



Equity Crowdfunding: Bridging the Gap in Start-Up Financing

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Overview

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Disclaimer

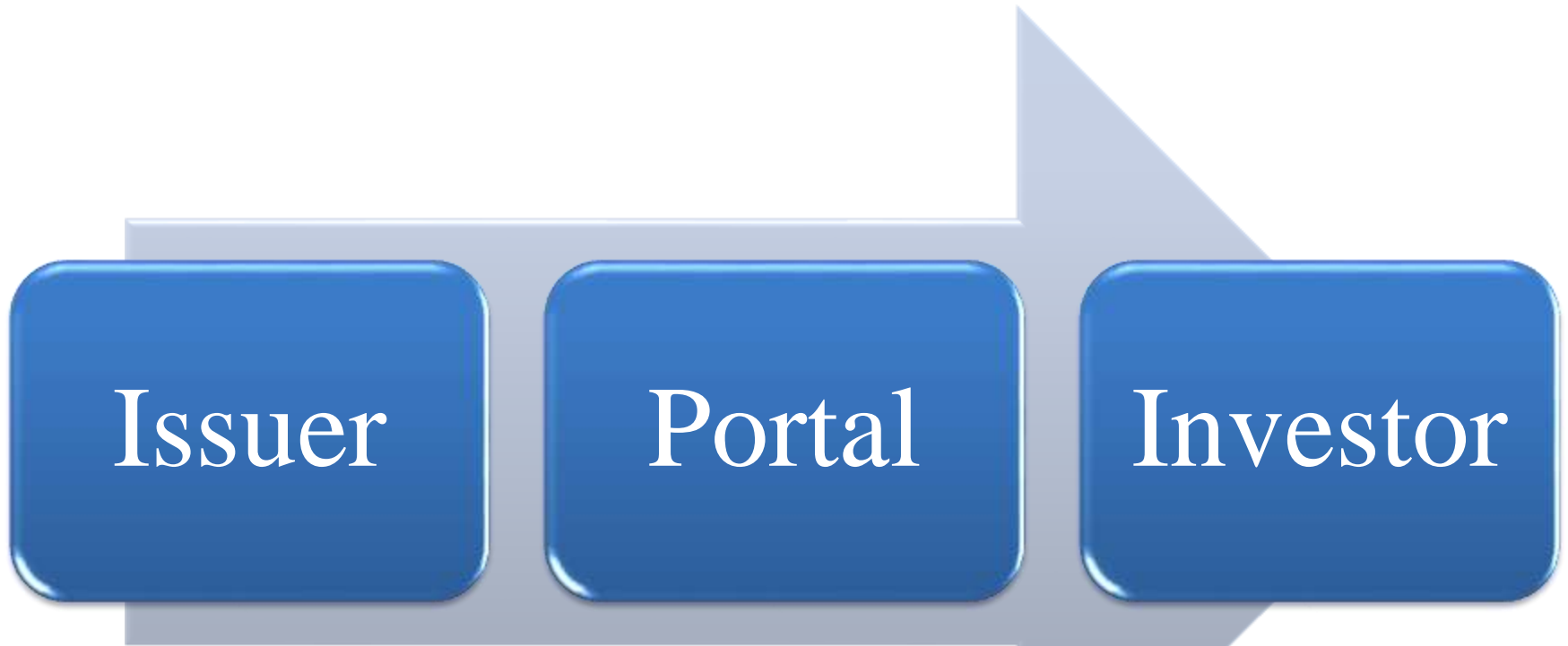
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Defining Equity Crowdfunding

Equity Crowdfunding (ECF)

The online offering of private company securities to a group of people for investment. Because equity crowdfunding involves investment into a commercial enterprise, it is often subject to securities and financial regulation. Equity crowdfunding is also referred to as crowdfunding, investment crowdfunding, or crowd equity.

