crowdfunding as an alternative and competitive means of equity financing on a sustainable basis.

4. THE RELEVANT MARKET OF EQUITY FINANCE FOR SMES

4.1 The true market context of equity crowdfunding

The motivation and reasoning for the development of equity crowdfunding was primarily to provide an alternative and competitive offering of equity finance to SMEs, i.e. as an alternative to the offerings of the incumbent providers i.e. venture capital firms and business angels. Crowdfunding provides opportunities to SMEs to raise equity on alternative terms to those of venture capital firms and angel investors. SMEs will select the appropriate form of equity finance provider based on a wide range of factors, including fees, valuation, non-financial terms (including any investor representation on the company's board of directors), speed and certainty of funding. Crowdfunding involves pros and cons on each of these aspects for most companies, relative to other forms of equity financing such as venture capital firms, business angels and so on.

In competing with these other forms of equity finance, Crowdcube has certain disadvantages; primarily the regulatory burden of arranging publicly available investment opportunities, but also by being effectively limited to raises of €8 million (approximately £7 million). If Crowdcube were to handle a financing above that threshold, the raising company would have to provide a prospectus for the offering of the company's shares to the public, which would be a hugely burdensome task in terms of both time and financial cost. Such cost of issuing a prospectus will in relation to many SMEs be a limiting factor in terms of the maximum size of equity financing that can feasibly be handled by means of equity crowdfunding (i.e. up to the threshold of approximately £7 million), and the prospectus limit has become a de facto cap on the size of equity crowdfunding rounds.

The correct approach to assessing crowdfunding and also the present proposed merger, is to see crowdfunding and the parties' activities as a disruptive mechanism providing fresh choice and additional or alternative sources of equity finance to eligible SME customers in a sector which is dominated by established means of providing or facilitating equity finance, in particular venture capital firms and business angel investors. Thus, each of the parties are in competition with venture capital firms and business angels and are not operating in a separate market to them. Crowdcube's experiences of raising awareness of crowdfunding and seeking equity financing business from SME customers have shown that SMEs raising equity finance have a broad range of choices and benefit form a very significant level of competition for the provision of that finance (as will be explained further in section 4.3 below).

At the same, crowdfunding provides additional choice and opportunities to retail investors for investment in company shares, especially those investors seeking a relatively high risk/return factor.

Therefore, crowdfunding should be seen as increasing choice and competition on both the SME company and retail investor sides of its operation. This is true in particular for Crowdcube and also (Crowdcube believes) for Seedrs. The proposed merger will result in a more robust and better resourced crowdfunding provider which is more likely to be able to achieve and maintain an economically viable scale of operations that is closer to minimum efficient scale, and to extend the reach of crowdfunding to a wider range of SME customers (and investors) than either of the parties can reach at present. Crowdcube would then be in a position of covering both its fixed and variable costs and so would then have a sustainable business.

The proposed merger should be seen as enabling the mechanism of crowdfunding to operate on a more viable economic scale. The proposed merger will offer stronger competition to venture capital firms and business angels in the provision of equity finance to SMEs, and will at the same time enable additional investment opportunities to retail investors alongside the myriad of retail investment opportunities already open to them. Above all, the proposed merger will improve crowdfunding as a mechanism for delivering equity finance provision and will thus improve competition in the provision of equity finance to SMEs, at the same time as increasing choice to retail investors.

4.2 Co-investment and competition with venture capital and business angel funders

The market in which Crowdcube operates is broad and complex and, Crowdcube often has to compete hard to secure even part of an overall financing round for a particular company. In venture capital fundraisings, it is very common for the allocation to be spread between different venture capital firms [Crowdcube confidential information]. So even before Crowdcube begins to compete for allocation on these rounds, there is already competition for allocation between venture capital firms. If Crowdcube were not content to obtain an allocation of part only of the financing round, the entirety of the financing would be lost to the venture capital firm or business angel. Crowdcube has been able to persuade some SMEs of the advantages of a part of or allocation within a financing round being implemented via crowdfunding, although in many cases the resulting proportion of a financing round allocated to Crowdcube remains small. The nature of the market place and the incumbency advantages of venture capital and business angel financing mean that on many financings, Crowdcube currently has to accept that the majority of the funding will be provided by, say, a venture capital firm. Crowdcube therefore currently has to be prepared to work with the venture capital firm as a co-investor even as it competes to secure a share of the allocation that might otherwise have gone to the venture capital firm. Crowdcube competes with venture capital firms for a share of financings which would otherwise be allocated in total to the venture capital firm.

