Federal Crowdfunding: Practical Considerations For Interested Parties

By Andrew C. Spacone, Esq. and Nicole M. Verdi, Esq.

I. INTRODUCTION

This is the second of a series of articles[1] on the final federal crowdfunding rule (the "Regulation")[2] recently adopted by the Securities Exchange Commission ("SEC"). As explained more fully in our original article, federal crowdfunding pursuant to the Regulation ("Regulation Crowdfunding") offers startups and small businesses, which cannot access capital through more traditional means, the opportunity to raise up to $1 million over a 12-month period through the issuance of securities to the public.[3] These securities may include common shares, preferred shares or corporate bonds. Importantly, Regulation Crowdfunding is not limited to startups or other early-stage businesses. So long as the issuer meets the eligibility requirements, it can theoretically avail itself of this offering. The SEC also has relaxed the integration rules to permit companies to engage in other exempt offerings provided those offerings and Regulation Crowdfunding offerings are compliant with securities laws.[4]

Regulation Crowdfunding transactions are conducted through the Internet or similar electronic means known as a funding platform run by an "intermediary," who must either be a registered broker-dealer or a registered "Funding Portal."[5] Some of the compliance burdens under Regulation Crowdfunding, which otherwise would be the responsibility of the issuer, are shifted to the intermediary. For example, the intermediary is charged with ensuring that investors do not exceed the statutory limitations on amounts invested, provided the issuer had no knowledge that an investor had exceeded or would exceed the investment limits.[6] Accordingly, Regulation Crowdfunding issuers have fewer responsibilities and potential liabilities than if they were conducting a conventional public offering or a Registration A+ offering. Nevertheless, as explained herein, issuers still have considerable obligations under the Regulation.

Conducting an offering through the Internet allows the issuer to reach a wide pool of potential investors, unlike purely intrastate offerings and most private placements. While issuers may advertise the offering on their websites with limitations,[7] the offering itself must be conducted

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[1] Andrew C. Spacone, *SEC Finally Adopts Federal Crowdfunding Rules: All That Glitters May Not Be Gold*, AP&S PUBLICATIONS (Nov. 2, 2015), http://www.apslaw.com/news/sec-finally-adopts-federal-crowdfunding-rules-all-that-glitters-may-not-be-gold/.

[2] *See* Regulation Crowdfunding, *available at* https://www.sec.gov/rules/final/2015/33-9974.pdf.

[3] Rule 101(a) (1) of Regulation Crowdfunding. *See also* Regulation Crowdfunding Rel. Nos. 33-9974; 34-76324 at 18-19 (Oct. 30, 2015), *available at* https://www.sec.gov/rules/final/2015/33-9974.pdf [hereinafter *Crowdfunding Release*].

[4] *See id.* at 19.

[5] Rule 300(c) of Regulation Crowdfunding. An issuer is to use only one intermediary to conduct an offering or concurrent offerings. *Crowdfunding Release, supra* note 3, at 31-32. However, based on discussions with industry experts, it is unclear if broker-dealers with large wealth management portfolios will actually participate due to the relatively low returns.

[6] *See* Instruction 3 to Rule 100(a) (2) of Regulation Crowdfunding. *See also Crowdfunding Release, supra* note 3, at 27.

[7] *Crowdfunding Release, supra* note 3, at 31-32.

through one funding platform only. Although a major benefit of Regulation Crowdfunding is that transactions are exempt from the burdensome Section 5 "registration" requirements[8] and state regulations pursuant to Section 18 of the Securities Act, those transactions are not exempt from state and federal antifraud provisions.[9] Finally, the Regulation provides a safe harbor for "insignificant" violations, which appear to be modeled in part on the safe harbor for Regulation D limited offerings.[10]

The purpose of this article is to provide guidance on how businesses can assess whether they are properly suited for Regulation Crowdfunding and to offer practical suggestions that can be used to assess the feasibility of, and prepare for, federal crowdfunding in a cost-effective manner.

Section II examines Regulation Crowdfunding and discusses certain specific requirements for it. Section III analyzes the costs associated with Regulation Crowdfunding. Section IV analyzes mechanisms to manage the costs associated with Regulation Crowdfunding. Section V offers an outline and checklist to assist those interested in pursuing Regulation Crowdfunding. Lastly, Section VI addresses a few disclosure requirements associated with Regulation Crowdfunding. As these sections suggest, although the purpose of Regulation Crowdfunding was to provide new businesses greater access to securities funding, the Regulation itself may include too many requirements and expenses that will result in very few businesses actually taking advantage of Regulation Crowdfunding.

