



C3 FUNDING

COMMUNITY-CENTRIC CROWDFUNDING

Crowdfunding - Things to Keep in Mind

The Michigan crowdfunding legislation, Michigan Invests Locally Exemption (MILE), allows small businesses to raise capital by reaching out to Michigan residents to invest in their companies. There are many things to keep in mind and pitfalls to avoid prior to using the MILE for raising funds. If someone violates either the Federal or State regulations there could be dire consequences. Therefore, we recommend you consult a securities attorney prior to offering to sell a security.

A small business offering a security should understand that in order to qualify for the Michigan exemption it must first qualify for the Federal exemption. On April 10, 2014, the Federal Securities and Exchange Commission (SEC) released compliance and disclosure interpretations. These interpretations include guidance related to general advertising and the use of the internet and social media.

Please see questions 141.01 – 141.05 at the follow web address:

<http://www.sec.gov/divisions/corpfin/guidance/securitiesactrules-interps.htm>

- Section 202a of the Uniform Securities Act, MCL 451.2202a, provides that an offer or sale of a security by an issuer is exempt from State registration if the offer or sale meets all of the following:
- The small business who issues the security must be an entity that is incorporated or organized under the laws of Michigan.
 - “Securities” is a very broad term that includes stocks, bonds, debts, and almost anything else of value.
- The transaction must meet the requirements for the Federal exemption for intrastate offerings under section 3(a)(11) of the Securities Act of 1933, 15 USC 77c(a)(11), and SEC rule 147, 17 CFR 230.147, including, but not limited to, the requirements for determining whether a small business or the purchaser is a resident of Michigan.
- The maximum sum that can be received through this exemption is \$1,000,000.00, unless audited financials are given to each prospective purchaser and LARA, then the maximum sum is \$2,000,000.00.

- The small business must not accept more than \$10,000.00 from any single purchaser unless the purchaser is an accredited investor.
- An accredited investor is defined by Federal law, rule 501 of SEC regulation D, 17 CFR 230.501.
- The small business must file a notice and all required documents with LARA and pay the \$100.00 filing fee.
 - Required documents include:
 - An escrow agreement with a bank located in Michigan.
 - A disclosure statement that will be provided to all prospective investors.
- The small business must not be an investment company or be exempted from registering as an investment company by Federal law.
- The small business must inform every prospective purchaser that the securities sold through the MILE are not registered under Federal or State securities laws and that the securities cannot be transferred or sold for 9 months.
 - Each purchaser acknowledges, in writing, all of the following:
 - The investment is high-risk and they may lose all of the money they invested.
 - The offer to sell has not been approved by the State or any other agency.
 - There is no easy way to sell or transfer the security.
 - They may have to pay taxes on the investment.
- If the small business uses an internet website to offer and sell securities, it must do the following:
 - The small business must provide the website and LARA evidence that the small business is organized under the laws of Michigan.
 - The small business must obtain evidence from every purchaser that they are a resident of Michigan and, if applicable, an accredited investor.
- The website operator must file a written notice with LARA and pay the \$100.00 filing fee.
 - The written notice must include:
 - The website operator's name.
 - The website operator's business address.
 - The website operator's contact information.
 - The website operator must state they are authorized to do business in Michigan and that it is being utilized to offer and sell securities under the MILE.

- “Authorized to do business” means a foreign entity has filed an Application for Certificate of Authority to Transact Business in Michigan with LARA’s Corporations Division.
- The website operator does not have to register as a broker-dealer, investment adviser, or an investment adviser representative if it meets all of the following:
 - It does not offer investment advice or recommendations.
 - It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the website.
 - It does not hold, manage, possess, or otherwise handle the small business funds or securities.
- All payments for the purchase of securities must go to and are held by a Michigan bank or depository institution.
- The small business must give a copy of the disclosure statement to each prospective purchaser at the time the offer of securities is made.
- No offer to sell securities under the MILE can last longer than 12 months from the time the first offer to sell is made.
- The small business must provide a quarterly report to the purchasers and to LARA as long as there are securities that have been sold to a purchaser through the MILE.

Please Note: An offering isn’t confined to a formal offer to sell a security. It can be an informal conversation related to raising capital.

Taken from the Michigan.gov web site:

https://www.michigan.gov/lara/0,4601,7-154-35299_61343_32915-332094--,00.html