# JOBS Act Opens Up Crowdfunded Investing to Everyone: Opportunity or Risk?

The Jumpstart Our Business Startups Act, or JOBS Act, was passed in 2012 with the goal of providing a new way for small businesses to raise capital. After years of hearings and changes, the final iteration of the JOBS Act took effect on May 16th, 2016. Title III of the Act allows for small businesses to raise up to $1 million per year from non-accredited investors in exchange for equity in the business. Within this piece, we'll explore the basics of the JOBS Act here, followed by a second article where we will examine some specifics examples of companies using crowdfunding to raise money.

Previous to the Title III's passing, only accredited investors could participate in true, crowd-based equity funding. An accredited investor is an American who has a net worth greater than $1 million or has had an income of at least $200,000 for the last two years and expects to make the same amount this year. Before, non-accredited investors could participate in crowdfunding, but could only receive products or special offers in exchange for their funding, not equity. Now, crowdsourced equity funding is available to everyone.


However, there are SEC regulations on the amount of money a non-accredited investor is allowed to invest. Individuals who make more than $100,000 a year and have a net worth greater than $100,000 can invest either up to 10% of their annual income or 10% of their net worth, whichever is lesser, with a cap of $100,000. For everyone else, the regulations state that they must calculate the lesser of up to 5% of their annual income or net worth. They then compare this to $2,000 and are allowed to choose the larger number.

Crowdfunding "portals", the vehicle through which companies are matched with investors, are subject to a bevy of regulations as well. These portals must also be approved by the Securities and Exchange Commission and the Financial Industry Regulatory Authority. The SEC states that portals "may not offer investment advice or recommendations, solicit purchases, compensate employees, agents, or others persons for such solicitation, or hold, manage, possess, or otherwise handle investor funds or securities" ("Jumpstart Our Business…"). These rules raise the question of how potential investors will find adequate advice. While it is unknown at this time, perhaps traditional investment advisors will step in to provide advice in this area.

Proponents of Title III of the JOBS Act hope it will usher in a new era of democratic investing, one that allows for new opportunities for investors and small businesses alike. It will also give groups such as women and minorities more investing power than they have held in the past. And perhaps, it could give the average American the ability to invest in the next Facebook before their IPO, a power which has previously belonged only to accredited investors. It is in this period that most companies experience the most growth in

their valuations, allowing for a higher ROI than purchasing stock after the IPO.

Not everyone is as optimistic about Title III; some critics believe the regulations for businesses seeking to use crowdfunding are too onerous and that the price to comply is too high. Companies listed on crowdfunding portals must make public their annual financial statements, which must also be examined by an independent accountant or, in some scenarios, audited. The SEC estimates that it would cost $39,000 in fees and wages to prepare the statements necessary to comply with the regulations needed to raise $100,000. This is higher than the cost associated with raising $100,000 through accredited investors. As such, there is little incentive for a company to use non-accredited investors, leading some to believe that the only companies who will use crowdfunding are less financially sound companies that have failed to acquire funding through traditional means.

It is still too early to tell the total impact the JOBS Act will have on investment opportunities for non-accredited investors and small businesses looking to raise funds. In part two, we will examine some of the new portals, and the companies seeking to fundraise through them, using examinations of potential deals and interviews of the participants.

As always, please feel free to contact us with any questions you may have.

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Jumpstart Our Business Startups Act: Frequently Asked ... (n.d.). Retrieved from: https://www.sec.gov/divisions/marketreg/tmjobsact-crowdfundingintermediariesfaq.

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