It is anticipated that the final regulations will be in place in May 2016.[11] However, those seeking to pursue Regulation Crowdfunding will face several daunting challenges, most importantly, the relative high cost of compliance with the Regulation. Other concerns include whether there is even a market for Regulation Crowdfunding, given the numerous other investment opportunities available. Additional concerns include the lack of a secondary market and the general one-year resale restriction,[12] which present liquidity issues. There also is a sense that well-funded or sophisticated investors might not participate, which could further dampen enthusiasm. Also, given the startup costs for intermediaries, it remains to be seen how many will participate as intermediaries and at what cost to issuers.[13]

Despite the concerns associated with Regulation Crowdfunding, startups and small business are more likely to participate in Regulation Crowdfunding, or at least seriously consider it. Most of the discussion that follows focuses on first-time fliers, although the Regulation contemplates additional offerings, provided the aggregate 12-month limit does not exceed $1 million.[14] As

[8] *Id.* at 528.
[9] *Id.* at 586.
[10] *See* Rule 502(a) of Regulation Crowdfunding; *Crowdfunding Release, supra* note 3, at 321-22.
[11] The final rules and forms are effective May 16, 2016, except the instruction 3 adding part 227 and instruction 14 amending Form ID are effective January 29, 2016. *Crowdfunding Release, supra* note 3, at 1.
[12] Sales may be made within the first year to "accredited investors" only.
[13] The SEC estimates at least 50 Funding Portals will be on line in the first year. *Crowdfunding Release, supra* note 3, at 495. On this point, it is important to note that the Regulation provides intermediaries with fairly broad discretion to deny issuers access to their platforms, even in the absence of fraud or related risks, which may be a further limitation on the number of offerings. Additionally, it is reasonable to expect that given the important requirements imposed on intermediaries for offerings, intermediaries will seek contractual indemnification with issuers, which could further dampen enthusiasm.
[14] Rule 100(a) (1) of Regulation Crowdfunding.

explained more fully herein, Regulation Crowdfunding may work best for more mature businesses that have an operational history and have prepared internally for such transactions. This is not to suggest that true startups or other less mature small businesses cannot avail themselves of Regulation Crowdfunding; however, they may need to spend time and money to do so. In short, given the costs and risks associated with these transactions, businesses should carefully assess whether they are the right fit for Regulation Crowdfunding before they incur significant time and expense availing themselves of Regulation Crowdfunding.

II. BACKGROUND

A. THE "IDEA": IS THE "GAME" WORTH IT?

As discussed more fully in Section III of this article, compliance with the Regulation will present significant costs. Thus, whether the costs of compliance can be absorbed by the business should be a primary consideration. However, before considering compliance costs, startups and small businesses must determine whether their business models will offer potential investors an attractive investment opportunity. This determination includes analyzing not only the nature of the business (i.e., product or services being offered), but the substance of the business as well.[15] In making this determination, businesses need to keep in mind that not all retail investors are alike. Moreover, Section 5 public offerings, for example, have the benefit of voluminous disclosures concerning the issuer and the offering itself. This provides potential investors with more information to value the issuer when making their investment decision. While the required disclosures for Regulation Crowdfunding conceptually track those required by a registration statement and prospectus for a conventional public offering, they are not as detailed. Thus, from an informational perspective alone, such offerings are more risky, which may dampen investor enthusiasm. While Congress and the SEC have done their best to protect investors by including protections such as limiting the amount of their investment,[16] it is fair to assume that these small investors will not be as sophisticated as more well-funded or experienced investors. Thus, any company seeking to pursue Regulation Crowdfunding needs to assess whether it presents a sufficiently attractive reason for investment based on the potential investor pool.

This assessment should occur early in the process before the company incurs meaningful third-party costs. Indeed, absent an attractive offering which stands a reasonably high degree of success, pursuing Regulation Crowdfunding may be a futile exercise.

B. STATE CROWDFUNDING OPTIONS

The overriding benefits of Regulation Crowdfunding include relief from most of the burdensome and costly Section 5 registration requirements and the ability to reach a wide audience, through the Internet or similar means. Many states have adopted their own crowdfunding statutes which leverage off the purely intrastate offering exemption.[17] As a general matter, compliance with these statutes may be less cumbersome and less costly than Regulation Crowdfunding and thus, may be a better alternative if the startup or small business concludes that it can raise the necessary capital from entirely within its own state. Rhode Island does not have its own

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[15] Both of which are set forth in the offering statement.

