

Crowdfunding and General Solicitation

We have received many questions and inquiries about Crowdfunding and General Solicitation. New rules introduced by the JOBS Act, signed into law in 2012, have launched each of these options as viable avenues through which businesses may raise capital. Crowdfunding and General Solicitation are similar in many ways, yet they are distinctly different. In this first installment in our series, we lay out the differences between Crowdfunding and General Solicitation to help you impress your friends at your next cocktail party.

General Solicitation

General Solicitation **allows** companies to publicly advertise for the solicitation of investments from accredited investors. These offerings are conducted under the newly written 506(c) section of Regulation D. (Title II of JOBS Act)



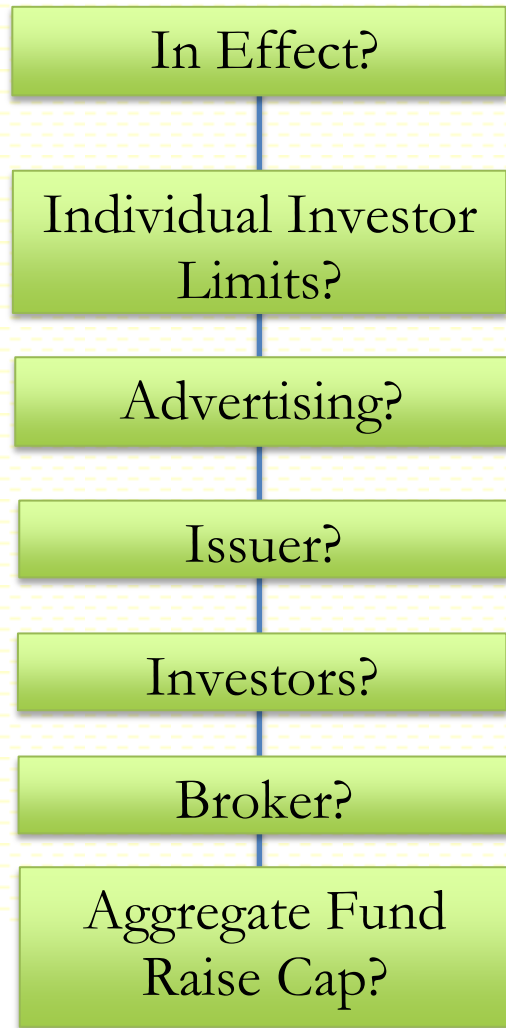
Crowdfunding

Crowdfunding **will allow** for the sale of securities to both accredited and non-accredited investors in small amounts with an annual total fund raise capped at \$1mm in any twelve month period. (Title III of JOBS Act)

According to a recent TechCrunch article, only 3% of the U.S.'s 8 million accredited investors are currently active in the tech startup space. That leaves a lot of room for growth...

- Effective September 23rd, 2013, a combination of the JOBS (Jumpstart Our Business Startups) Act and SEC rulings legalized General Solicitation. This overturned a law prohibiting general solicitation that had been in place since 1933.
- No individual limits are placed on investors. Instead, limits are placed on the types of investors who can invest i.e. only accredited investors.
- Companies can advertise in any way, including social media.
- An offering is disqualified from relying on rule 506(c) if the issuer or any other person covered by rule 506 has a relevant criminal conviction or a regulatory and/or court order.
- Only accredited investors are allowed. Further, investors' accredited status must be verified by an outside party.
- No broker-dealer or intermediary is required, although steps are required to verify accreditation status. Offerings may not occur more than once a year if no broker is used.
- There is no limit on the total aggregate value of the offering.

- Yes**
- No**
- Yes**
- Bad Actor Disqualification**
- Accredited**
- Not Really**
- No**



- Not Yet**
- Yes**
- No**
- Limitations**
- Public**
- Yes**
- Yes**

- Equity crowdfunding is not yet legal because the SEC hasn't created the necessary regulations. Lawmakers are still working through the issues surrounding equity crowdfunding including protecting the common investor and incentivizing financial firms to run crowdfunding websites.
- Individual investor limits are set in either monetary amounts or as a percentage of income.
- Advertising for individual placements will be illegal. However, platforms/brokers can advertise themselves, which may lead to increased traffic to the offering.
- Under the proposed rules there are four categories of issuers prohibited from crowdfunding: 1) issuers not incorporated under the laws of a U.S. State or territory, 2) issuers subject to reporting requirements of SEC, 3) certain investment companies (i.e., hedge funds), and 4) any issuer the SEC deems appropriate.
- Investments are planned to be open to the general public.
- Companies who use crowdfunding will be required to have a SEC registered broker or registered portal.
- Under the current SEC proposal, companies will only be allowed to use crowdfunding efforts in order to raise \$1 million dollars or less of total capital.

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