

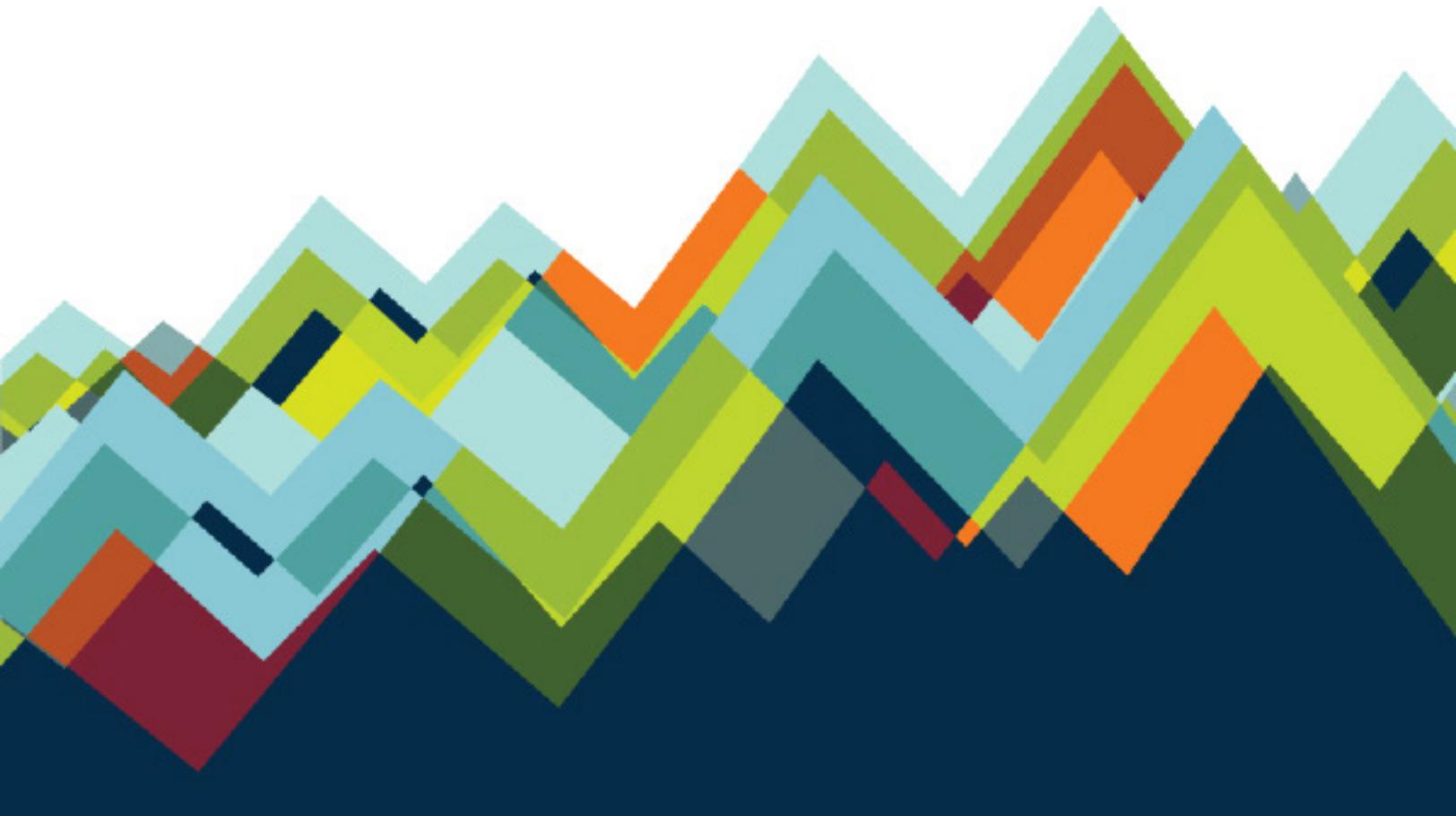


British Columbia
Securities Commission

Start-up Crowdfunding Guide

For Business

British Columbia Securities Commission



This Guide is published by the British Columbia Securities Commission, the independent Crown agency responsible for regulating BC's capital markets.