The frequency of such co-investments does not mean that crowdfunding and in particular Crowdcube's operation does not compete with venture capital (and/or business angel funding), but rather that Crowdcube currently has to focus its sales and marketing on competing for only a limited share of the overall financing in order to obtain any business at all in respect of that financing, which would otherwise be awarded entirely to the relevant venture or business angel fund.

4.3 The relevant product market is broad and diverse

Crowdcube disagrees strongly with the conclusions of the CMA in its phase 1 decision that competition should be assessed by reference to the supply of equity crowdfunding in the UK and the supply of equity crowdfunding platforms to investors in the UK, and that the proposed merger raises competition concerns regarding any such markets; see paragraphs 7, 16, 49 and 75 of the phase 1 decision. These conclusions were based on an unduly narrow approach to the scope and extent of the relevant markets, as explained in this section.

In a similar way, Crowdcube disagrees strongly with the approach set out in paragraphs 21 and 25 of the CMA's phase 2 Issues Statement, that the CMA intends to assess whether the proposed merger may be expected to result in a substantial lessening of competition in the supply of equity crowdfunding platforms (to SMEs and investors in the UK). This is the wrong starting point because it implies that the CMA considers that the supply of equity crowdfunding platforms is the relevant product market, whereas equity crowdfunding platforms are in fact only a mechanism for competing in the relevant wider market which is the provision of equity finance to SMEs.

By contrast, Crowdcube welcomes the approach set out in paragraph 23(b) of the Issues Statement, i.e. that the CMA will consider whether it may be appropriate to assess the proposed merger against a wider frame of reference to include alternative funding sources to equity crowdfunding. Crowdcube believes that there is a wide range of providers of equity finance to SMEs which should be included in the frame of reference, including venture capital firms and business angel funds.

As explained in section 4.1, Crowdcube considers that in assessing the appropriate frame of reference, the CMA should take into account the following important factors:

> **First:** The relevant product that Crowdcube's or the parties' customers seek through crowdfunding is equity finance. Equity finance can be obtained through a number of channels or types of provider, including venture capital firms, business angels, government funds, other private investors and crowdfunding.
>
> **Second:** The different modes of operation of these different types of finance provider reflect different terms as a basis for supplying the same product, equity finance, and such differences are part of the tapestry of competition in providing equity finance to SMEs.

Crowdcube believes that, to a large extent, the conclusions reached by the CMA in its phase 1 decision were the result of its third party enquiries having so far been far too limited. The

CMA obtained contact details from the parties for their respective SME customers (and also investor customers), and then contacted only these types of customer requesting their views. Companies that have successfully raised finance on either of the parties' platforms will be disproportionately likely to regard the two merging parties as close competitors, as compared to the wider population of SMEs for whose services Crowdcube and Seedrs are competing. To rectify this selection bias, the correct approach would include surveying the views of a wider range of third parties, including potential customers of the parties who, having considered all the options, have then decided to seek equity finance from other types of provider, such as venture capital firms. The views of these types of funded entity would demonstrate the wider context of crowdfunding and the appropriate wider frame of reference regarding the different types of equity finance provision in which crowdfunding and the proposed merger should be assessed.

The relevant market must include the services available to the companies which have entered into discussion with either of the parties with a view to raising finance by means of crowdfunding but which have chosen to meet their equity finance needs through other means. Moreover the market should also be regarded as including the services available to companies which could consider crowdfunding alongside other means of financing but which have not even entered into discussion with either of the parties because they have not yet been made aware of the availability or relative advantages of crowdfunding. Where a potential customer is currently unaware of an available source of supply, this does not mean that that source of supply is outside the market. This phenomenon is important in the case of equity crowdfunding because it is a new and disruptive form of finance provision which is not yet of a high enough profile for all potential customers to be aware of it.

4.4 Evidence showing (1) the diversity of options to SMEs and (2) Crowdcube loses more business to other types of equity finance providers than to Seedrs

4.4.1 Evidence concerning the destination of equity financing deals lost by Crowdcube, October 2019 – November 2020

Crowdcube has carried out a research exercise looking into financing opportunities which were generated internally and subsequently recorded as lost to Crowdcube between October 2019 and November 2020, where the SME companies entered into discussions about equity financing with Crowdcube but ultimately chose to pursue other types of equity finance provision (or in a limited number of cases, another crowdfunding provider). The purpose of the exercise was to identify the companies which had entered into discussions with Crowdcube, but could be shown to have ultimately completed a fundraising specifically through another identified equity finance provider. [Crowdcube confidential information] such opportunities were identified (after de-duplicating from an initial set of approximately [Crowdcube confidential information] companies).

