

Crowdfunding

With crowdfunding growing significantly as a valuable business financing alternative, *Lawyer Monthly* sets out to find out more by speaking to Mark Roderick, a corporate attorney and shareholder at Flaster/Greenberg PC. Flaster/Greenberg PC is a full-service, business law firm headquartered in Cherry Hill, NJ. Mark concentrates his practice on the representation of entrepreneurs and privately-held businesses, working with companies across a wide range of industries, including technology, real estate, and healthcare. He maintains a Crowdfunding blog, which contains news, updates and links to important information pertaining to the JOBS Act and how Crowdfunding may affect your business.

Why do you think crowdfunding has become such a popular sector of the finance economy?

On one hand we have many, many companies and entrepreneurs seeking capital. On the other hand we have literally trillions of dollars of capital owned by ordinary people – some “accredited” and some not – who have been confined to investing in the regular stock market while hearing about the riches to be found in the world of Facebook, Instagram, et al. Crowdfunding can be viewed as a giant pipe finally connecting those two.

What are the benefits of crowdfunding?

For the entrepreneur, much easier access to capital, and better terms. For investors, access to exciting young companies, and other investments (e.g., private real estate) that have heretofore been reserved for the wealthy.

What challenges accompany crowdfunding?

For the entrepreneur, distinguishing yourself from all the other entrepreneurs and complying with all the laws. For the investor, distinguishing good companies from bad companies.

How has/can your firm assist the client when such challenges arise?

We represent both Crowdfunding portals

and individual companies. We help work through all the legal requirements and – for companies – offer the most promising investment opportunity to the public.

What are the common legal implications faced by your clients when involved in crowdfunding? Are they national or international issues?

The legal issues consist of (1) the JOBS Act, and (2) other U.S. securities laws that apply to the sale of securities. International issues are not significant at this point.

Has obtaining financing become more or less difficult in recent years? Why?

It depends on what kind of financing you're talking about and in what industry. Ordinary bank financing has become more difficult to obtain as banks cut back following the financial crisis. Capital for startups has not been more difficult to obtain – difficult, but probably not more difficult. In some sectors, like social media, it has become easier to obtain.

Do you foresee the need for further legislative change in the next 12-24 months, if so why?

Probably nothing within the next 12 months. Eventually, I expect to see legislative changes that will (1) tighten the rules for Title II Crowdfunding, based on the fraud that is almost certain to occur in that space; and (2) loosens the rules for Title III Crowdfunding,

because the rules as written today will probably make Title III Crowdfunding too expensive.

Is there anything else you would like to add?

When the JOBS Act was passed in 2012, all the media talked about was Title III, where ordinary people can invest. Ironically, however, it seems unlikely that Title III will play a large role in the Crowdfunding market, at least as long as the \$1 million limit remains in place. Those satisfied with raising money from only accredited investors will probably look to the simplicity and ease of Title II while those needing to cast a wider net will likely take the plunge into Title IV. As for Rule 504 and the old version of Regulation A – they're history. **LM**

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