How it Works



Sample Offering Particulars

| | |
|-------------------------------------|--|
| \$ | 500,000 Target Raise |
| | 6 % Equity Offered |
| \$ | 100 Min Investment |
| \$ | 500,000 Closing Min |
| \$ | 5,000,000 Maximum Raise |
| | Dec 12 2016 Closing Date |
| <input type="checkbox"/> | Crowdfunding (BC, SK, MN, QC, NS, NB) |
| <input type="checkbox"/> | Crowdfunding (ON, MN, QC, NS, NB) |
| <input checked="" type="checkbox"/> | Family & Friends |
| <input checked="" type="checkbox"/> | Business Associates |
| <input checked="" type="checkbox"/> | Accredited Investors |
| <input checked="" type="checkbox"/> | Offering Memorandum |
| | Exemptions |
| | Common Shares Offering Type |

Operating Portals Accredited Investor & Offering Memorandum



Operating Portals Start-Up



Consider **Funding.com**



RealStarter



StellaNova

FINANCEMENT PARTICIPATIF
EN CAPITAL



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2015 Statistics

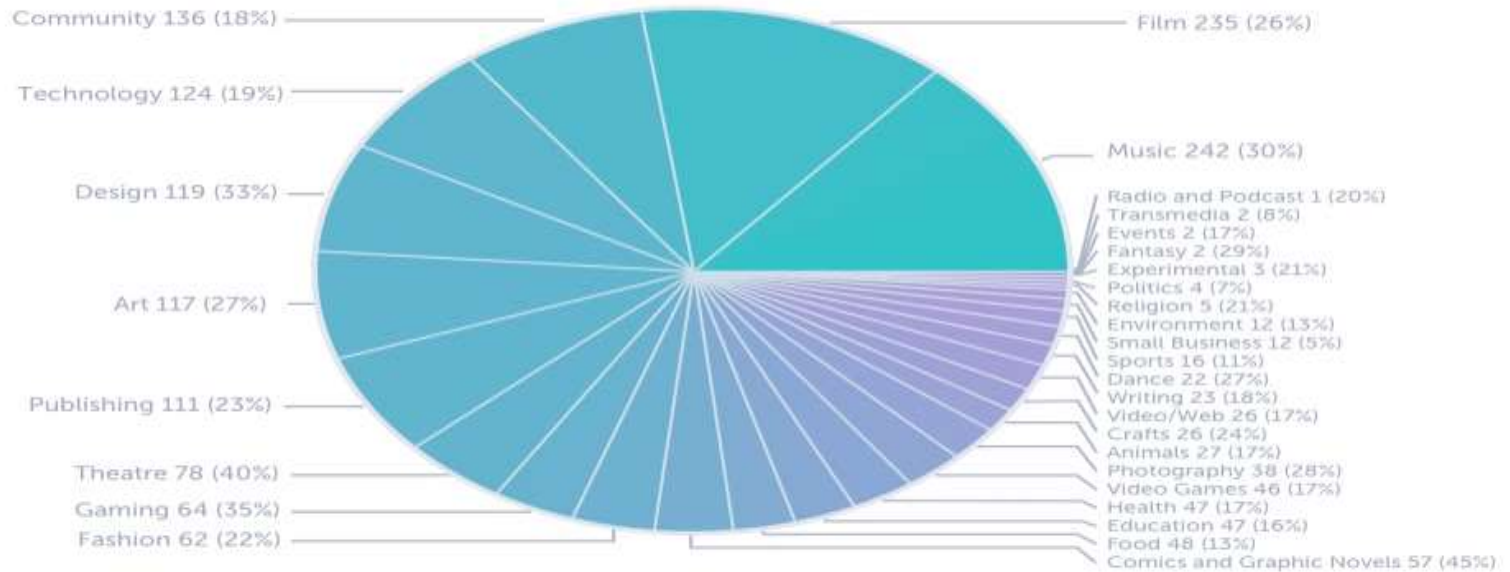
Crowdfunding in Canada in 2015

| | | |
|-----------------------------------|--------------|-------|
| Projects | 8,677 | ↓ 8% |
| Success rate | 20% | ↓ 2% |
| Total amount raised | \$40,646,871 | ↑ 15% |
| Average amount raised per project | \$20,140 | ↑ 37% |

Source: CANADA 2016: The State of The Crowdfunding Nation , The Crowdfunding Center

2015 Statistics

Funded Campaigns by Sector and Success Rate



Data for aggregated platforms only.