The data comprising all the results of this research are contained in Annex 3 to this submission. The full details of Crowdcube's methodology and further details of the results of this research are set out in Annex 4 to this submission.

Of the [Crowdcube confidential information] lost opportunities, Crowdcube identified [Crowdcube confidential information] which had secured financing through a specific alternative provider. Of those [Crowdcube confidential information] successful raises, only [Crowdcube confidential information] companies secured funding through an alternative crowdfunding source, whereas [Crowdcube confidential information] secured funding through a different type of equity finance provider. This means that approximately [Crowdcube confidential information] times more of these lost (to Crowdcube) deals were secured by a different type of equity finance provider than the number of deals that were lost by Crowdcube to Seedrs. The data also show that [Crowdcube confidential information] of the companies initially identified as lost opportunities, secured financing through an alternative means to crowdfunding whilst only [Crowdcube confidential information] of such companies secured financing through a competing crowdfunding provider, i.e. Seedrs.

Crowdcube encourages the CMA to request these SMEs to give their views on the comparability or substitutability of equity crowdfunding and othe forms of equity finance provision such as venture capital and business angels, since they have considered different equity financing methods and types of providers including crowdfunding. This is in contrast to the existing SME customers of Crowdcube which have already been surveyed by the CMA at pre-notification stage or for purposes of its phase 1 decision. This latter category of SMEs already surveyed by the CMA is not a representative sample of SMEs needing equity finance; the CMA should at the very least consider the views of the "lost opportunity" SMEs listed in Annex 3 alongside the views of Crowdcube's existing SME customers, in order to generate a more representative sample for present purposes.

The above research results and data demonstrate the competitiveness of the equity finance market in which equity crowdfunding is operated. More specifically, they show:

- there is a wide choice of alternative forms of financing for all types of SME companies and SMEs at all stages of development, including seed stage, have alternative types of equity financing available to them; and

- Crowdcube lost far more opportunities for the provision of equity finance to other types of equity finance provider such as venture capital firms and business angels, than it lost to any other equity crowdfunding provider, i.e. in particular Seedrs.

Therefore Crowdcube believes that other types of equity finance provider place a stronger constraint on it than Seedrs does, but, at the very least, Crowdcube believes that it competes at least as closely with such other types of equity crowdfunding provider as it does with Seedrs, in the provision of equity finance to SMEs.

4.4.2 Evidence of the large numbers of SMEs raising finance of amounts typical for equity crowdfunding but which chose to use other types of equity finance provision

Crowdcube has also provided a schedule derived from published Beauhurst data indicating companies raising comparable levels of equity finance other than on Crowdcube's or Seedrs' platforms, without having entered into discussions about such financing with Crowdcube in advance. This schedule, which was originally provided to the CMA by email on 4 December 2020, is now reproduced as Annex 5 to this submission. However, it should be re-emphasised that any lack of awareness on the part of any such SME companies as to the existence or advantages of crowdfunding would not mean that crowdfunding is not in fact a substitutable means of financing for the company concerned, rather just that that company or its management is/was not yet aware of all available options.

4.4.3 Examples of Crowdcube not gaining equity financing business even where it has conducted a previous round of financing for the relevant SME

All relevant SMEs have a wide range of forms of equity finance to choose from. Such is the strength of competition open to SMEs, that there are many examples of where Crowdcube has had to compete to be the appointed finance provider for the second or subsequent round after carrying out the first financing round, and further examples of where Crowdcube lost the business to a different type of equity finance provider when competing for follow-on financing rounds from a previous SME customer. Please refer to [Crowdcube confidential information], which contains sample emails from SME customers of previous Crowdcube financing rounds recording examples of such selection decisions by such customers.

Even once a company successfully completes a funding round with Crowdcube, there is no guarantee that it will continue to raise funds through Crowdcube or an alternative equity crowdfunding platform during its lifetime. On the contrary, the further list of opportunities lost to Crowdcube which is contained in [Crowdcube confidential information] to this submission shows instances of Crowdcube not even being given the opportunity to compete to be the provider of the financing round even though Crowdcube had previously completed an equity financing round for the SME. These SMEs obtained their follow-up fundraisings through other types of equity finance provider, typically venture capital firms or business angels. To be clear, in each of these cases, the SME did not enter into any discussions with Crowdcube before arranging such financing, despite having previously conducted a successful equity financing on Crowdcube's platform. Crowdcube's initial relationships with its customers are not a guarantee of any loyalty as regards the customers' later stage financings; the provision by Crowdcube of an initial equity crowdfunding financing does not give Crowdcube any advantage or preferred status as a possible provider of equity finance to the same SME in a subsequent financing round. The market is diverse and several alternatives are available to SMEs.