[16] Rule 100(a)(2) of Regulation Crowdfunding; *see also Crowdfunding Release, supra* note 3, at 24-25.

[17] *Crowdfunding Release, supra* note 3, at 371.

crowdfunding statute, but this does not mean that a Securities Act, Section 3(a) (11) or even a Regulation D, Section 504 offering may not be a feasible means to access capital.[18] In short, given the considerable costs associated with Regulation Crowdfunding and other factors, businesses might wish to consider state crowdfunding or even a purely intrastate offering.

C. ELIBILITY & DISQUALIFICATION

Regulation Crowdfunding sets forth certain eligibility requirements. The most relevant requirements for purposes of this article are: (1) the business be organized under and subject to state or the District of Columbia law;[19] and (2) the issuer have a "specific business plan."[20] While the Regulation does not define "specific business plan," in the SEC Release (the "Release"), the SEC explains that a business plan "could encompass a wide range of project descriptions, articulated ideas, and business models."[21] This is not to suggest that startups *per se* are ineligible for Regulation Crowdfunding. However, they must have a business plan and reflect some substance and structure to the enterprise.[22] They also must organize under state or District of Columbia law, which generally means having proper governance documents, including a charter and bylaws. For those issuers pursuing offers in excess of $100,000 but less than $500,000, financial statements—e.g., balance sheets, profit and loss statements—must be disclosed.[23] Moreover, these financial statements must be prepared in accordance with Generally Accepted Accounting Principles ("GAAP").[24] The Regulation appears to allow businesses with little or no operational history to satisfy the financial statement requirements through certain narrative disclosures.[25]

III. THE COSTS

The text of Regulation Crowdfunding is fairly complex. It will be time consuming for issuers, law firms and accounting firms to ensure that an issuer is in compliance with the Regulation. The accompanying Release consumes more than 400 pages of relevant discussion and analysis. Mercifully, the requirements for a Regulation Crowdfunding offering are largely contained in the rule itself, with few cross references. The SEC also made a reasonable effort to lessen many of the disclosure and annual reporting burdens attendant to public company status.[26] Nevertheless, because the Regulation incorporates several principles from the regulatory regime governing public offerings and private placements, businesses will likely need to engage counsel to ensure

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[18] Although the latter option is generally not practicable for reasons beyond the scope of this article.
[19] *Id.* at 398.
[20] *See* Rule 101(b) of Regulation Crowdfunding; *see also Crowdfunding Release, supra* note 3, at 39-40.
[21] *Crowdfunding Release, supra* note 3, at 40.
[22] *See id.* at 35-40.
[23] *See* Rule 201(t) of Regulation Crowdfunding; *Crowdfunding Release, supra* note 3, at 91-92.
[24] *Crowdfunding Release, supra* note 3, at 99. While not eligibility requirements *per se*, these principles have the same effect. For example, if the financial statements are not prepared in accordance with GAAP, the offering statement (Form C) is deficient.
[25] *See* Rule 201(s) of Regulation Crowdfunding; *Crowdfunding Release, supra* note 3, at 76-77, 415-18. Rule 503 also lists several factors which would disqualify a business from pursuing Regulation Crowdfunding. Most of the disqualification factors will not be relevant to most first-time fliers that do not have any prior experience with the securities industry.
[26] *Crowdfunding Release, supra* note 3, at 46-126. The foregoing is not to suggest that most business people can simply "fill in the blanks."

compliance. Public accounting firms which meet the SEC mandated requirements also likely will need to be engaged to review or audit financial statements for issuers seeking to raise more than $100,000.[27] Thus, there will be a cost associated with the legal counsel and public accounting firms which will not be insubstantial, at least compared with the size of the offering.