Source : CANADA 2016: The State of The Crowdfunding Nation , The Crowdfunding Center

Legal Landscape

Securities Laws 101

Prospectus Requirement

- No person shall “trade” in a “security” where the trade is a “distribution”

Registration Requirement

- No person shall act as a “dealer”, “underwriter”, “advisor”, or “investment funder manager”

Securities Regulators

- Investor protection
- Efficient Capital Markets



Canadian Regulatory Models



Start-Up Crowdfunding (CSA Notice 45-316)

- Jurisdictions: SK, BC, MB, QC, NB, NS



Crowdfunding (MI 45-108)

- Jurisdictions: BC*, AB, SK*, MB, ON, QC, NB, NS



Start-Up Businesses (ASC Rule 45-517)

- Jurisdictions: AB



General Prospectus Exemptions (NI 45-106)

- Jurisdictions: All

Start-Up Crowdfunding Issuer Requirements

- **Canadian Status** ~ Head office in one of the participating jurisdictions and not a “public company” in any country
- **Size of Offering** ~ No more than \$250,000 (2x per year)
- **Type of Securities** ~ Common shares, preferred shares, securities convertible into common shares or non-convertible preferred shares, non-convertible debt securities linked to fixed/floating interest rate, limited partnership units
- **Offering Period** ~ Maximum of 90 days
- **Offering Platform** ~ Registered portal
- **Documentation** ~ Offering Document, Risk Acknowledgement, Subscription Agreement

Start-Up Crowdfunding

Investor Requirements

- **Maximum Investment** ~ No more than \$1,500 per offering (no aggregate maximum for all offerings)
- **Residence** ~ Must reside in jurisdiction where offering is made
- **Hold Periods** ~ Generally will be unable to trade the securities until issuer becomes a public entity (a “reporting issuer”)
- **Documentation** ~ Reviewed Offering Document, signed Risk Acknowledgement, signed Subscription Agreement

Start-Up Crowdfunding Portal Requirements

- **Canadian Majority** ~ Majority of directors are Canadian residents and personal information in on website
- **No Advice**~ Portal cannot provide any advice on the offering
- **No Investor Fee** ~ Cannot receive fee or commission from investors
- **Due Diligence** ~ Ensure Issuer and Investors are from one of participating jurisdictions
- **Facilitator** ~ Makes Issuer's Offering Document (and related documents) available online, holds investor funds until close of offering, provides Issuer with print-out of investor list at close of offering

Crowdfunding Issuer Requirements

- **Canadian Status** ~ Head office in one of the participating jurisdictions and not a “public company” in any country
- **Size of Offering** ~ No more than \$1,500,000 over a 12-month period (no limit to number of offerings)
- **Type of Securities** ~ Common shares, non-convertible preferred shares, securities convertible into common shares or non-convertible preferred shares, non-convertible debt securities linked to fixed/floating interest rate, limited partnership units, flow-through shares under the *Income Tax Act* (Canada)
- **Offering Period** ~ Maximum of 90 days

Crowdfunding

Issuer Requirements (Contn'd)

- **Offering Platform** ~ Registered portal
- **Documentation** ~ Offering Document, Risk Acknowledgement, Subscription Agreement, Confirmation of investment limits, Accredited investor certification (if applicable)
- **Continuous Disclosure** ~ Public disclosure of annual financial statements and annual use of proceeds report and key events such as discontinuing business, change in Issuer's industry, and change in control
- **Auditor/Review Report** ~ Where Issuer has raised more than \$250,000 but less than \$750,000 in one year, review report required. Where Issuer has raised over \$750,000 in one year, auditor's report required.

Crowdfunding Investor Requirements

- **Maximum Investment** ~ Depends on investor status:
 - Accredited Investor → \$25,000 per offering with \$50,000 cap per calendar year (no calendar year cap outside Ontario)
 - Permitted Client → No limits (outside Ontario, \$2,500 cap per offering)
 - Regular Investor → \$2,500 per offering with \$10,000 cap per calendar year (no calendar year cap outside Ontario)
- **Residence** ~ Must reside in jurisdiction where offering is made
- **Hold Periods** ~ Generally will be unable to trade the securities until issuer becomes a public entity (a “reporting issuer”)
- **Documentation** ~ Reviewed Offering Document, signed Risk Acknowledgement, signed Subscription Agreement