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

If any information in this Guide is inconsistent with BCI 45-535 *Start-up Crowdfunding Registration and Prospectus Exemptions*, please follow the instrument and the related forms.

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START-UP CROWDFUNDING GUIDE FOR BUSINESSES

Crowdfunding is a process through which an individual or a business can raise small amounts of money from a large number of people, typically through the Internet. The objective is to raise sufficient funds in order to carry out a specific project. There are different types of crowdfunding, such as by donation, pre-selling of products or securities crowdfunding. This guide discusses securities crowdfunding.

Securities crowdfunding

With securities crowdfunding, a business raises funds through the Internet by issuing securities (such as bonds or shares) to many people. This type of crowdfunding is overseen by the regulator of the province or territory where the business and potential purchasers are located.

Valérie has a brilliant idea. She has developed a soft drink flavoured with maple syrup and other local products. She has prepared a detailed business plan and hopes to turn a profit from her business venture. She thinks there is a market for maple soft drinks in gourmet grocery stores, bars and restaurants. She wants to begin production. She needs \$75,000 in order to bottle and market her soft drinks. She applied to a financial institution for a loan, but was refused. She is thinking about raising the funds she needs by issuing shares through a securities crowdfunding campaign.

Legal Obligations

In Canada, all trading of securities is subject to legal obligations. For example, a business seeking to raise capital by issuing securities must file a prospectus with the securities regulator of their province or territory or have an exemption from the prospectus requirement under securities law.

These obligations, however, can be costly for start-ups and early stage businesses. The securities regulators in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia (the **participating jurisdictions**) allow start-ups and small businesses (**issuers**) to raise funds using securities crowdfunding without filing a prospectus or preparing financial statements. The securities regulators refer to this as the “**start-up crowdfunding exemptions**” or “**start-up crowdfunding**”.

Certain Canadian jurisdictions permit a different type of securities crowdfunding – Multilateral Instrument 45-108 *Crowdfunding*. This type of securities crowdfunding cannot be used to access British Columbia investors.

The start-up crowdfunding exemptions allow:

- a start-up or early stage issuer to raise relatively small amounts of capital by distributing securities to investors without filing a prospectus (**start-up prospectus exemption**)
- a funding portal to facilitate trades of those securities without having to register as a dealer (**start-up registration exemption**), although a funding portal can be operated by a registered dealer

The purpose of this guide is to assist issuers intending to raise funds by relying on the start-up prospectus exemption. In this guide, “**regulator**” means the securities regulator or regulatory authority in a participating jurisdiction.

HOW START-UP CROWDFUNDING WORKS

**Business
(Issuer)**



A small business or a start-up has an idea but needs to raise funds to make it happen. They create a pitch to investors that includes basic information about the business and the offering, how they will use the money, and the risks of the project. Then they set a minimum amount they need to raise to accomplish their goal. The pitch will be found on a crowdfunding website.

Investor



An investor spots an interesting business on a crowdfunding website. After reading all the business information (which they should make sure to understand) and researching the business and the people involved, the investor can invest up to \$1,500. They must understand and acknowledge the risk warnings presented.

**Crowdfunding
Website
(Portal)**



The crowdfunding website holds the money the business raises in trust for investors until the minimum amount is raised. If the business does not raise the money it needs, each investor gets their money back.

In order to raise funds using the start-up prospectus exemption, issuers must prepare and post an offering document on a funding portal's crowdfunding website. Investors will then be able to read about the offering and decide whether to invest. Before investing, investors will have to confirm that they have read the offering document and understood that the investment is risky.

When should an issuer consider start-up crowdfunding?

Before launching a start-up crowdfunding campaign, the management of the issuer should:

- Evaluate other sources of funding, such as a loan from a financial institution
- Assess whether they are willing to invest the time and effort needed to prepare and run a start-up crowdfunding campaign
- Determine the type and characteristics of securities that will be sold
- Determine the number of securities to be sold and at what price
- Assess if they have the capabilities to manage a great number of security holders

If a start-up crowdfunding campaign is successful, the founders of the issuer may have to give up part of the ownership of the issuer to investors. The issuer will also need to be accountable to investors. Investors will expect to be informed about successes and failures of the issuer's business. Management of the issuer should assess whether they are willing to spend the time and effort to maintain contact with investors.