4.5 Complexity and nuances of the market for equity finance to SMEs

The relevant end product is not equity crowdfunding, as suggested by the CMA's phase 1 decision. Rather, it is equity finance. Crowdfunding is merely one mechanism among many for providing the end product, i.e. equity finance to the relevant SME. Others, as already mentioned, include venture capital or business angel funding, certain government funds and other forms of private investment. All of these forms of equity financing impose significant constraints on the parties' operations and on equity crowdfunding generally, in relation to SMEs of all stages of growth.

SME companies will choose their finance provider based on a wide range of factors including price, valuation, certainty of funding, speed and non-financial terms. The fact that different types of provider operate differently, and that some may require a board director appointment as a condition of the funding, does not mean that the different modes of financing are not in competition. Rather, it merely indicates different terms of service provision provided by different competitors across the overall range of competitive offerings.

If either or both of the parties or indeed the merged entity were to change the price structure or value proposition of their service, that would affect the overall balance of factors taken into account by SME companies in choosing equity crowdfunding as opposed to any other form of equity finance. Some SMEs could as a result be expected to find other sources of equity finance to be more attractive.

It should also be re-emphasised that the phenomenon often seen of Crowdcube providing finance through its platform alongside a venture capital firm or business angel fund as part of an overall financing for a company, on a co-investment basis, does not mean that Crowdcube's activities are complimentary to the venture capital or business angel funding, or that Crowdcube is not in competition with that venture capital or business angel fund. Crowdcube is in competition with the relevant venture capital fund and/or business angel fund both generally and specifically in relation to the relevant financing, in order obtain an allocation of that financing or a larger (in percentage terms) allocation of the financing than might otherwise be forthcoming. In these situations, Crowdcube is competing with the venture capital or business angel fund (in order to obtain a share of the overall funding in place of the venture capital or business angel fund), in a scenario where the entirety of the equity financing round would otherwise be awarded to the venture capital or business angel fund. This phenomenon has already been explained in section 4.2 above.

Such scenarios should also not be characterised as a venture capital or business angel fund being a customer of Crowdcube, as suggested by the CMA in its phase 1 decision. That is not the case. Such situations involve the venture capital or business angel fund respecting the preferences of the SME and allowing crowdfunding to provide an allocation or share of the overall financing on a co-investment basis, where the SME customer decides to source its financing on this basis. It continues to be the case that the SME (not the venture capital or business angel fund) is the customer of Crowdcube.

In addition to focusing on demand side substitution, the CMA should also consider the scope for supply-side substitution when considering the appropriate market definition. In this regard, the diversification of business angel platforms into equity crowdfunding is relevant. Both Envestors and Angels Den were originally established as business angel investor networks allowing smaller investors to invest in start-up and growth companies, but over the last two years both have evolved into more online-based businesses operating through web platforms to facilitate crowdfunded investments. Whilst these operations require significant minimum amounts to be invested, in contrast to the two parties' platforms, these are nonetheless further instances of competition between each of the parties on the one hand and business angel funds on the other.

Accordingly, it can be seen that the product market, in which each of the parties to the proposed merger operates, is complex and nuanced. It can be seen that the parties are small players in a broad market in which they face strong competition from a wide range of much more established equity finance providers.

4.6 References to internal documents in the CMA's phase 1 decision

The phase 1 decision makes various references to Crowdcube's phase 1 decision (for example in paragraph 40(d). However, it should be noted that references by Crowdcube to Seedrs in its (Crowdcube's) internal documents reflect the tactical, rather than strategic, nature of those documents.

Crowdcube is not yet at a stage of development where it can devote time and resources to producing long-term or high-level thought pieces about the evolution of its place in the market; the documents that its management produces are about day-to-day activities, and the competition between the parties is very much a day-to-day matter. As a disruptive and relatively new entrant in the market place competing against long-established venture capital and business angel operators, Crowdcube does not seek either to influence or reflect the development of competition at a long-term or strategic level through its internal documents. The internal documents cited by the CMA are concerned with short term and not strategic issues.

It is important that these considerations be fully taken into account as the context for any review of those internal documents. The CMA should not over-state the significance of those internal documents.