Crowdfunding Portal Requirements

- **Registration** ~ Registered as either “restricted dealer funding portal” or “registered dealer funding portal”
- **Gatekeeper Function** ~ Must not allow Issuer to use portal website until certain due diligence measures have been taken such as Issuer-Portal agreement, personal information forms on directors and officers, and criminal record and background checks
- **Limited Advertising** ~ Portal cannot advertise an offering or solicit purchasers for an offering
- **Investor Due Diligence** ~ Prior to allowing investor to invest in an offering, must obtain risk acknowledgement form, (if applicable) confirmation that investor is “accredited investor” or “permitted client”, and (in Ontario) confirmation of investment limits form
- **Facilitator** ~ Makes Issuer’s Offering Document (and related documents) available online, holds investor funds until close of offering, provides Issuer with print-out of investor list at close of offering

Start-Up Businesses

Issuer Requirements

- **Canadian Status** ~ Head office in Alberta or one of the jurisdictions which has adopted an equity crowdfunding exemption
- **Size of Offering** ~ Up to \$250,000 with lifetime maximum of \$1,000,000
- **Type of Securities** ~ Common shares, preferred shares, securities convertible into common shares or non-convertible preferred shares, non-convertible debt securities linked to fixed/floating interest rate, limited partnership units, unit under Alberta *Cooperatives Act*
- **Offering Period** ~ Maximum of 90 days
- **Offering Platform** ~ Registered portal
- **Documentation** ~ Offering Document, Report of Exempt Trade, Subscription Agreement

Start-Up Businesses

Investor Requirements

- **Maximum Investment** ~ No more than \$1,500 per offering (no aggregate maximum for all offerings) – increased to \$3,000 if investor gets suitability advice from a registered dealer
- **Residence** ~ Must reside in jurisdiction where offering is made
- **Hold Periods** ~ Generally will be unable to trade the securities until issuer becomes a public entity (a “reporting issuer”)
- **Documentation** ~ Reviewed Offering Document, signed Risk Acknowledgement, signed Subscription Agreement

Start-Up Businesses

Portal Requirements

- **Registered Dealer** ~ Generally required to be registered as an investment dealer
- **Restricted Portal** ~ Can alternatively qualify if portal is a “restricted dealer funding portal” under MI 45-108 Portal cannot provide any advice on the offering

Accredited Investor Requirements

- **Issuer Limits** ~ No limit to how much can be raised
- **Investor Limits** ~ No limit to how much can be invested
- **Investor Requirements** ~ Must meet income, financial asset or net asset test:
 - Annual income of \$200,000 individually or \$300,000 with spouse; or
 - Net financial assets of \$1 million+ excluding home; or
 - Net assets of \$5 million+
- **Portal Registration** ~ Must be registered as exempt market dealer, investment dealer or restricted dealer
- **Documentation** ~ Minimal but will typically include Subscription Agreement and Accredited Investor Certificate

Offering Memorandum Requirements

- **Issuer Limits** ~ No limit to how much can be raised
- **Investor Limits (BC, Nfld)** ~ None
- **Investor Limits (MB, NWT, NVT, PEI, YK)** ~ \$10,000 limit unless investor is an “eligible investor”, meaning:
 - Annual income of \$75,000 individually or \$125,000 with spouse; or
 - Net financial assets of \$400,000 excluding home; or
 - Close personal friend or close business associate of a principal of the Issuer; or
 - Obtained advice from an “eligibility advisors” on suitability of investment
- **Investor Limits (AB, NB, NS, ON, QC, SK)** ~ \$10,000 for ordinary investors; \$30,000 for eligible investors; and \$100,000 for eligible investors that have received advice from a portfolio manager, investment dealer or exempt market dealer that investment is suitable

Offering Memorandum Requirements

- **Portal Registration** ~ Must be registered as exempt market dealer, investment dealer or restricted dealer
- **Documentation** ~ Offering Memorandum (in statutory prescribed form), risk acknowledgement, and financial statements
- **Issuer Continuous Disclosure** ~ Issuer needs to publically report:
 - Audited financial statements;
 - Annual update on how funds raised were spent;
 - Material change-like reports in NB, NS and ON; and
 - In ON and NB, Issuer deemed to be market participant so subject to record keeping requirements and compliance review

Public Filing Requirements

| Start-Up Crowdfunding | Crowdfunding Exemption | Accredited Investor | Offering Memorandum |
|---|---|---|--|
| <ul style="list-style-type: none"> • Form 5 Report of Exempt Distribution • Offering Document | <ul style="list-style-type: none"> • Offering Document • Other Distribution Materials | <ul style="list-style-type: none"> • Report of Exempt Distribution | <ul style="list-style-type: none"> • Offering Memorandum • Offering Memorandum Marketing Materials |