The start-up prospectus exemption is not available to reporting issuers. Reporting issuers are companies that are required to make continuous disclosure to the public of their business activities by filing financial statements and other documents as required by securities legislation. These types of issuers are considered to be more established than the start-up or early stage issuers that are permitted to use start-up crowdfunding.

Where is start-up crowdfunding available?

The start-up prospectus exemption is only available to issuers that have a head office located in one of the participating jurisdictions (British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick or Nova Scotia). In addition, the investor must be resident in one of the participating jurisdictions.

If an issuer wants to raise funds in a participating jurisdiction, the issuer will want to make sure that the funding portal they choose is also operating in that participating jurisdiction.

What is the maximum amount that can be raised? Are there any time limitations for raising that amount?

\$250,000 per start-up crowdfunding distribution. The offering document must indicate a minimum amount that has to be raised before the offering can close. The issuer has a maximum of 90 days to raise the minimum amount, starting on the day the issuer's offering document is first made available to investors through a funding portal's website.

The money will be held in trust by the funding portal until the minimum amount of the offering is reached. The issuer may then complete the offering by issuing the securities.

If the minimum amount is not reached, or the start-up crowdfunding campaign is withdrawn, the funding portal must return the money to the investors.

How often can an issuer raise money using start-up crowdfunding?

An issuer group may complete a maximum of two start-up crowdfunding distributions per calendar year. The issuer group cannot have more than one start-up crowdfunding campaign running at the same time or on different funding portals for the same purpose. The issuer group must wait until the first campaign has ended before launching a second one.

The “**issuer group**” means the issuer, any affiliates of the issuer and any other issuer that is engaged in a common enterprise with the issuer or an affiliate, or whose business is founded or organized by the same person or company who founded or organized the issuer.

What is the maximum amount an issuer can raise from each investor?

\$1,500 per start-up crowdfunding distribution. The issuer may require a minimum amount per investor (e.g. \$500).

Compliance with the start-up prospection exemption

Each of the participating jurisdictions has their own start-up crowdfunding order. Each order is substantially harmonized with the other participating jurisdictions. However, the issuer must ensure that they are in compliance with the order in each participating jurisdiction where they are raising funds. Please check the applicable order which can be found on the regulator's website.

If an issuer does not meet the conditions of the start-up prospectus exemption, then it can no longer rely on that exemption to raise money from investors.

LAUNCHING A START-UP CROWDFUNDING CAMPAIGN

Once an issuer has determined that it will launch a start-up crowdfunding campaign, it will need to prepare an offering document and choose a funding portal to post its offering document. Issuers are required to prepare the offering document using Form 1 *Start-up Crowdfunding – Offering Document*.

What is a funding portal?

A funding portal lists start-up crowdfunding campaigns on its website and facilitates the payment of the purchase price from the investor to the issuer. Funding portals will generally charge issuers for hosting a start-up crowdfunding campaign.

The funding portal is responsible for:

- Providing a risk warning form to potential investors
- Holding all investor funds in trust until the issuer raises the minimum funding target
- Returning funds to investors, without deduction, if the issuer does not reach its minimum funding target or if the issuer withdraws the start-up crowdfunding campaign

Please refer to the *Start-up Crowdfunding Guide for Funding Portals* for more information on funding portal requirements for the different types of funding portals.

What types of funding portals are available?

There are two types of funding portals that may facilitate start-up crowdfunding in BC:

- funding portals that are operated by registered investment dealers or exempt market dealers that must provide advice on suitability of the investment to investors, and
- funding portals that are operated by persons relying on the start-up registration exemption and that cannot provide suitability advice

The issuer has the choice of which type of funding portal to use for its start-up crowdfunding campaign.

A funding portal operated by an investment dealer or exempt market dealer must confirm in writing to the issuer that it can provide certain services necessary for start-up crowdfunding, including that it will make the offering document and risk warnings available to the purchaser through its website. The issuer may also check with a regulator to determine whether the funding portal is authorized to operate in jurisdictions that it proposes to conduct start-up crowdfunding. The contact information for the participating jurisdictions can be found at the end of this guide.

