

Preparing an offering document

Issuers are responsible for preparing an offering document that investors will read to determine if they want to invest in that issuer. The offering document must be prepared using Form 45-524 Form 1 *Start-up Crowdfunding – Offering Document*. The issuer must provide information for each of the items in the form.

The following will help issuers complete certain items of the offering document and should be read together with the form.

Item 2: The issuer

2.1 (a) The organizing documents are the issuer's articles of incorporation, limited partnership agreement or other similar documents.

(b) The head office is generally where the people managing the issuer, including the CEO, maintain their offices. This may be the same address, or different from the registered office address, depending on the legal structure of the corporation. The address of the head office should be a physical address and not be a P.O. Box.

Item 4: Management

4.1 The people named here are important for investors to assess if they want to invest in the issuer. These people should preferably have experience in managing a business, or in the same industry as the issuer.

Director: An individual occupying the position of director with the issuer. If the issuer is a limited partnership, information should also be provided for the directors of the general partner.

Officer: Includes the CEO, president, a vice-president, corporate secretary, general manager or any other individual who performs functions of officer for the issuer. If the issuer is a limited partnership, information should also be provided for the officers of the general partner.

Promoter: A person who takes the initiative in founding or organizing the issuer is generally considered a promoter of the issuer.

Control person: A person that holds more than 20% of the voting rights, alone or with other persons acting in concert, is generally considered a control person of the issuer.

- 4.2 If any of the persons listed in item 4.1 is or has been subject to any of the proceedings described in item 4.2, state this fact. Provide the name of the person involved and enough details on the time, nature and the outcome of the proceedings.

A quasi-criminal offence may include offences under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Suppl.)), the *Immigration and Refugee Protection Act* (R.S.C., 2001, c. 27) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or foreign jurisdiction.

Item 5: Start-up crowdfunding distribution

- 5.1 The issuer must provide the offering document to a funding portal. The funding portal must make the offering document available on its website before the issuer can begin to raise money. If the issuer is using a funding portal that is operated by a registered dealer, it must provide the name of the registered dealer in addition to the name of the funding portal. The offering document can only be posted on one funding portal.

- 5.3 (a) A start-up crowdfunding distribution is not allowed to close if the minimum offering amount has not been reached within 90 days. The offering document will be posted on the funding portal's website on the date agreed to by the issuer and the funding portal.

(b) During the offering period, the issuer must immediately amend the offering document if the information that it contains is no longer true. Provide the date the amended offering document is posted on the funding portal's website and a description of the information that was amended. If the offering document is amended, the issuer must not modify the date in (a). Investors will have the right to withdraw their subscription within 48 hours of the funding portal notifying the investor that the offering document has been amended.

If the offering document has not been amended, (b) is not applicable.

- 5.5 The issuer must tell investors what rights are attached to the securities described in item 5.4, if any. This information is usually found in the organizing documents referred to in item 6.3.
- 5.6 The restrictions and conditions to be described here are generally found in shareholder's agreements or limited partnership agreements.

A tag-along right is a contractual obligation used to protect minority shareholders. The right assures that if the majority shareholder sells his stake, minority shareholders have the right to join and sell their securities on the same terms and conditions as would apply to the majority shareholder.

A drag-along right is designed to protect a majority shareholder. A drag-along right enables a majority shareholder to force minority shareholders to join in the sale of a company, by giving the minority shareholders the same price, terms, and conditions as any other seller.

A pre-emptive right is the right of existing shareholders to acquire new shares issued by the issuer. It can allow existing shareholders to maintain their proportional ownership of the issuer, preventing stock dilution.

- 5.7 The issuer must set a minimum amount to be raised before it can close a start-up crowdfunding distribution. The maximum amount cannot exceed \$250,000.

The amount raised needs to be equal to the total number of securities the issuer wishes to issue multiplied by the price per security.

- 5.8 The issuer has the option to set a minimum investment amount per investor. This amount cannot be over \$1,500. If the issuer does not wish to set a minimum investment amount, item 5.8 should be left blank. The minimum investment amount per investor cannot be below the price per security.