The next cost center involves the intermediary, the person or business conducting the offering on a funding platform. It is difficult to estimate with certainty the costs of these funding platforms. Based on the comments the SEC received on the proposed rule and its economic analysis, however, these costs are likely to exceed the legal and accounting firm costs, again depending on the size of the offering and other factors. The SEC estimates that the total compliance costs of these services for an offering of $500,000 or more could exceed $85,000, with the legal and public accounting costs exceeding $33,000 and the intermediary fees exceeding $56,000, both at the high end of the range.[28] The intermediary fees are the single largest cost item. Other less significant compliance costs are identified by the SEC as well.[29] These costs include the possibility that a transfer agent will need to be hired by the issuer to keep track of the securities, investors and similar services. However, issuers will save some time and money because all filings, including information (e.g., Form C) provided to the intermediary, may be made electronically.[30] Lastly, there will be additional costs for intermediaries to develop educational materials, as required by Regulation Crowdfunding.[31]

Astute business people understand the total cost of any investment they make in their company. In this regard, the high-end $85,000 figure, assuming it is a reliable benchmark, underestimates the internal time and costs which may be required and, depending on the circumstances, could be substantial. Indeed, complying with the disclosure requirements[32] of Rule 201 of Regulation Crowdfunding will require the issuer to provide counsel, and potentially a public accounting firm, with a fair amount of operational and financial information, as well as information concerning the offering itself, the price of the security and related considerations. For less mature or well-known businesses, law firms may need to vet the issuer and review the information provided.[33]

Thus, businesses that are serious about pursuing Regulation Crowdfunding should factor the cost of collecting, organizing, reviewing and sending the required information to counsel into their total cost structure.

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[27] *See* Rule 201(t)(2) of Regulation Crowdfunding; *Crowdfunding Release, supra* note 3, at 91, 96-97.
[28] *Crowdfunding Release, supra* note 3, at 410.
[29] *See id.* at 459-514.
[30] Rule 302(a)(2) of Regulation Crowdfunding. Form C must be filed in the standard format of eXtensible Markup Language ("XML"). *Crowdfunding Release, supra* note 3, at 42.
[31] *See* Rule 302(a) of Regulation Crowdfunding; *Crowdfunding Release, supra* note 3, at 451-52. Because of the flexibility allowed under the Regulation, the SEC expects the costs for intermediaries to develop educational materials to vary widely. *Crowdfunding Release, supra* note 3, at 452.
[32] To assist in complying with the requirements, attached is the Released SEC Q + A.
[33] Well-run businesses with a solid management structure should be able to provide the required information without much difficulty, but even here, some level of review and analysis by counsel will likely be necessary. Less organized and well-run businesses will have a much more difficult time here, involving substantial internal time devoted to this task, not to mention more time with the legal advisors and perhaps public accounting firms to sort out the necessary information

Another cost item to consider is the cost of retaining a "promoter" to assist with selling the offering, which is discretionary.[34]

Finally, while the SEC devotes part of its economic analysis to post-offering compliance costs, it appears to be less than comprehensive. For example, for an offering of $500,000 or more, the SEC concludes that the cost of preparing and filing the annual report (Form C-AR) "and related compliance costs" could range from $3,333.00 to $13,333.00.[35] This estimate appears to ignore the potential costs that will arise from the issuer assuming "quasi-public company" status after the offering concludes. Indeed, once the issuer embarks on a Regulation Crowdfunding transaction, it enters the realm of federal securities law, substantially raising the stakes for non-compliance with the securities law. For example, under federal securities law, disclosures of material information must be complete and accurate. This principle continues for any post-offering disclosures as well. Conceptually, issuers engaging in Regulation Crowdfunding for the first time are in a similar situation as private companies conducting initial public offerings and, therefore, must be prepared for the increased regulatory regime post-offering. While businesses availing themselves of Regulation Crowdfunding face a considerably more relaxed post-offering regulatory scheme, they nonetheless face cognizable risks under the federal securities laws. Additionally, businesses must comply with requirements under the laws of the state of incorporation, especially if they now have equity shareholders. Thus, businesses that undertake Regulation Crowdfunding would do well to seek the advice of counsel on how they can eliminate or at least reduce the risk of post-offering liabilities or penalties. The cost of this advice is not reflected in the SEC figures.

IV. MANAGING COSTS: THE OPTIONS

It is apparent that the cost of complying with the Regulation can be substantial. Mature businesses may be better able to fund these costs from cash on hand. Other potential options present themselves, however. In this regard, the SEC helpfully notes that issuers can pass on the costs of compliance with the Regulation to investors.[36] In other words, the proceeds from the offering can be used to cover the costs of counsel, the public accounting firm and the intermediary or even a promoter, subject to disclosure.[37] Of course, this assumes that the offering reaches its target amount or is not pulled back for some other reason and that service providers are agreeable to such an arrangement. More important, depending on the size of the offering and the fees for these parties, the amount sought from investors will obviously need to be increased to cover both the capital needs and these costs. This obviously places a premium on the startup or small business being able to present an attractive investment opportunity.

