

CDFA – BNY Mellon Development Finance Webcast Series: Crowdfunding – A Finance Opportunity or Fleeting Trend?

The Broadcast will begin at 1:00pm (EDT).

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May 8-9, 2013
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August 6-7, 2013
Washington, DC



CDFA National
Development Finance Summit



August 6-9, 2013
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Crowdfunding: Opportunity or Trend?

Erin Tehan

**Manager, Legislative & Federal Affairs
Council of Development Finance Agencies
Columbus, OH**



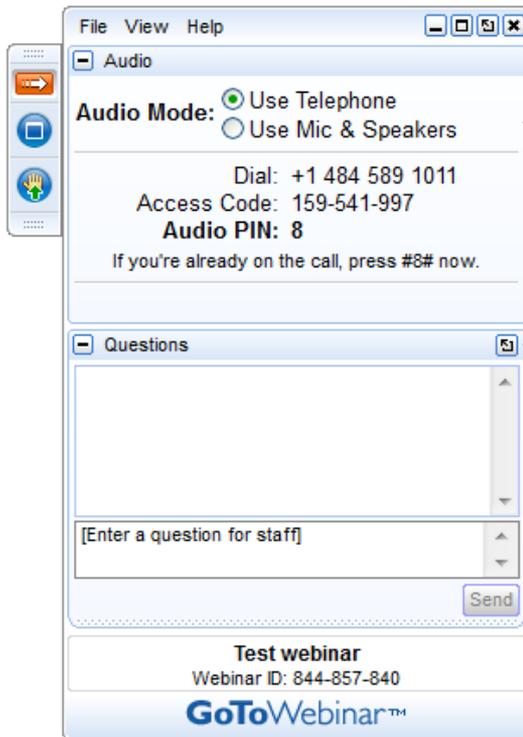
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Crowdfunding: Opportunity or Trend?



Using your telephone will give you better audio quality.

Submit your questions to the panelists here.

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Crowdfunding: Opportunity or Trend?

Speakers

Rena Nakashima, *Moderator*
BNY Mellon

Michael Harrington
Fox Rothschild LLP

Heather Lopes
EarlyShares

Robert Simmons
CrowdClear



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Crowdfunding: Opportunity or Trend?

Rena Nakashima

Senior Product Manager

BNY Mellon

Los Angeles, CA



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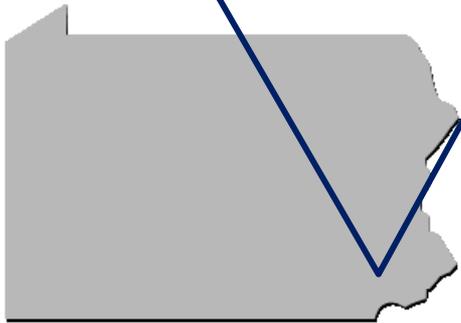
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Crowdfunding: Opportunity or Trend?

Michael Harrington

Partner
Fox Rothschild LLP
Exton, PA



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JOB Act: Crowdfunding Summary

Power to the Crowd! The Benefits (and Pitfalls) of Crowdfunding

Michael S. Harrington, Esq.
FoxRothschild, LLP



What is Crowdfunding?

- Who is the “Crowd”?
- Uses the internet and social media to raise capital, typically from a large number of people and in relatively small amounts.
- Enables small startup businesses better access to capital.
- Every offering is either registered, exempt, or illegal.
- The SEC is required to issue rules it determines may be necessary or appropriate for the protection of investors to carry out Sections 4(6) and 4A within 270 days after the enactment of the Act. **Before that time, the crowdfunding exemption is not available.**
- SEC blew the 270 day deadline—crowdfunding remains illegal until final rules are issued.



Crowdfunding: New Registration Exemption

- The total amount sold by the issuer to all investors during the preceding 12 months does not exceed \$1 million.
- The total amount sold to any single investor during the preceding 12 months does not exceed:
 - If either the annual income or net worth of the investor is below \$100,000, the greater of \$2,000 or 5% of the annual income or net worth of that investor.
 - If either the annual income or net worth of the investor is \$100,000 or more, 10% of the annual income or net worth of the investor (up to a maximum aggregate amount sold of \$100,000).
- The transaction is conducted through a broker or funding portal that complies with the requirements of new Section 4A(a) of the Securities Act.
- The issuer complies with the requirements of new Section 4A(b) of the Securities Act.