All documents filed on the SEDAR System (see CSA Staff Notice 13-323)

Summary of Crowdfunding Measures

Summary of Crowdfunding Frameworks

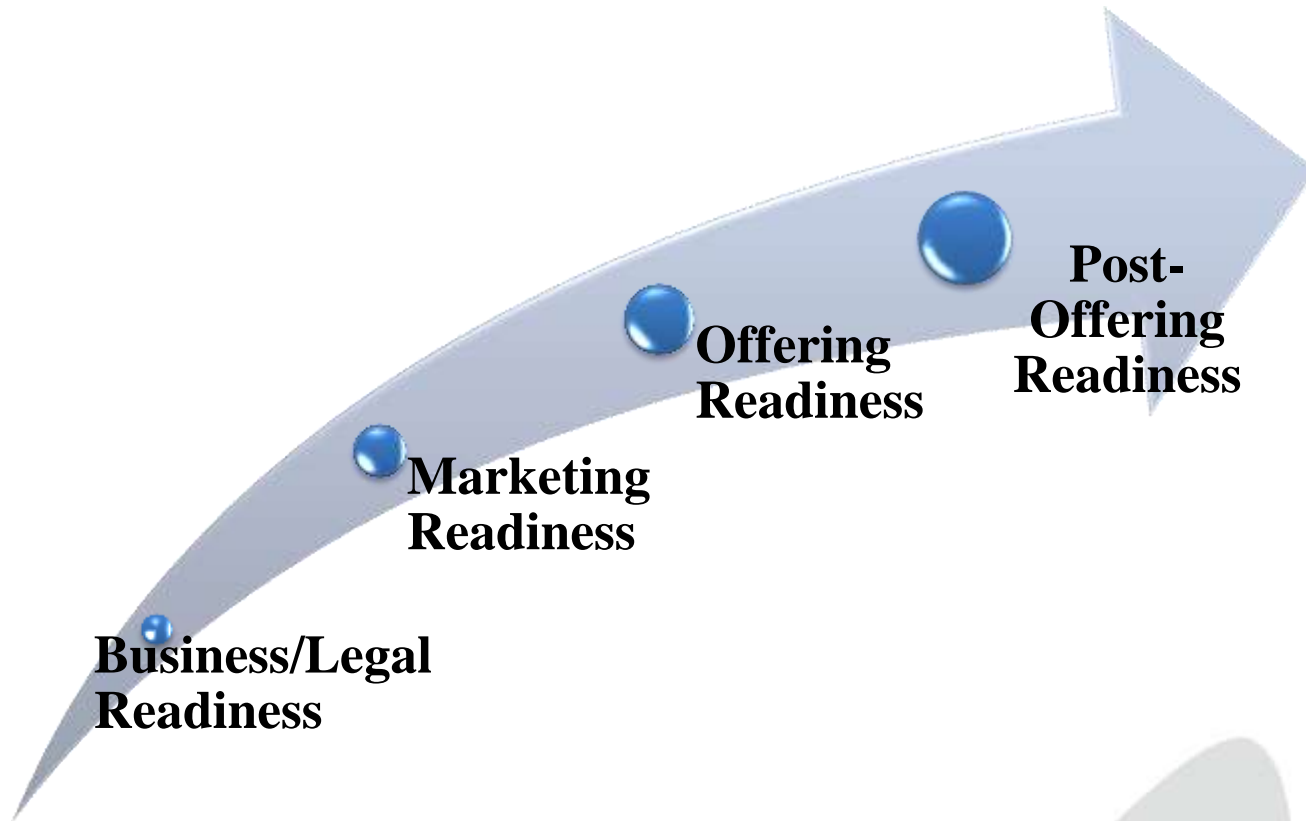
| | Accredited Investor | Offering Memorandum | Crowdfunding Exemption | Start-Up Crowdfunding Exemption |
|------------------------|---------------------|---|---|---|
| Jurisdictions | All | All | AB, SK, MB, ON, QC, NB, NS | BC, SK, MB, QC, NB, NS |
| Issuer Limits | None | None | \$1,500,000 | \$250,000 (\$500,000) |
| Investor Limits | None | <ul style="list-style-type: none"> BC, NFLD ~ None MB, NWT, NVT, PEI, YK ~ \$10,000 unless “eligible investor” AB, NB, NS, ON, QC, SK ~ \$10,000 for ordinary investors; \$30,000 for eligible investors; and \$100,000 for eligible investors that have received advice | <ul style="list-style-type: none"> Accredited Investor ~ \$25,000 per offering (\$50,000 aggregate maximum) Permitted Client ~ no limit Regular investor ~ up to \$2,500 (\$10,000 in calendar year) | \$1,500 per offering (no aggregate maximum) |