Another option is that public accounting firms and intermediaries, with certain conditions,[38] can take equity positions in lieu of their fees, although this presents certain ethical, legal and business

[34] *Crowdfunding Release, supra* note 3, at 461.
[35] *Id.* at 410.
[36] *Id.* at 382.
[37] *Id.* at 52-53.
[38] *Id.* at 162-65.

risks.[39] Again, this assumes that the equity positions will be worth something and that the equity will be liquid at some point.[40] Given the statistics on the number of small businesses that fail,[41] it is unclear whether accounting firms and intermediaries will be interested in such an arrangement. Intermediaries, because they are more in tune with what it takes for a successful offering, are more likely to consider taking the fees from the proceeds or in exchange for an equity position. Broker-dealers, in particular, should be able to assess the success of an offering, which can guide their compensation decision.

Exactly how issuers will handle compensating the service providers remains to be seen and may be dependent on specific facts and circumstances.

V. ASSSESSING THE OFFERING: THE GUIDE & CHECKLIST

While this article only skims the surface of the requirements detailed in the Regulation, the following section suggests a structure for how interested businesses can obtain the information they need to assess the viability of Regulation Crowdfunding. This section provides a high-level guide for businesses to consider when beginning the Regulation Crowdfunding process. If the business and counsel conclude it makes sense to pursue Regulation Crowdfunding, an expanded, more comprehensive, and more detailed checklist should be utilized.

For purposes of providing a frame of reference for our business readers, the checklist is divided into four high-level areas: (1) Preliminary Assessment of the Feasibility of the Transaction, Attractiveness of the Investment and Education; (2) Disclosure and Financial Statement Requirements: The Offering Statement; (3) The Intermediary: The Controller of the Offering and Gatekeeper; and (4) Post-offering Obligations and Requirements.

The checklist may be supplemented with a guide that summarizes the critical aspects of Regulation Crowdfunding and the obligations arising from the issuance of a security governed by the federal securities laws, among other related areas.

A. PRELIMINARY ASSESSMENT OF THE FEASIBILITY OF THE TRANSACTION, ATTRACTIVENESS OF THE INVESTMENT AND EDUCATION.

Once a startup or small business concludes that it may be a candidate for Regulation Crowdfunding, it should conduct a preliminary assessment.[42] This assumes that the business has identified its capital needs and eliminated other sources of capital. The preliminary assessment should address a number of factors which include, at a minimum: (1) whether the business can meet the disclosure requirements and post-offering requirements and sustain the estimated

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[39] Rule 300(b) prohibits intermediary's directors, officers or partners from having a financial interest in an issuer using its services; however, the Regulation permits an intermediary to have a financial interest in an issuer. *See Crowdfunding Release, supra* note 3, at 161-64.
[40] *Crowdfunding Release, supra* note 3, at 161-64. The Regulation states that the securities will be freely tradable after one year. *See* Rule 501 of the Regulation; *see also Crowdfunding Release, supra* note 3, at 124, 326-27.
[41] *Crowdfunding Release, supra* note 3, at 371-72.
[42] Before going further, we would point out that this first stage review or "audit" also will be important to law firms who may be wary of providing securities advice to nascent or businesses they are unfamiliar with. For a relatively modest commitment of time, the law firm should be able to determine if it wants to represent the client.

internal and third-party costs associated with these requirements; (2) the relevant federal securities law and state corporation law obligations and requirements, including the scope of potential penalties and liabilities for non compliance and; (3) an assessment whether the offering has a reasonable chance to achieve the targeted offering amount.

There are several ways to address the above factors in a preliminary assessment. One method would be for the business to meet with counsel to obtain an overview of the Regulation and offering process, as well as educate counsel concerning the business. In this regard, the "optional question and answer" disclosure form provided by the SEC provides helpful instructions for most of the disclosure requirements. A copy of the form is attached to this article.[43] Indeed, the form may be used as a preliminary checklist or adapted by counsel to allow all parties to preliminarily assess whether Regulation Crowdfunding is feasible. The preliminary assessment should also include an estimation of the potential costs associated with compliance.

