

	<b>CROWD FUNDING (NEW “EXEMPT OFFERING” UNDER AMERICAN JOBS ACT)</b>		<b>REGULATION A OFFERING – AN EXEMPT “MINI-REGISTERED OFFERING”</b>		<b>REGULATION D EXEMPT OFFERING BY AN ISSUER NOT INVOLVING A PUBLIC OFFERING</b>	
	<b>Issuer</b>	<b>Intermediary/ Host</b>	<b>NEW</b>	<b>OLD</b>	<b>NEW</b>	<b>OLD</b>
<b>Citation</b>	New paragraph (6) under Section 4(6) creates a registration exemption for issuers.	New Section 4A of the Securities Act of 1933 (15 U.S.C. § 77a et seq.) is created for intermediary requirements	Regulation A promulgated under the Securities Act of 1933 (17 CFR 230.251 et seq)		Regulation D promulgated under the Securities Act of 1933 (17 CFR § 230.501 et seq.). Some commentators have maintained that Regulation D offerings are made under the exemption from registration provided in Section 4(a) of the Securities Act, although there is not universal agreement on this point.	
<b>Maximum Offering Amount in 12 mos.</b>	\$1MM		\$50MM	\$5MM	\$1MM Rule 502; \$5MM Rule 505 and unlimited, Rule 506	
<b>Limits on general solicitations of sales (i.e., on Internet, mass emails, public advertisements)</b>	Company (i.e., issuer or third party website host) may not offer investment advice; website must disclose how communication with investors will happen		No	No	SEC must amend Regulation D to allow general solicitations for offerings that are limited to accredited investors	No general solicitations permitted (except, arguably, under Rule 504 if only to accredited investors)
<b>Restrictions on resales</b>	Resales/transfers may not be made within one year of purchase except to the issuer, an accredited investor or family member or following divorce or death.		No	No	504: no if (a) issuer sells only in states requiring state registration and a substantive disclosure document or in other states and provides disclosure document there or (b) issuer sells exclusively according to state law exemptions that permit general solicitation/advertising, but only to accredited investors; 505: yes, for at least 6 months; Rule 506: securities may not be resold for 1 year	
<b>Limits on investor income/net worth</b>	For investor with net worth < \$100K: maximum sale is greater of \$2,000 or 5% of net worth  For investor with net worth > \$100K: maximum sale is lesser of \$10K 10% of lower of income or net worth		No	No	Rule 505 and 506: only 35 non-accredited investors permitted	

<b>Required investor sophistication</b>	No	No	No	Yes, for Rule 506 offerings but only as to non-accredited investors
<b>Audited financial statements required</b>	For offerings < \$100K: financial statements certified by chief financial officer required; for offerings \$100K -- \$500K financial statements reviewed by independent public accountant required; for offerings > \$500K, audited financial statements required	Unaudited financial statements may be used unless audited financial statements are available . After the offering, audited financial statements must be filed annually with SEC.	Unaudited financial statements may be used unless audited financial statements are available .	Rule 504: no; Rule 505 and 506: yes, unless an unreasonable effort or expense, then only audited balance sheet;
<b>SEC filing requirement</b>	Notice must be filed with SEC when the offering starts, including the purpose of use of proceeds, target offering amount, deadline to reach the target, company name and address and names of principals and employees. Intermediaries must register as brokers or funding portals. Registration as funding portal includes becoming a member of a registered national securities association.	Although exempt from registration, there is a filing requirement for “qualification.” Issuer also must file a report of sales and use of proceeds on Form 2-A (available at <a href="http://www.sec.gov/about/forms/form2-a.pdf">http://www.sec.gov/about/forms/form2-a.pdf</a> ) every 6 months after qualification until proceeds have been applied and within 30 calendar days after offering is completed.		Form D (available at <a href="http://www.sec.gov/about/forms/formd.pdf">http://www.sec.gov/about/forms/formd.pdf</a> ) must be filed with SEC within 15 calendar days of first sale; annually thereafter if the offering remains open; and to amend as to certain material changes
<b>State filing requirement</b>	A crowdfunding security is a “federally covered security” and for this reason state law is preempted, but SEC must make information available to states or require broker or funding portal to do so.	No. Reg A security is a “federally covered security, so long as the securities are offered only to “qualified investors” or offered/sold over a national securities exchange.	Yes, as required by state law	Form D must be filed in states in which investors reside if required under state law