Summary of Crowdfunding Frameworks

| | Accredited Investor | Offering Memorandum | Crowdfunding Exemption | Start-Up Crowdfunding Exemption |
|---------------------------------------|---------------------|--|---|---------------------------------|
| Offering Document Required | No | Yes | Yes | Yes |
| Limitation on Offering Period | No | No | 90 Days | 90 Days |
| Audited Financial Statements | No | Yes except for local Orders where amounts raised are less than \$500,000 | Yes if more than \$500,000 raised under any prospectus exemption AND expended more than \$150,000 since inception | No |
| Resale Restrictions | Yes | Yes | Yes | Yes |
| Ongoing Disclosure Requirement | No | Yes | Yes | No |

Preparing for Equity Crowdfunding Offering

Progression of Readiness



Business Readiness

- **Due Diligence** ~ Complete due diligence to correct any legacy issues not compatible with raising capital or crowdfunding
- **Securities Sold** ~ Decide what interest is to be sold and if exemption available— amend corporate articles if required
- **Material Documents** ~ Gather all material documents together in one place and review for any for any changes necessary before launching campaign
- **Background** ~ Obtain CVs or personal information forms from each insider and have them complete a questionnaire

Business Readiness (Contn'd)

- **Key Documents** ~ Update, review or prepare key documents:
 - Business plan;
 - Financial statements;
 - Business summary;
 - Elevator pitch;
 - Pitch deck;
 - Term sheet; and
 - Offering documents (OM, limited partnership agreement, subscription agreement , etc.)
- **Website/Social Media** ~ Review website and social media for securities law non-compliance issues
 - See National Policy 51-201 *Disclosure Standards*

Marketing Readiness

- **Offering Document** ~ Review or draft offering disclosure document
- **Electronic Correspondence** ~ Review draft campaign email messages, Tweets, and posts
- **Media and Press** ~ Review media articles and press releases (short, factual, and clear)
- **Videos** ~ Review campaign videos (include video on risk factors to keep it balanced)

Offering Readiness

- **Portal Application** ~ Ensure application to ECF portal is completed well in advance of raise to avoid delays
- **Analytics** ~ Tracking offering actions such as investors and any internal efforts made in regard to the offering

Post-Offering Readiness

- **Share Register** ~ Ensure share register is set up to document shareholders.
 - Generally advisable to have electronic shares.
 - Consider Transfer Agent (e.g. TMX Equity, Computershare, Alliance)
- **Investor Portal** ~ Consider setting up website for investor information
 - Portal should include regular financial and other updates.
 - Corporate statute may allow posting on portal as delivery of AGM
- **Transmission Confirmation** ~ Ensure investors got what they paid for

Current Issues

Regulatory Quagmire

- **Province-by-Province Approach** ~ Multiple regulatory systems in multiple provinces with different maximums for Issuers and Investors depending on the province
- **Portal Compliance** ~ Vastly different compliance requirements for Portals
- **Overly Complex** ~ Complex when contrasted with traditional prospectus exemptions and rewards-based or donation-based crowdfunding

Lack of “True Crowdfunding”

- **Current Day Crowdfunding Documents** ~ Reviewing SEDAR, there are 0 crowdfunding-related filings
- **Robust Traditional Crowdfunding** ~ Majority of deal-flow is in accredited investor and offering memorandum
 - 161 Offering Memorandum offerings since May of this year

Legal Compliance Matters

- **Shareholder Management** ~ Large number of shareholders creates shareholder registry, share transfer, share certificating issues
- **Corporate Actions** ~ Most corporate statutes provide minority shareholder protection by ability to vote on fundamental changes (e.g. amend articles, amalgamation, sell assets)

Legal Compliance Matters (Contn'd)