Disclosure and Other Requirements for Crowdfunding Issuers

- Interesting new disclosure requirements:
 - The names of its directors, officers and 20% stockholders.
 - For offerings that, together with all other crowdfunding offerings by the issuer in the past 12 months, have, in the aggregate, target offering amounts of:
 - \$100,000 or less: the issuer must provide income tax returns for its most recently completed year and financial statements certified by the principal executive officer;
 - More than \$100,000 but less than \$500,000: the issuer must provide financial statements reviewed by a public accountant that is independent of the issuer; and
 - More than \$500,000 (or such other amount as the SEC establishes by rule): the issuer must provide audited financial statements.
 - The price to the public of the securities or the method for determining the price.
 - At least once a year, crowdfunding issuers must also file with the SEC and provide to investors its financial statements and reports of its results of operations, in compliance with rules adopted by the SEC.

Practical Implications

- Compliance will be expensive and time consuming.
- As with any deregulation, the possibility of increased fraud exists, despite the protections put in place by Congress and those that will be put in place by the SEC.
- Existing brokers and perhaps a new class of funding portals will need to modify or develop procedures to comply with the requirements set out in the JOBS Act and in subsequent rules promulgated by the SEC. A substantial portion of the investor protection responsibilities in the crowdfunding exemption are charged to the financial intermediaries.
- May (or may not) be attractive to companies who need follow-on financing from venture capital firms.
- Could be more trouble than it is worth.



Contact Information

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Crowdfunding: Opportunity or Trend?

Heather Lopes

Co-Founder & CEO

EarlyShares

Miami, FL



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Founded in 2011, **EarlyShares**

is the premier Equity Based Crowdfunding Platform.

“Our mission is to connect Investors & Entrepreneurs in a
secure and effective way”

Crowdfunding – A Finance Opportunity or Fleeting Trend?

- ✓ EarlyShares- Who We Are
- ✓ What is Crowdfunding?
- ✓ Role of the Platform/Portal
- ✓ Benefits to Crowdfunding

Types of Crowdfunding

➤ Rewards Based:

KICKSTARTER

- Contributors don't get a monetary return
- Rewards range from thank you emails, products to movie credits

➤ Lending Based:

 PROSPER

 **LendingClub**

- Peer to peer lending
- Crowd loans to individuals or businesses at favorable interest rates.

➤ Donation Based:

 **HELPERS
UNITE**

 **KIVA**
loans that
change lives

- Donations for causes & charities
- Intrinsic and social motivation
- HelpersUnite is a division of EarlyShares.com

➤ Equity Based:

 **EarlyShares**

- Investment vehicle with ownership
- Anyone can invest in in companies, not only accredited investors.

Crowdfunding Before Portals....



*The Lighter Side of the Cloud-Tough Times by David on Oct. 13, 2011

Role of the Platform / Portal

- **Online Intermediary**
 - Reg D / Title II- for Accredited Investors
 - Title III- for Accredited & Unaccredited Investors

- **Investor Education**

- **Monitor Investors' Investment Limit (Title III)**
 - Annual Income <\$100k, then greater of \$2,000 or 5%
 - Annual Income >\$100k, then up to 10% to max of \$100,000

- **Issuer (Entrepreneur) Background Checks**

- **Shareholder Management & Communication**

• **All information is subject to the final rules and regulations to be issued by the SEC.*

Benefits to Crowdfunding....



*crowdfundingeducators.org

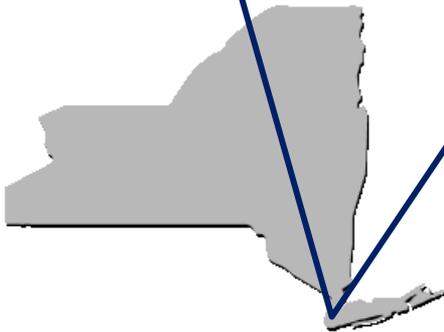
Benefits to Crowdfunding

- Potential to Validate your Product
- Integrated Marketing
- Client Acquisition
- Affordable & Attainable Access to Capital
- Onramp for Bank Financing or Angel/VC Investments
- Online Exposure
- Job Creation
- Community Support

Crowdfunding: Opportunity or Trend?