5. OPEN COMPETITION AND CHOICE FOR INVESTORS

5.1 Investors on Crowdcube's and the merged business' platforms

In the phase 1 decision, the CMA appears to have wrongly assumed that all investors on crowdfunding platforms are only interested in investing in SME or start-up companies. This (in Crowdcube's view) wrongly characterises the aims and intentions of crowdfunding investors generally. Any investor is interested in the relationship between risk and return and investors generally do not limit themselves to a particular and specific asset class. In a wide sense, there is a range of different types of investment opportunities which present themselves to an investor, including investment in equities, in bonds, in commodities and in other such diverse assets such as wine or art, currency, cryptocurrencies or insurance products, quite apart from investment in property. Each of these types of investment involves a slightly different risk/return ratio. However, for present purposes the frame of reference should at least include investment in a wide range of equities with a broadly comparable risk-return ratio, if not investment in all equities.

The notion in the CMA's phase 1 decision that there is a category of investors who are only interested in investing in SMEs, or are only interested in investing in start-ups, is incorrect.

In Crowdcube's experience there are two types of investor who use equity crowdfunding platforms:

(1) Many investors have no specific affiliation to any SME(s) and make investment decision based purely on the basis of risk and return considerations. There are plenty of alternatives to equity crowdfunding for these investors that both (i) offer a similar risk-and-return profile to investing in an SME on an equity crowdfunding platform and (ii) allow similar amounts to be invested (including small 'retail' investor level amounts of a few pounds a month). The CMA appears to make the wrong assumption that crowdfunding provides unique opportunities to investors because of the possibility of investing unusually small sums on crowdfunding platforms. This is also not the case. As we will explain in section 5.3, other investment platforms enabling investment in shares also allow relatively small amounts to be invested, including in shares in individual companies, which amounts are comparable to the amounts invested by small-scale investors on Crowdcube's platform.

The merger will not materially reduce choice or competition for these investors. On the contrary, the parties face real constraints from a wide range of competing investment options that are open to small investors and the merged entity will continue to face these constraints following the transaction.

(2) Other investors may have a specific affiliation for a particular SME that goes beyond pure risk-and-return considerations; while these investors still make an investment decision based on their view of the risk and return, they are not committed to investing in SME equities as an asset class. Rather, a sense of allegiance to the particular SME (as part of its network or, often, as a customer of the SME) is an important motivating factor for the investment decision. Indeed, the majority of investors on Crowdcube's platform are first time investors, mainly for this reason. (Crowdcube's Investor Breakdown provided as part of the first set of responses to the section 109 notice in November 2020, showed that approximately [Crowdcube confidential information] of investors on Crowdcube's platform are first time investors.)

The only way that Crowdcube can attract investors with an affiliation for specific SMEs is therefore to attract the right SMEs to its platform. This means that competition to attract SME and competition to attract this group of investors are one and the same thing. Since the merger will not materially reduce the intensity of competition to attract SMEs (for the reasons explained in section 4 of this submission), it will not lead to changes in competitive outcomes for this group of investors either.

There are also some investors who look for opportunities to invest in interesting companies on both platforms, whose reason for being on either platform is not limited to brand loyalty to a particular SME company. Such customers who "multi-home" on the platforms of both parties (and possibly also on other fintech platforms) will not be adversely affected by the proposed merger because they will receive on a new combined platform the same opportunities that they would have received (absent the merger) on the two separate platforms as at present. In addition, although the costs of multi-homing are demonstrably not prohibitive, there will be benefits for investors who have investments on both platforms as their portfolio will be consolidated into one place and therefore easier to manage and check.

5.2 Retail investors' options and objectives

The CMA concluded in its Phase 1 decision that there is "limited demand-side substitution between equity crowdfunding platforms and other types of investment options from an investor perspective" (paragraph 42). The CMA further stated that equity platforms are, in the light of minimum investments imposed by angel investment networks and venture capital trusts, the only option available to retail investors wanting to invest relatively small amounts in SME equity.

Crowdcube believes that the CMA has applied inappropriate benchmarks in its phase 1 decision. There are a wide range of investment alternatives to retail investors, including in equities which offer the relatively high risk/high return potential that is often associated with investments in SMEs or start-ups. Retail investors will be interested in the overall risk-return profile of any equity investment, or indeed any investment in any asset class. The alternative investments open to retail investors using a crowdfunding platform are not limited to angel investment networks or venture capital trusts, which are referred to by the CMA , indeed these are relatively specialised and possibly expensive forms of investment for a small investor.

Crowdcube also considers that the CMA's assessment disregards the fact that, as already explained, [Crowdcube confidential information] are first time investors who find their way to the Crowdcube platform as a result of being interested in or brand-loyal to a particular company. Retail investors who are motivated in this way will not suffer any loss of choice through the proposed merger even on the criteria of the CMA's phase 1 decision.