- **Meetings** ~ In many jurisdictions, having more than 15 or 50 shareholders means an information circular must accompany a notice of an AGM or special meeting
- **Buy-Out Issues** ~ Large number of shareholders creates issues when strategic investor looking at buying out shareholders
 - Consider Drag-Along rights to compel shareholders to sell once certain thresholds met

Tax Issues

Equity

- Treated same as capital

Reward

- Fact-specific but likely business income
- Potential for GST/HST

Donation

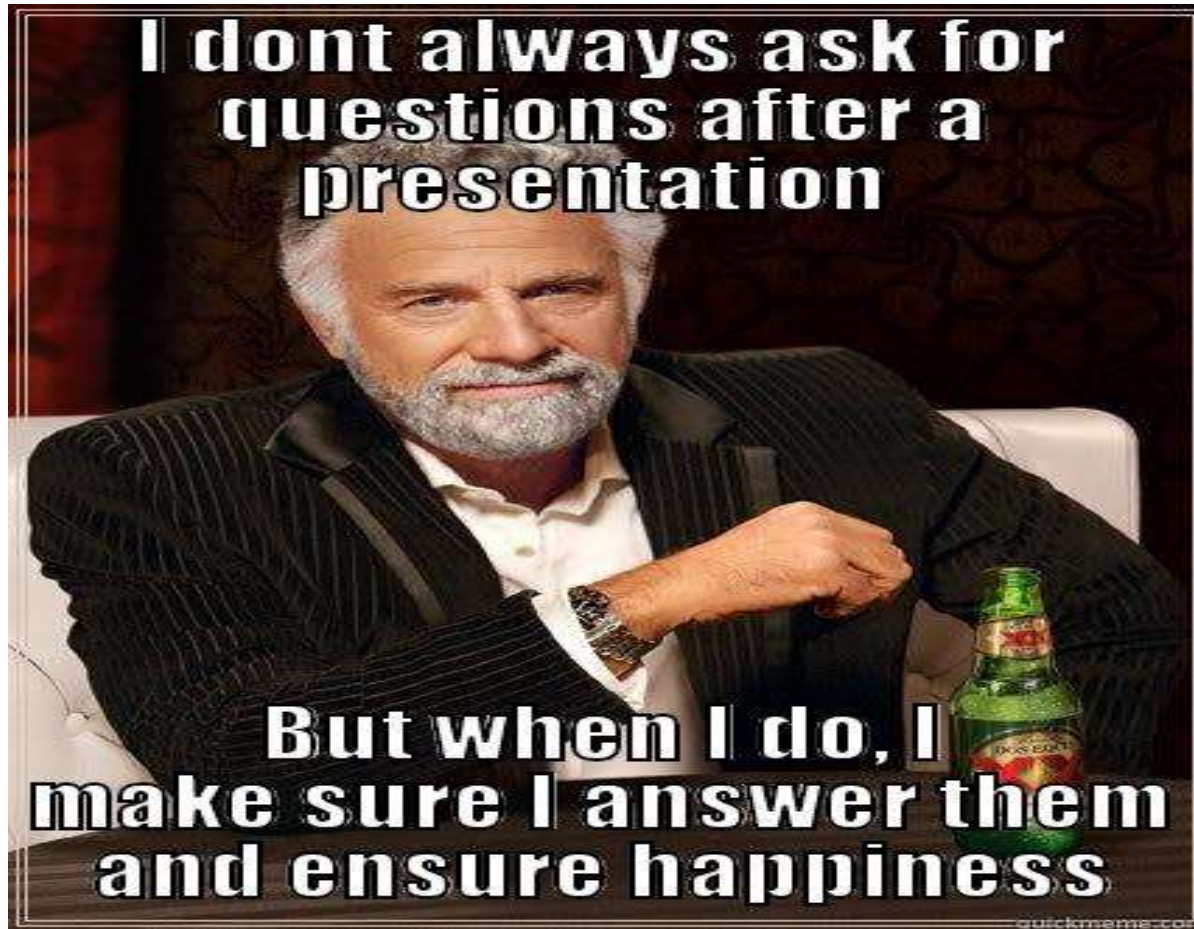
- Fact-specific but likely non-taxable

Final Thoughts

The hype man's job is to get everybody out of their seats and on the dance floor to have a good time.

-Flavor Flav

Questions?



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Thank You!



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