



## Crowdfunding Begins **SEC Adopts Final Rule Expanding Offering Options**

Last month, the Securities and Exchange Commission ([SEC](#)) took steps towards making crowdfunding a reality by announcing a [final rule](#) that will allow businesses to raise up to \$50 million in a 12-month period through securities offerings in which both accredited and non-accredited investors can participate. The rule, which amends Regulation A, will go into effect on June 19, 2015. Now, “Regulation A+” will allow businesses to choose from a two tiered structure when selling securities.

Tier 1 will be for offerings of up to \$20 million, with not more than \$6 million in offers by selling security-holders that are affiliates of the issuer. The Tier 1 requirements are similar to the SEC’s current Regulation A, aside from the funding cap being \$20 million as compared to \$5 million under Regulation A. Tier 1 offerings require companies to register their offerings in any state where it will be sold, in addition to electronically filing an offering statement with the SEC. Proponents of easing access to capital view state-by-state registration as a potential obstacle that may result in businesses not engaging in a Tier 1 offering. To address this, the North American Securities Administrators Association (NASAA) has developed a coordinated review process that would allow businesses to submit offering information to the NASAA instead of having to submit information to each state separately.

A Tier 2 securities offering is capped at \$50 million, with not more than \$15 million in offers by selling security-holders that are affiliates of the issuer. Notably, the rules for Tier 2 also preempt state-by-state registration and qualification of the offering. Instead, issuers are only required to register their offering statements with the SEC (states may still require issuers to file a copy of any document filed with the SEC and pay filing fees). The SEC will not qualify an offering statement until at least 21 days after it has been filed publicly online (businesses may first submit a draft statement for non-public review under certain conditions) so that any potential concerns can be identified. There will also be ongoing reporting requirements to deter fraud, including annual audited financial statements and annual, semi-annual and current event reports.

Below is a table comparing some of the provisions of Tier 1 and Tier II under Regulation A+:

<b>Comparison of Tier 1 and Tier II Regulations</b>		
	<b>Tier 1</b>	<b>Tier II</b>
<b>Maximum Offering Size</b>	\$20 million	\$50 million
<b>Investor Types</b>	Accredited and unaccredited	Accredited and unaccredited
<b>Individual Investment Limits</b>	None	None for accredited investors. For non-accredited investors, maximum investment of 10% of the greater of annual income or net worth, as self-reported.
<b>Advertising/General Solicitation</b>	No restrictions.*	No restrictions.*
<b>Financial Disclosures</b>	Accountant-reviewed financials	Audited financials; compliance with Regulation S-X
<b>State Preemption</b>	No; state coordinated review with SEC filings	Yes

\* The content of any solicitation must fit within the “test-the-water” requirements or be in the form of a Preliminary Offering Circular.

The foregoing is a general description of Regulation A+. If you would like to discuss the regulation in greater detail, please contact [Michael J. Weiner](#).

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