The equity of SMEs will be appealing to investors only to the extent that it provides an attractive risk/return ratio in the context of their broader portfolios. Investors, including retail investors, care most about the risk/return profile, not specifically investing in SMEs or start-ups.

5.3 Minimum investment amounts are not a limiting factor

Regarding the minimum investment amount, to which the CMA referred in its phase 1 decision, retail investors can invest similarly large or small amounts on other equity investment platforms, including in shares in individual companies as well as equity funds, without any material constraint as to minimum amounts invested. This absence of significant minimum amounts is similar to the possibilities open to them on the parties' crowdfunding platforms. For example:

AJ Bell: This platform offers investors opportunities for a minimum investment of £1. Regular investments can also be set up for as little as £25 per month.

Hargreaves Landsdown: This platform offers investors the opportunity to open a fund and share account from £1 with a minimum lump sum investment of £100. Direct debits can be set up from as little as £25 per investment per month.

Fidelity: Any amount can be invested, though the website suggests a regular savings plan of £25 or starting with a lump sum of £1,000.

Interactive Investor: The minimum monthly investment is £25 per month. Investments can also be made in venture capital trusts.

Primary Bid: takes the concept of equity crowdfunding and applies it to institutional fundraising for listed companies. Minimum investments vary, but typically £100. https://primarybid.com/about

Freetrade: affordable stockbroking services which allow investors to invest directly in stocks and also via SIPPS/pensions https://freetrade.io/pricing

WiseAlpha: investing in corporate bond offerings that are typically only available to institutional investors https://www.wisealpha.com/

eToro: leading trading platform for investing in stocks, bonds, funds and cryptocurrencies etoro.com

As these examples show, there is a wide range of investment opportunities for retail investors, including investment platforms offering a wide choice to investors and enabling investment of small amounts in equities, including shares in individual companies.

6. BENEFITS OF THE MERGER

The proposed merger will result in efficiencies and cost savings to the parties through combining their platforms, which will be critical to achieving an economically sustainable position. From Crowdcube's perspective this will enable the merged business to continue with a wider range of [Crowdcube confidential information] than would be possible absent the merger going forward for Crowdcube alone.

The proposed merger will also enable a number of synergies on both the SME customer and investor sides of the platform which will benefit SMEs and investors respectively. This enhanced service capability will enable the merged entity to compete more effectively with venture capital firms and business angels for SME financing services than would otherwise be possible.

6.1 Efficiencies

The proposed merger will generate efficiencies and cost savings which will contribute to the combined business achieving the minimum efficient economic scale necessary to sustain the business of the parties within a period of 12-18 months, as mentioned in the Merger Notice. These cost savings will include reductions in the costs of sale as well as reductions in operating costs, [Crowdcube confidential information] that would be necessary absent the merger.

Crowdcube expects the merger to lead to efficiencies in the following three key areas:

Technology platform: the merged company will have one technology platform and accordingly the development and maintenance of that platform will be more efficient, and a duplication of costs will be avoided.

Regulatory costs: the combined company's regulatory capital requirement will be lower than the sum of the two companies' regulatory capital requirements.

General administration and marketing: the merged company will achieve efficiencies by having a smaller fixed costs base (i.e. office costs, staff costs and marketing spend).

These efficiencies will mostly reduce operating costs rather than costs of sale, the costs of sale being approximately the same minimum level for each financing project. However, by reducing operating costs, these efficiencies will improve the resources available to the combined business as compared with that of each party separately. Such efficiencies will therefore contribute towards the combined business reaching a minimum efficient scale and sustainability and continuing to improve the product and service offering of the combined business to customers and investors.

The efficiencies generated by the merger will enable the combined business to achieve improved profitability [Crowdcube confidential information].

6.2 Benefits to SMEs and investors

The combined platform that will result from the proposed merger will allow the merged entity to provide a sustainable marketplace serving as an alternative to traditional or incumbent SME financing providers. SMEs will benefit from a scaled-up crowdfunding offering enabling a realistic alternative for more SME companies to the incumbent providers i.e. venture capital firms and business angels.

Crowdcube's and Seedrs' platforms have a number of product features that when combined following the proposed merger will offer clear advantages both to investors and to SMEs looking to raise equity finance through the combined platform. The respective advantages offered by each party's current platform can be summarised as follows:

Crowdcube:

- Crowdcube has developed a platform and expertise specialising in larger scale offerings, through a combination of commercial know-how, marketing expertise, customer-facing service, efficient service provision and a platform which can withstand high volume investments in a short period of time;

- Crowdcube has a mobile app which operates on Android and iOS and an entrepreneur dashboard as part of its SME- facing and account management service.