<b>Public availability of information</b>	The issuer is permitted to make information available on the funding portal, to broker dealers or directly to investors. The issuer might choose to limit accessibility to accredited investors or investors with net worths > \$100K.		Offering statement may be made available to the public following “qualification” with the SEC. Issuer is permitted to solicit offers before filing with SEC.	Offering statement may be made available to the public following “qualification” with the SEC. There are restrictions on availability pre-qualification under Rules 254 and 255.	Form D is available on the SEC’s EDGAR system (at <a href="http://www.sec.gov/EDGAR.shtml">www.sec.gov/EDGAR.shtml</a> ). Private offering memorandum, if any, and other information may not be made publicly available. That a given offering is not made available publicly (i.e., pursuant to a general solicitation) may be difficult to determine.	
<b>Information available to SEC</b>	SEC must have investor-level access to website information		SEC has registration statement and sales report on Form 2-A. Sales materials, TV and radio scripts and investor communications must be filed with SEC.		SEC has only Reg D information.	
<b>Third party custodian to hold offering proceeds</b>	Not required	Required until 60% of target proceeds is raised			No	No
<b>Existing antifraud rules apply?</b>	Yes. In addition, issuer is subject to enforcement action for material misstatements or omissions and must refund investment. The burden is shifted to the issuer to prove it could not reasonably have known of any material misstatement or omission. State preemption does not affect states’ authority to enforce antifraud provisions.		Yes	Yes	Yes	Yes
<b>Required availability of issuer for ongoing communications with investor</b>	Yes		No	No	No	No

<b>Background check of principals/"bad boy" disqualifications applicable to issuer</b>	<b>No</b>	<b>Yes, intermediary must conduct background check of principals and 20% security holders</b>	<b>Yes, as to "bad boy" disqualifications</b>	<b>Yes</b>	<b>Yes under Dodd-Frank.</b>
<b>Disclosure document required</b>	<b>Issuer or host must disclose at least 21 days before sale:</b> <b>(a) target offering amount, offering deadline and how proceeds will be used</b> <b>(b) description of business and business plan</b> <b>(c) ownership and offering structure and speculative nature of start-ups</b> <b>(d) illiquidity of crowdfunding securities</b> <b>(e) restrictions on resale</b> <b>SEC can require intermediary to provide disclosure document.</b>		<b>Yes, the Regulation A offering statement must include specified disclosures that are more limited than those required for full-blown registered offerings.</b>	<b>Rule 505 and 506: must give non-accredited investors disclosure documents that generally are equivalent to those used in registered offerings. Issuer must also be available to answer questions by prospective purchasers.</b>	
<b>Status of intermediaries under Securities Act of 1934</b>	<b>Codified "funding portal" provisions facilitate creation of crowdfunding websites without the risk of running afoul of the broker-dealer registration provisions. To qualify, intermediaries must register as funding portals or brokers and provide disclosures of offering risks as required by the SEC.</b>			<b>For Rule 506 offerings no one who establishes a platform or mechanism for offer/sale of crowd-funding securities or permits general solicitations/advertisements (incl. in-person &amp; online) by issuers, is required to register as a broker-dealer as long as no sales compensation is received and such person has no custody of customer funds</b>	<b>Broker-dealer registration requirements in connection with sale of securities makes the role of third parties in promoting Regulation D transactions unclear and therefore poses an insurmountable risk for supporters of new business offerings</b>

<b>Other requirements</b>	<b>Issuer must take reasonable steps to reduce risk of fraud. Issuer must use an investor questionnaire. Issuer/host may not provide investment advice.</b>	<b>Not available to “blank check” companies or public companies that report under the 1934 Act. Issuer must be organized under the laws of and must have its principal place of business in the US or its possessions or Canada.</b>	<b>Rule 504 offerings may not be made by “blank check” companies or public companies that report under the 1934 Act</b>
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