B. DISCLOSURE AND FINANCIAL STATEMENT REQUIREMENTS: THE OFFERING STATEMENT.

Next, assuming that the business is reasonably mature, it should be relatively easy to compile the operational and related business information required for disclosure, especially with the assistance of counsel. Although true startups will have less operational and financial information to disclose, the disclosure requirements under Form C nonetheless will require them to develop information necessary to complete the disclosure forms, with certain exceptions. The focus should be on the following four areas: (1) due diligence on the issuer to understand its business and financial condition, including information necessary to meet the disclosure requirements; (2) the securities mechanics of the offering, including valuation of the security, the type of security, the prices, use of the proceeds, and related disclosure requirements; (3) the details of coordination with the intermediary to structure and conduct the offering; and (4) review and preparation of Form C with counsel.[44] Additionally, a public accounting firm may be necessary to review or audit the financial statements that must be filed with the Form C.

C. THE INTERMEDIARY: THE CONTROLLER OF THE OFFERING AND GATEKEEPER.

At some point, fairly early on in the process, contact will need to be made with an intermediary concerning the offering itself, including compensation, as such details will need to be included in the offering statement. As the Regulation is structured, the intermediary assumes most of the compliance burdens once the offering is commenced that otherwise would be on issuers for public offerings.[45] It may be prudent for counsel, however, to at least satisfy him or herself that the intermediary is capable of meeting its statutory requirements. The forms that must be filed by intermediaries are a good starting point.[46]

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[43] In this regard, we would refer the reader to the attached form to get a better sense of the disclosure requirements and more important, the work that may be necessary to satisfy the compliance requirements.
[44] A financial advisor also may need to play a role here, especially in terms of reviewing or auditing the financial statements.
[45] *Crowdfunding Release, supra* note 3, at 154-58, 166-82, 185-87, 199-214, 221-42.
[46] *See id.* at 639 for an example, Form Funding Portal Schedule D.

D. POST-OFFERING OBLIGATIONS AND REQUIREMENTS.

Lastly, businesses engaging in Regulation Crowdfunding must be prepared for the post-offering regulatory regime. While businesses availing themselves of Regulation Crowdfunding face a considerably more relaxed post-offering regulatory scheme, they nonetheless face cognizable risks under the federal securities laws and need to prepare for the post-offering regulatory scheme when participating in Regulation Crowdfunding.

VI. ONE FINAL POINT: THE SEC & INVESTORS

Regulation Crowdfunding offerings may commence after the Form C is filed with the SEC.[47] Thus, unlike Section 5 public offerings, the SEC is not required to deem the registration statement effective before the offering can proceed. This does not mean, however, that the SEC will not review the offering statements at some point. Further, given the extensive authority it has under the federal securities laws, this does not mean that the SEC will not "intervene" in an offering, which could delay or even end it, let alone make potential investors who are paying attention nervous, or subsequently bring an enforcement proceeding if it concludes the offering statement is deficient in some way. This also is the case for any investors who participate in the process who believe that material information disclosed in the offering statement was either inaccurate or incomplete.[48] Thus, care must be taken to make a good faith effort to comply with the disclosure requirements, which places a premium on the involvement of qualified counsel.

VII. CONCLUSION

This article only highlights the major aspects of Regulation Crowdfunding. As Regulation Crowdfunding stands today, many companies that wish to pursue federal crowdfunding may be priced out of the market, assuming a market develops. An argument certainly can be made that given the other forms of capital formation, the burdens occasioned by Section (a)(6) and the Regulation may render Regulation Crowdfunding a dead letter; however, notwithstanding the cost of complying with Regulation Crowdfunding and other potential limiting factors, many companies are likely to avail themselves of these offerings, or at least seriously consider them.

This article provides startups and small businesses who are interested in Regulation Crowdfunding with a process for approaching such transactions in a practical, cost effective manner with the assistance of counsel. Regulation Crowdfunding is not for everyone. However, it may work for startups and small businesses that have substance to them and present an attractive investment opportunity, provided they approach the process in a methodical manner.

[47] *Crowdfunding Release, supra* note 3, at 199-200, 604; *see also* Samuel Asher Effron & Kristin A. Gerber, *Regulation Crowdfunding: The Long Wait Is Over, But Is Equity Crowdfunding D.O.A.?*, Dec. 08, 2015, *available at* https://www.mintz.com/legal-insights/alerts/articletype/articleview/articleid/3124/regulation-crowdfunding-the-long-wait-is-over-but-is-equity-crowdfunding-doa.

[48] The disclosure rules apply to pre and post-offerings.