Seedrs:

- Seedrs has developed a secondary market which allows investors to trade shares that they have acquired on the Seedrs platform;

- Seedrs has developed an *auto invest* feature enabling automated investments in companies meeting selected criteria, for those investors who choose to take advantage of it.

Combining the high volume of primary financing activity generated by Crowdcube with the secondary market and the secondary liquidity offered by Seedrs, will be a synergy which will benefit both SME customers and investors. The ability to offer a secondary market for shares acquired through the larger SME financings will be attractive to SMEs and investors and will improve the credibility and attractiveness of crowdfunding as a competitive alternative to venture capital and business angel financing. Combining the two platforms will generate increased primary financing activity which will lead to increased activity and liquidity in, and greater utilisation of, the Seedrs secondary market.

Combining Crowdcube's mobile app and entrepreneur dashboard with Seedrs' *autoinvest* feature will create benefits for both investors and SMEs. Investors will benefit from the bringing together of the mobile app and *autoinvest* features; SMEs which have not used the Crowdcube platform will benefit from the entrepreneur dashboard and all SMEs will benefit from the increased attractiveness of the merged platform (through this combination of features) to investors because investors generally will (as a result of these benefits) be more inclined to invest on the combined platform. Combining these features will enable the merged business to capture more SME financing business in aggregate [Crowdcube confidential information] and will create the sustainability of the combined business that the parties or at least Crowdcube currently lack. [Crowdcube confidential information] The above benefits can be created in an [Crowdcube confidential information] by combining the two parties' platforms by means of the proposed merger,

Combining these advantageous features of each of the parties' offerings will create further distinct benefits for investors. For example, the availability following the proposed merger of the secondary market developed by Seedrs for all investments made on the combined platform (including the current Crowdcube platform) and not just on the Seedrs platform, will be a major benefit to investors and will significantly increase the value to them of making crowdfunding investments, i.e. on the combined platform.

Accordingly, investors will benefit from an improved and expanded channel of investment with improved capability through the parties' combined technology and resources resulting from the proposed merger. So consumer welfare will be appreciably increased through the proposed merger.

7. RESPONSES TO SPECIFIC EXTRACTS OF THE PHASE 1 DECISION

In Crowdcube's view, in the phase 1 decision the CMA did not appreciate the complexity and nuance of the competitive situation, and took an over-simplistic view of the relevant product market. Please see sections 4.3 to 4.5 above.

Based on the considerations set out in those sections 4.3 to 4.5, Crowdcube has the following comments on the following specific extracts of the phase 1 decision:

Paragraph 40(a): The CMA states that the product characteristics of the main alternative options of angel investors and venture capital firms, differ significantly from the merger parties' product propositions. This is stated as part of the CMA's overall assertion in paragraph 40 that there is limited demand-side substitution between equity crowdfunding platforms and other sources of equity finance. However, these statements of the CMA disregard the nature of the relevant product, which as explained in section 4.3 above is equity finance, not venture capital funding, business angel funding or equity crowdfunding as such. Also the fact that these different types of finance provider each have different product propositions is a reflection of the differing terms on which they are willing to supply the end product, i.e. equity finance, as explained above. These factors do not in any way support an assertion that these different types of equity finance provision are not part of the same market. On the contrary, as the evidence explained in section 4.4 above demonstrates, Crowdcube loses significantly more business opportunities to providers of these other types of equity finance than it does to providers of equity crowdfunding services.

Paragraph 40(b): In these sub-paragraphs, the CMA sites evidence from SMEs that had previously used the services of either of the merger parties, stating that they regarded the parties as close competitors or as the closest alternatives to each other. The parties do not deny that they are close competitors. However, the evidence put forward here by the CMA is based on the narrow range of SMEs that were consulted in the CMA's enquiries, i.e. SMEs which had actually used one of the parties' platforms. As explained above, this narrow category of customers would be disproportionately likely to have a favourable view of equity crowdfunding services compared to the wider pool of SMEs for which Crowdcube competes. A more balanced and representative assessment would be obtained by also considering the views of the further categories of SMEs which have discussed a financing with either of the parties but have then decided to use a different type of finance provider, or which have used a different type of finance provider for a finance raising of a similar level to those typically raised on the parties' platforms, without even discussing the possibility with either of the parties.

Paragraph 40(c): The assertion in this paragraph that SME respondents indicated that equity crowdfunding is a complement rather than a substitute for other sources of equity funding is a mischaracterisation of the relationship between these different sources of equity funding, as explained in sections 4.1 to 4.5 above. The allocation of a share of such a financing to a crowdfunding provider is a reflection of competition by that crowdfunding provider to obtain a share or allocation of the financing round which would otherwise have been awarded in total to the venture capital or business angel fund.

