



SEC Crowdfunding Regulations: The Changing Landscape of Film Finance

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By: Christopher Staton Spicer, Vanessa Roman

Crowdfunding Primer

Crowdfunding is the process of collecting many small contributions from a large number of people to finance a project. The medium is not limited to Internet websites, but the proliferation of the World Wide Web has made it exceedingly easy to finance everything from films to potato salad. The most well-known crowdfunding platforms today are Kickstarter, founded in 2009, and Indiegogo, founded in 2007.

Previous films have used crowdfunding to finance their projects (most notably, *Veronica Mars*, *Wish I Was Here*, and *Gosnell*). These films, however, were funded via donations. The new regulations allow crowdfunding sites like Kickstarter and Indiegogo to offer more than a T-shirt or signed posters in exchange for monetary donations. Now, these sites can offer a share in the profits.

Requirements of Regulation Crowdfunding

Registering under securities law is expensive, and, in the past, it has devastated prospects for low-budget projects. As a result, Title III of the JOBS Act added an exemption via Securities Act Section 4(a)(6) for certain crowdfunding projects. Title III provided numerous disclosure requirements for the issuers, and it places requirements on exempt crowdfunding platforms.

Regulation Crowdfunding has added more requirements to guide the use of this exemption (and avoid hefty fines). These requirements include (1) the project cannot raise more than \$1 million in a 12-month period; (2) individual investors with an annual income or net worth less than \$100,000 are limited to contributing the greater of \$2,000 or 5 percent of annual income

or net worth in a 12-month period; (3) individual investors with an annual income or net worth of more than \$100,000 are limited to contributing 10 percent of annual income or net worth (not to exceed an amount sold of \$100,000); and (4) there must be a registered intermediary creating a buffer between the producers of the project (“issuers”) and the investors.

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