

Crowdfunding for Entrepreneurs (Note)

By Austin Coleman, CSG Graduate Fellow

The U.S. Securities and Exchange Commission has not yet finalized rules governing “general solicitation” for the purpose of equity crowdfunding. As such, several states have implemented their own regulatory guidelines governing intrastate crowdfunding.

The 2011 Invest Kansas Exemption ([K.A.R. 81-5-21](#)), or IKE, allows firms to solicit up to \$1 million through crowdfunding and limits non-accredited investors to \$5,000 in equity or debt securities. The issuer of securities must be a business entity organized in Kansas, 80 percent of its assets and operations must be within the state, and all funds raised must be kept in a bank or depository institution authorized to do business in Kansas. IKE also requires that issuers have a plan of business and persons with a criminal or disciplinary history are disqualified from using the exemption.

The 2012 Invest Georgia Exemption ([Ga. Comp. R. & Regs. r. 590-4-2-.08](#)) limits intrastate crowdfunding to for-profit companies and caps total funding at \$1 million. The act also requires firms engaged in crowdfunding to disclose their intention to the state commissioner of securities. Firms claiming the exemption may not accept more than \$10,000 from a non-accredited investor.

Wisconsin’s 2013 [AB 350](#) alters the definition of “institutional investors” to include organizations with assets of \$2.5 million or greater. It also creates a new class of “certified investors” who have an individual net worth of at least \$750,000 or an income of at least \$100,000. The act allows these individuals to purchase equity or securities in intrastate transactions. AB 350 also allows firms to sell securities to a maximum of 100 Wisconsin residents who are not institutional, accredited or certified investors. The act allows firms to solicit up to \$2 million through crowdfunding if the issuer makes an audit available, and \$1 million otherwise. Any website used to solicit crowdfunding must also be registered in-state. It also includes a “bad actor” provision similar to the one contained in the Invest Kansas Exemption.

Michigan [HB 4996](#) (2013) allows non-accredited investors to engage in intrastate crowdfunding, but their investments are limited to \$10,000 (adjusted for inflation). In order to claim the exemption, a firm must be established under Michigan law and authorized to do business in the state. Firms may solicit at most \$1 million, increased to \$2 million if the firm makes financial statements available to investors and regulators. The law also requires firms to notify state financial regulators at least ten days before making an offer of securities covered by the exemption. Investment companies are forbidden from invoking the exemption, and they also cannot pay personnel for offering or selling securities unless they are a registered broker-dealer. The law also lowers the threshold required to be considered an “institutional investor” to include organizations with \$2.5 million in assets. Finally, the law incorporates a “bad actor” provision similar to the Kansas and Wisconsin statutes.

Washington [HB 2023](#) (2014) allows entrepreneurs to solicit up to \$1 million with no single investor contributing more than \$2,000, or 5 percent of net worth. Firms must return all funds solicited if they fail to reach their fundraising goal. The statute also requires contributors to

acknowledge that by investing they are freely taking a risk. Additionally, the law allows port districts and development organizations to facilitate offerings for economic development purposes.

Maine [LD 1512](#) (2014) allows corporations or other entities authorized by the secretary of state to solicit up to \$1 million within a twelve month period. Individuals may only contribute a total of \$5,000 during this period. The issuer is required to disclose the name, address and website of the firm, along with a business plan and the names of all directors, officers and major shareholders. Firms are also required to submit independently reviewed financial statements if the crowdfunding campaign has raised between \$100,000 and \$500,000. Those who have received more than \$500,000 must submit audited financial statements. The issuer must also set aside funds received from intrastate investors until the fundraising goal is met. If this goal is not met, all funds are to be returned to investors.