There is a third type of funding portal available in other Canadian jurisdictions: a restricted dealer funding portal operating under conditions set out in Multilateral Instrument 45-108. This type of funding portal is not allowed to conduct business in BC.

In addition, the issuer may want to evaluate other aspects of the funding portal's business, such as finding out about the individuals operating the funding portal, how it handles the funds collected from investors, what participating jurisdiction the funding portal is operating in, and what fees it will charge the issuer for posting its start-up crowdfunding offering document.

What information needs to be in the offering document?

The offering document must include basic information about the business and the offering, how it will use the money and any risk to the project. The offering document must also include the minimum amount needed to be raised to accomplish the issuer's business goals.

The information contained in the offering document must be kept up to date throughout the duration of the start-up crowdfunding campaign. If information contained in the offering document is no longer true, the issuer must amend the offering document as soon as practicable and send the new version to the funding portal. The funding portal will post the new version of the offering document on its website and will notify investors about the amendment.

The offering document does not need to be updated after the start-up crowdfunding campaign is over.

If the issuer raises funds in Québec, the offering document and the risk acknowledgement form must be made available to investors in Québec in French or in French and English.

For additional details on the offering document, including instructions on how to prepare this document, please refer to the separate document *"Start-up Crowdfunding Guide - Preparing an Offering Document"*.

What if an investor changes their mind?

Investors have the right to withdraw their investment within 48 hours following the investor's subscription. Investors also have the right to withdraw their investment within 48 hours of the funding portal notifying the investor of an amendment to an offering document.

To exercise this right of withdrawal, investors must notify the funding portal. The funding portal must give investors the opportunity to exercise this right. The funding portal must return the funds to an investor who exercises this right, without any deduction, within five business days after the notice.

COMPLETING A START-UP CROWDFUNDING CAMPAIGN

Once the minimum amount has been raised, the issuer has the discretion to close the start-up crowdfunding campaign by issuing the securities to investors. However, the issuer must wait until each investor's 48-hour withdrawal period has expired.

If the issuer has disclosed in the offering document what it will do with any extra funds raised above the minimum amount, then the issuer can continue raising funds provided the issuer closes the offering within the 90-day maximum offering period and up to the maximum amount indicated in the offering document. This maximum amount cannot be more than \$250,000.

At the closing of the distribution, the funding portal releases the funds raised to the issuer.

Can an issuer use another prospectus exemption to meet the minimum amount?

Although an issuer cannot have two start-up crowdfunding campaigns running at the same time or on more than one funding portal, the issuer can raise funds using other prospectus exemptions during a start-up crowdfunding campaign. For example, the issuer may issue securities to an accredited investor. Other prospectus exemptions, such as the accredited investor exemption, are found in the instruments and rules of the local regulator, including National Instrument 45-106 *Prospectus Exemptions*. The funds raised under other prospectus exemptions can be used to reach the minimum amount stated in the offering document if they are unconditionally available to the issuer. This would not trigger the requirement to amend the offering document by the issuer.

Valérie's objective is to raise a minimum of \$75,000. Through the funding portal, she raised \$45,000 from investors under the start-up crowdfunding exemption. At the same time, Paul, who is considered to be an "accredited investor" because of his income and assets, unconditionally undertakes to invest \$30,000 in Valérie's enterprise. The minimum amount has been reached because Valérie can include Paul's \$30,000 investment as part of the start-up crowdfunding offering minimum amount. By including this amount, Valérie would not have to amend her start-up offering document. Valérie can now close her start-up crowdfunding distribution and ask the funding portal to release the \$45,000 raised on its crowdfunding website as soon as the 48-hour withdrawal period has expired for all investors.

If an issuer raises funds under other prospectus exemptions, it must comply with the start-up crowdfunding exemptions and the legal requirements of the other exemptions. An issuer should seek professional advice if it has any questions regarding compliance.

AFTER THE CLOSING

Filing of the offering document and report of exempt distribution

The offering document and a report of exempt distribution must be filed with the regulator of each participating jurisdiction where investors are located no later than 30 days after the closing of the distribution. For example, if the issuer has raised money in Québec and Nova Scotia, the offering document and report of exempt distribution must be filed with the Autorité des marchés financiers and the Nova Scotia Securities Commission.

