Crowdfunding, A Plain English Primer: The Main Players All Start With an "I"

by Bettina Eckerle

When talking about crowdfunding, there are three main players. They are the issuers, intermediaries, and investors in any deal. In this article, I am talking about equity crowdfunding as envisioned by the JOBS Act. But aside from minor permutations, it also applies to all of the crowdfunding activities that garner so much attention right now pre-JOBS. For the primer of all primers, please refer to our prior post, *All that Buzz: Crowd Funding, a Plain English Primer*.

Issuers: The companies that offer their stock or other securities to investors in a fundraising round are referred to as "issuers." The Jobs Act outlines several requirements for issuers. Most importantly, they may only sell up to $1,000,000 of securities in any 12-month period in reliance on the crowdfunding exemption.. Issuers would not be permitted to advertise the offering, but only direct potential investors to the intermediary. Issuers would also have to satisfy a number of disclosure obligations to the SEC and investors. In addition to an initial filing, issuers must also provide annual reports.

Intermediaries: The JOBS Act prescribes that any fundraising relying on the crowdfunding exemption would have to involve intermediaries. Intermediaries would assist issuers with the process, for example due diligence, protecting the privacy of investor information, and providing required disclosures the SEC. They may be either broker-dealers or so-called "funding portals." The JOBS Act imposes numerous obligations on intermediaries. It is their job to provide information to investors, reduce the risk of fraud and, in some cases, ensure that investors and issuers satisfy their obligations under the JOBS Act. For example, they must ensure that each investor reviews investor education materials, and understands that the risks involved. Intermediaries are also subject to certain requirements to avoid conflicts of interest. Much has been already written about the role of the so called "funding portals" when the SEC is done with implementing the details. Premature to read tea-leafs–we will keep you posted as the rulemaking process unfolds.

Investors: No need to say much about investors, is there? Investors obviously provide the capital to businesses in exchange for some form of participation in the success of the business. While the JOBS Act's purpose is to democratically expand crowd funding to all people, there are still certain limitations on purchasing crowdfunded securities. Investors with annual income or net worth below $100,000 can invest the greater of $2,000 or 5 percent of the investor's annual income or net worth in crowdfunding securities in any 12-month period. For those with annual income or net worth of $100,000 or more, the threshold increases to 10 percent of the investor's annual income or net worth.

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