Robert Simmons

Founder and Chief Executive Officer
CrowdClear
New York, NY



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April 2013



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Bendigo Securities, LLC d/b/a CrowdClear, Member FINRA, SIPC

CrowdClear Overview

- CrowdClear works with funding portals to facilitate financial transactions between investors and issuers
- We support Regulation A and Regulation D-type private placement transactions today, with an eye to supporting crowdfunding pursuant to the JOBS Act of 2012 once the related regulations have been finalized and issued
- We help funding portals do what they do best—aggregate a crowd of investors and introduce them to issuers—while we take care of the strict regulatory requirements of operating a registered broker dealer
- Crowdfunding will best succeed through specialization. We do not believe funding portals will find it in their interest to become experts in regulatory compliance.
- CrowdClear is a division of Bendigo Securities, member FINRA and SIPC.



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CrowdClear Mission

CrowdClear delivers services supporting capital raising processes that match investors with entrepreneurs seeking growth capital.

CrowdClear provides:

- Regulated services and solutions specifically tailored to meet the needs of technology-driven funding portals
- Highly scalable, regulatory-compliant platform that empowers funding portals to raise capital for entrepreneurs in an efficient manner.



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Crowdfunding Overview



The 2012 JOBS Act enabled “Crowdfunding”

- Provides a new source of growth capital to small businesses, and a new asset class to investors
- Democratized private capital markets by enabling average investors to purchase equity in early-stage companies
- Allows non-accredited investors to invest through crowdfunding portals



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Crowdfunding Implementation

The Securities and Exchange Commission (SEC) is developing regulations to cover this segment

- The SEC is expected to issue regulations in Q4 of 2013
- Crowdfunding will be regulated by the FINRA self-regulating organization, the same group regulating registered broker-dealers
- The SEC is attempting to balance investor protection with the intent to free up capital to small businesses*

* Mary Shapiro, former head of SEC, in comments on 11/15/2012 at the Small Business Forum.



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Likely Crowdfunding Regulations

- Transaction activity may require Broker Dealer relationships
- "Crowdfunding" can be used for donation and rewards-based fundraising today, equity crowdfunding to follow
- Portals will bear some obligations in validating both investors and issuers subject to regulations, but due diligence will fall to the broker-dealers
- Portals will be able to use crowdfunding to approach non-accredited investors while allowing accredited investors to invest in Regulation A/D offerings
- Crowdfunding portals (and broker dealers) want "safe harbor" clarification for due diligence questions and tests
- Clarification around economics
- Ban on general solicitation to be lifted



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Capital Formation Market Opportunity



- Reg D filings accounted for over \$1.3 trillion in capital raised in 2011, up 35% from 2010*
- Existing crowdfunding portals demonstrate investor interest in start-up funding:
 - Kickstarter > \$359m funding for 78K projects
 - Lending Club > \$1,000m funding for 80K projects
- Angel investors funded 35,509 companies**

* Securities and Exchange Commission, RSFI Division

** Center for Venture Research, 2010



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CrowdClear Services



Performs functions likely limited to broker dealers

- Due diligence of issuers
- Review of investors pursuant to:
 - FINRA Rule 2090—know your customer (KYC)
 - FINRA Rule 3310—anti-money laundering (AML)
- Process cash escrow transactions
- Collection of success-based fees (commissions)
- Account maintenance, statements, and reporting
- Future services to include custody and registration services



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Other Advantages

- Support for multiple forms of capital investment
 - Private offerings (Regulation A and D offerings)
 - Equity crowdfunding
- Scalable platform with automated workflows
- Access to relevant market data
- Disclosure information on investments to investors
- Future links to secondary markets for liquidity



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Audience Questions

Advancing Development Finance Knowledge, Networks & Innovation



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Intro Revolving Loan Fund WebCourse

Daily: 12-5pm (EST)
May 8-9, 2013

Intro P3 Finance Course Washington, DC August 6-7, 2013

Intro EB-5 Finance WebCourse Daily: 12-5pm (EST) September 18-19, 2013

Register online at www.cdfa.net

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3. Pick 5 other courses to take over the next 3+ years.
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Next Webcast

CDFA-Stifel Nicolaus Innovative Deal Webcast Series

Thursday, May 16, 2013 @ 1:00pm Eastern

CDFA – BNY Mellon Development Finance Webcast Series

Tuesday, May 21, 2013 @ 1:00pm Eastern

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