When filing the offering document, the issuer must include all copies of the offering document including any amended versions.

In addition, the offering document and report of exempt distribution must be filed with the regulator of the participating jurisdiction where the issuer's head office is located, even if no investors were located in this jurisdiction.

The issuer must follow the filing requirements of the applicable participating jurisdiction(s) as indicated in the table below:

Participating Jurisdiction	Filing requirements
British Columbia	<p>What to file:</p> <ul style="list-style-type: none"> Form 1 <i>Start-up Crowdfunding - Offering Document</i> Form 45-106F1 <i>Report of Exempt Distribution</i> <p>How to file:</p> <ul style="list-style-type: none"> Electronically via BC's eServices website (https://eservices.bcsc.bc.ca/). When submitting a report of exempt distribution for a start-up crowdfunding distribution, there will be an option to attach the offering document.
Manitoba New Brunswick Nova Scotia Québec Saskatchewan	<p>What to file:</p> <ul style="list-style-type: none"> Form 1 <i>Start-up Crowdfunding - Offering Document</i> Form 5 <i>Start-up Crowdfunding - Report of Exempt Distribution</i> <ul style="list-style-type: none"> Schedule 1 to Form 5 <i>Start-up Crowdfunding – Purchaser Information</i> <p>How to file:</p> <ul style="list-style-type: none"> Electronically through SEDAR, in accordance with National Instrument 13-101 <i>System for Electronic Document Analysis and Retrieval</i> (SEDAR) <p>The Canadian Securities Administrators (CSA) has information regarding the SEDAR filing requirements. Please see:</p> <ul style="list-style-type: none"> CSA Staff Notice 13-323 – <i>Frequently Asked Questions About Making Exempt Market Offering and Disclosure Filings on SEDAR</i> CSA website on <i>Reports of Exempt Distribution</i> contains links to the reports for start-up crowdfunding prospectus exemption for SEDAR filing

Different filing requirements

An issuer may be subject to two different filing requirements if they are required to file documents in British Columbia and in any of the other participating jurisdiction(s).

Valérie’s brilliant idea raised \$45,000 through start-up crowdfunding. Her head office is in Québec and she raised the following funds from investors: \$10,000 in Québec, \$12,000 in New Brunswick, and \$23,000 in British Columbia.

To meet her filing requirements, Valérie will need to file the Form 1 and Form 5 electronically through SEDAR. She indicates on SEDAR that she is filing for both Québec and New Brunswick.

She will also need to file the Form 1 and Form 45-106F1 electronically via BC’s eServices website (<https://eservices.bcsc.bc.ca/>).

Confirmation notice to investors

Within 30 days after the closing of the distribution, the issuer must send a confirmation notice to each investor who purchases securities with the following information:

- The date of subscription and the closing date of the distribution
- The quantity and description of securities purchased
- The price paid per security
- The total commission, fee and any other amounts paid by the issuer to the funding portal in respect of the start-up crowdfunding distribution

FOR MORE INFORMATION CONTACT, BCSC INQUIRIES

Telephone: 604-899-6854 or 1-800-373-6393

Email: inquiries@bcsc.bc.ca

Website: www.bcsc.bc.ca

For more information about the start-up crowdfunding exemptions in the other participating jurisdictions, please refer to the following contact information:

Saskatchewan Financial and Consumer Affairs Authority of Saskatchewan
Securities Division
Telephone: 306-787-5645
E-mail: exemptions@gov.sk.ca
www.fcaa.gov.sk.ca

Manitoba The Manitoba Securities Commission
Toll-free in Manitoba: 1-800-655-2548
E-mail: exemptions.msc@gov.mb.ca
www.mbsecurities.ca

Québec Autorité des marchés financiers
Direction du financement des sociétés
Toll-free in Québec: 1-877-525-0337
E-mail: financement-participatif@lautorite.qc.ca
www.lautorite.qc.ca

New Brunswick Financial and Consumer Services Commission
Toll-free: 1-866-933-2222
E-mail: emf-md@fcnb.ca
www.fcnb.ca

Nova Scotia Nova Scotia Securities Commission
Toll-free in Nova Scotia: 1-855-424-2499
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