Paragraph 40(d): This paragraph refers to the parties' internal documents which make reference to each other's operations. However, it is important to appreciate the context and the limited short-term perspectives of such documents. These contents of the internal documents should not be treated as evidence that the parties are each other's only competitors. It is not denied that the parties compete, because their respective business models are similar. It is normal commercial behaviour for each of the parties to make reference to the observed behaviour of the other because each party is the closest comparator of the other. However, the existence of this competitive relationship does not mean that the parties do not face competition from a wide range of other equity finance providers as explained in sections 4.1 to 4.5 above. In any event it is important to note that paragraph 40(d) acknowledges that the parties' internal documents as estimating the size of venture capital investment as an "addressable market".

The Crowdcube documents referenced in this paragraph 40(d) cannot be regarded as evidence that the parties compete only with each other or that they do not compete with venture capital firms or with business angels. The assertion in paragraph 40(d) that business angels and angel networks are users of the platforms on the investor side as opposed to competitors on the SME side is a mischaracterisation. Business angels may on occasions invest via crowdfunding platforms, but this does not alter the fact that on the SME side they are competing sources of finance, including in co-investment cases as explained above. It should also be noted that in cases of such co-investment by business angel funds, such business angel investment is made directly rather than via Crowdcube's platform.

Paragraphs 52, 53 and 66: The CMA's calculations of the parties' combined share of supply, i.e. in the range of 90/100% of equity crowdfunding, is based on an unduly narrow and distorted view of the relevant market, which results from an unreasonably narrow focus of the CMA's perspectives and enquiries in its phase 1 investigation as already explained. The CMA has omitted to set out or explain the calculations of share of supply of the overall SME equity financing market, as set out in detail by the parties in the Merger Notice. (See paragraphs 14(i) – (xi) of the Merger Notice.) The CMA has taken a simplistic approach to its assessment of the relevant market and has failed to consider or at least provide any explanation of its assessment of, Crowdcube's calculations and detailing of the relevant market for equity finance to SMEs as set out in the Merger Notice.

Paragraphs 54 and 70: Crowdcube does not deny that the parties compete. However, this does not mean that they are each other's only or main competitor. Even though they each have the most similar model of equity finance provision to the other, this does not alter the fact that the relevant market is broad (and complex) and includes all types of equity finance provision to SMEs, as explained already above. Please see the explanation concerning financings lost by Crowdcube to venture capital and business angel funds in section 4.4 above.

Paragraph 62: The parties do not deny that they have engaged in bidding wars in relation to particular SMEs. However, such wars are unsustainable because they result in the parties, or at least Crowdcube, generating insufficient revenue to cover its cost of sales, in many cases, and to almost never covering its operating costs. [Crowdcube confidential information] Therefore, the competition between the parties to which the CMA refers is not sustainable for as long as the parties are forced to compete under the prevailing conditions. [Crowdcube confidential information]

Therefore the CMA is referring to a short-term tactic which, absent the merger, will result in a loss of consumer welfare or customer welfare as the parties (or at least Crowdcube) are forced to [Crowdcube confidential information], which would not be a necessity if the parties were able to achieve greater scale by combining their businesses through the proposed merger. Please see section 3.2.1 above.

Paragraphs 66 and 73: The CMA's statement that other types of equity finance for SMEs will exert only a weak out-of-market constraint is based on an incomplete awareness of the market conditions under which the parties operate. As has already been explained, Crowdcube faces very strong competition from other types of equity finance providers, including venture capital and business angel funds, both in relation to new potential SME customers and also in relation to SME customers contemplating a second or subsequent financing round where the first financing round was conducted on Crowdcube's platform.

All of these types of equity financing impose strong constraints on equity crowdfunding and in particular Crowdcube's operations. Again, the CMA's conclusions disregard the information provided by the parties in the Merger Notice.

For the reasons explained in this section 7, Crowdcube disagrees strongly with the CMA's characterisation of the relevant market in paragraphs 21 and 25 of its Issues Statement. The reasons for this include the reasons given (above) in relation to paragraphs 52, 53, 66 and 73 of the phase 1 decision. Crowdcube believes that it will be correct for the CMA to assess the proposed merger by reference to a wider frame of reference as proposed in paragraph 23(b) of the Issues Statement, and to include other funding sources within the frame of reference, including especially venture capital and business angel funding.

18 December 2020