



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 213
[2017 Senate Bill 583]

**Securities Registration
Exemptions Relating to
Crowdfunding**

BACKGROUND

In 2012, the federal Jumpstart Our Business Startups Act provided an exemption from federal securities registration requirements for equity “crowdfunding,” a type of capital funding under which relatively small amounts of capital are raised through sales of small amounts of securities to a large number of purchasers. It also preempted the states from requiring state registration of securities that qualified for the federal crowdfunding exemptions, but preserved the states’ authority to regulate securities offerings that qualify as purely intrastate offerings. Wisconsin responded by enacting 2013 Wisconsin Act 52, which created exemptions from state registration requirements for intrastate crowdfunding activities. A detailed explanation of state and federal securities registration requirements and exemptions relating to crowdfunding may be found in the following Information Memorandum, *Overview of Wisconsin’s Securities Laws* at: <http://legis.wisconsin.gov/lc>.

2017 WISCONSIN ACT 213

Wisconsin law provides two exemptions from securities registration for crowdfunding: one relates to transactions conducted through an Internet site; and one relates to offers and transactions conducted using more traditional methods. 2017 Wisconsin Act 213 (the Act) modifies the requirements governing these exemptions, and creates a new exemption for certain offers of securities intended to be subsequently sold under a crowdfunding exemption.

Modifications to Securities Registration Exemptions for Crowdfunding

The Act modifies Wisconsin’s crowdfunding exemptions by:

- Repealing a requirement that an issuer must be organized under the laws of Wisconsin, and instead requiring that an issuer must have its principal place of business in Wisconsin.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- Repealing a requirement that a financial institution must be chartered under the laws of Wisconsin in order to hold funds in connection with an offering.
- Authorizing an Internet site operator to be compensated through a commission based on the amount of securities sold, without having to first register as a broker-dealer.
- Repealing a requirement that, for an offering made through an Internet site, the issuer's quarterly report to investors must be filed with the Department of Financial Institutions (DFI), and instead requiring the report to be provided to DFI upon request.
- Modifying certain references to federal law.

Offers of Securities Intended to be Subsequently Sold Under a Crowdfunding Exemption

The Act provides that an offer to sell a security that is intended to be subsequently sold under a crowdfunding exemption is exempt from registration if the following conditions are satisfied:

- Prior to the initial solicitation of interest, the offeror files with DFI a completed solicitation of interest form, together with any other materials to be used to conduct solicitations of interest, and subsequently files any amendments to the materials with DFI by the date on which the amended materials are first used.
- The offer is made in a newspaper, by media broadcast, by Internet, or by delivery of notices to be published or other documents, for the sole purpose of soliciting an indication of interest from prospective purchasers in receiving a prospectus, a private placement memorandum, or equivalent disclosure document for the security.
- The material used in the solicitation of interest contains certain disclosures.
- During the solicitation of interest period, neither the issuer nor any person acting on its behalf accepts or solicits money or other commitments to purchase securities.
- No sales of the security are made until 20 calendar days after the last solicitation of interest.

If these conditions are not satisfied, an offer to a particular person may nonetheless qualify for the exemption if the offeror demonstrates that a good faith and reasonable attempt was made to comply, and the failure to comply: (1) did not pertain to a requirement directly intended to protect that particular person; and (2) was insignificant with respect to the offering as a whole.

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