Item 6: Issuer's business

- 6.1 The description of the issuer's business is a very important part of the offering document. Enough details should be provided for an investor to clearly understand what the issuer does, or intends to do. Consideration should be given to the following:

- What makes the issuer's business special and different from other competitors in the industry?
- What milestones has the issuer already reached?
- Where does the issuer see its business in three, five and ten years?
- What are the issuer's future plans and hopes for its business and how does it plan to get there?
- What is the issuer's management experience in running a business or in the same industry?

- 6.2 Indicate whether the issuer is a corporation, a limited partnership, a general partnership or other. Also, indicate the province, territory or state where the issuer is incorporated or organized.
- 6.3 Specify where investors can review the issuer's organizing documents. Online access to these documents is convenient for investors.
- 6.5 The issuer is not required to provide financial statements to investors in connection with a start-up crowdfunding distribution. However, many investors use financial statements to assess and compare investment opportunities and may be reluctant to invest in a business that does not provide this type of information.

The issuer can choose to make financial statements available to investors. If so, it must include the statement provided in item 6.5 in the offering document. The issuer may want to post the financial statements on the issuer's website for the convenience of its investors.

The issuer should not, however, include the financial statements with or provide a link to the financial statements in the offering document. If the issuer chooses to include the financial statements or a link in the offering document, there may be an obligation under securities laws to prepare the financial statements using certain accounting principles and to audit the financial statements using certain auditing standards.

Item 7: Use of funds

- 7.1 If the issuer has previously raised funds, specify for which purpose they were used. Include enough details so an investor can clearly understand:
- How much money the issuer has already raised
 - How the issuer raised it
 - What prospectus exemption was used
 - How has that money been used

If the issuer has not previously raised funds, state this fact.

- 7.2 The issuer must tell investors what it will do with the money raised from this start-up crowdfunding distribution by providing enough details to allow investors to make a reasoned investment decision. Incomplete or unrealistic

information will not help the issuer raise more money. Therefore, the issuer should make sure its plans are realistic and achievable.

Item 8: Previous start-up crowdfunding distributions

- 8.1 Provide the information listed under item 8.1 if any of the persons listed in item 4.1 have been involved in a start-up crowdfunding distribution in any of the participating jurisdictions in the past five years, whether with the issuer, or with another issuer.

Item 9: Compensation paid to funding portal

- 9.1 Describe the fees (e.g., commission, arranging fee or other fee) that the funding portal is charging for its services. Describe each type of fee and the estimated amount to be paid for each type. If a commission is being paid, indicate the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and maximum offering).

Item 10: Risk factors

- 10.1 Explain the risks of investing in the issuer for the investor in a meaningful way, avoiding overly general or “boilerplate” disclosure. Disclose both the risk and the factual basis for it. Risks can relate to the issuer’s business, its industry, its clients, etc.

Issuers should be truthful, reasonable and clear. Investors deserve to be able to make a reasoned decision based on all the information, even the downside. Issuers may indicate how they plan to mitigate these risks, but should not de-emphasize the risks by including excessive caveats or conditions.

Item 11: Reporting obligations

- 11.1 Tell investors how the issuer will keep them informed about the business and their investment.

The regulator does not require that the issuer report to investors, but investors will want to be kept informed. If the issuer fails to do this, it may create disgruntled investors that can make it difficult for the issuer to raise money in the future.

Setting out a reasonable reporting plan is important. Issuers should make sure the plan is realistic. Reporting doesn’t have to be complex or costly. Reporting can be through newsletters, social media sites, email, financial statements or similar

documents. Issuers should go over the milestones that have been met, confirm how investors' money was used, and discuss future plans.

For more information contact the Nova Scotia Securities Commission:

Telephone: 902-424-7768 or 1-855-424-2499

Email: nssc.crowdfunding@novascotia.ca

The information in this document is for educational purposes only and does not constitute legal advice.

If any information in this document is inconsistent with Blanket Order 45-524 Start-up Crowdfunding Registration and Prospectus Exemptions, please follow the instrument and the related forms.

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