



LAW REFORM COMMISSION

Opinion Paper on “Regulation of Crowdfunding in Mauritius”

[LRC_ R&P 191, May 2025]

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EXECUTIVE SUMMARY

Opinion Paper on “Regulation of Crowdfunding in Mauritius” [LRC_ R&P 191, May 2025]

Crowdfunding is the practice of collecting small amounts of money, within a predetermined period, from a large number of people, typically through online platforms, to fund a project or enterprise. In recent years, crowdfunding has grown prodigiously in many regions of the world. It has become a new way to finance, for instance, start-up companies, funeral ceremonies, medical bills, artistic and creative projects, technological innovation, scientific research, and community projects.

The many advantages of crowdfunding include the fact that it is simple, spontaneous, informal, engaging and international, and its ability to outwit relevant authorities. However, crowdfunding also has its downsides, which concern the misuse of funds raised by beneficiaries, the charging of unreasonable fees by crowdfunding platforms, and the misappropriation of donation funds by crowdfunding platforms. There is also a risk of crowdfunding campaigns being used to provide financial support for criminal activities.

Crowdfunding is comprised of at least four basic models: (i) *Reward-based crowdfunding*: where contributors expect some sort of reward in exchange of donation; (ii) *Donation-based crowdfunding*: which involves the provision of funds, with no expectation of return or reward; (iii) *Debt-based crowdfunding*: also known as Lending Based and Peer-to-Peer Lending, which concerns lending money to projects initiators with future expected repayments and interest; and lastly (iv) *Equity-based crowdfunding*: involving investors providing funds on the basis that they receive a percentage of equity in the venture or receive some sort of return based on defined terms and conditions.

The regulation of crowdfunding is multifaceted in Mauritius. While the country valiantly regulates debt-based crowdfunding as well as equity-based crowdfunding, there is currently no law that regulates donation-based crowdfunding.

Therefore, with the aim of regulating donation-based crowdfunding, in this document, the Commission: (a) evaluates the advantages and disadvantages of crowdfunding; (b) explores how crowdfunding is currently being regulated in Mauritius; (c) analyses the regulation of crowdfunding in other jurisdictions; (d) compares the current law in Mauritius with other jurisdictions; and (e) before concluding, proposes relevant reforms that can be brought under the Mauritian Law.

The Commission has recommended that there should be a Crowdfunding Act in Mauritius that would have the aim of providing greater protection to donors and beneficiaries, while limiting the power of crowdfunding platforms when they are involved in administering and distributing funds. The Commission has also taken note of the fact that the Act should not overburden legitimate users of crowdfunding platforms with unnecessary bureaucracy. The Act would have to be carefully calibrated so as not to stifle innovation or hinder those genuinely in need of assistance.

INTRODUCTION

1. Over a short period of time, the popularity of crowdfunding platforms has skyrocketed, with fundraising campaigns being organised for a multitude of purposes. There are various definitions by different schools of thoughts and organisations about what crowdfunding is seen to be. For instance, the International Organisation of Securities Commissions defines "crowdfunding" as: *"An umbrella term describing the use of small amounts of money, obtained from a large number of individuals or organisations, to fund a project, a business or personal loan, and other needs through an online web-based platform."*¹
2. Another definition is given by the Global Partnership for Financial Inclusion, which provides that: *"In the financial inclusion context, crowdfunding refers to a market-based financing technique where funds are raised from large numbers of individuals or legal entities in small amounts, bypassing traditional financial intermediaries, and using mobile phones and online web-based platforms to connect with borrowers, whether to fund a business, a specific project, or other needs."*²
3. Besides, according to Lynda De La Viña, *"Crowdfunding is the process of an individual or group of individuals raising capital for a cause; be it cultural, social or business by attracting small contributions from a large crowd using social media and internet as the medium for communication"*³
4. Similarly, the World Bank states that: *"Crowdfunding is an Internet-enabled way for businesses or other organisations to raise money - typically from about US\$1,000 to*

¹ Eleanor Kirby and Shane Worner, 'Crowd-funding: An Infant Industry Growing Fast' (Staff Working Paper of the IOSCO Research Department, 2014) 8 < <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD459.pdf> >

² Global Partnership for Financial Inclusion, 'Global Standard-Setting Bodies and Financial Inclusion The Evolving Landscape' (March 2016) xix < https://www.gpfi.org/sites/gpfi/files/documents/GPFI_WhitePaper_Mar2016.pdf >

³ Lynda Y. de la Viña and Stephanie Lee Black, 'US equity crowdfunding: A review of current legislation and a conceptual model of the implications for equity funding' (2018) 27(1) The Journal of Entrepreneurship 83

US\$1 million - in the form of either donations or investments from multiple individuals.”⁴

5. It should be noted that the definitions above seek to give a very simplified understanding of what the crowdfunding ideology is all about.
6. The term “crowdfunding” was coined in 2006 by entrepreneur and technologist, Michael Sullivan.⁵ Nevertheless, it is interesting to note that the phenomenon of crowdfunding is older than the term “crowdfunding”.⁶ For instance, in 1885, when America’s government sources failed to provide funding to build a monumental base for the Statue of Liberty, a newspaper-led campaign that appealed to the emotions of New Yorkers attracted small donations from 160,000 donors and raised over USD 100,000 (approximately USD 2 million today) allowing the city to complete construction of the base.⁷ Furthermore, in October 1906, the Egyptian national leader, Mustafa Kamel, published an advertisement in Al-Ahram newspaper calling on Egyptians’ donation in order to establish the first Egyptian university.⁸ As a result, many people including school children rushed to donate, until the donations exceeded 4,400 Egyptian pounds. The university was subsequently opened in December 1908.⁹ Besides, in 1997, the British rock band, Marillion, funded their reunion tour through online donations from fans.¹⁰

⁴ The World Bank, ‘Crowdfunding’s Potential for the Developing World’ (Finance and Private Sector Development Department, 2013) 14 < <https://documents1.worldbank.org/curated/fr/409841468327411701/pdf/840000WP0Box380crowdfunding0study00.pdf> >

⁵ Fundable, ‘The History of Crowdfunding’ < <https://www.fundable.com/crowdfunding101/history-of-crowdfunding> >

⁶ Ying Zhao, Phil Harris and Wing Lam, ‘Crowdfunding Industry—History, development, policies, and potential issues’ (2019) Journal of Public Affairs 3

⁷ BBC News, ‘The Statue of Liberty and America’s crowdfunding pioneer’ (25 April 2013) < <https://www.bbc.com/news/magazine-21932675> >

⁸ Cairo University, ‘Idea of Establishing Egyptian University’ < <https://cu.edu.eg/page.php?pg=contentFront/SubSectionData.php&SubSectionId=225> >

⁹ *ibid*

¹⁰ Jordan Robert Gamble, Michael Brennan and Rodney McAdam, ‘A rewarding experience? Exploring how crowdfunding is affecting music industry business models’ (2017) 70 Journal of Business Research 25

7. In the film industry, writer/director Mark Tapio Kines designed a website in 1997 for his then-unfinished first feature film, “*Foreign Correspondents*”.¹¹ By early 1999, he had raised more than USD125,000 through the site from various fans and investors, providing him with the funds necessary to complete his film.¹² Inspired by this innovative method of financing, *ArtistShare*, the first dedicated crowdfunding platform, was launched in 2000.¹³ Shortly thereafter, more crowdfunding platforms began to emerge, and the crowdfunding industry has grown consistently each year.¹⁴
8. According to Fortune Business Insights, the global crowdfunding market size was valued at USD 1.41 billion in 2023 and is projected to grow from USD 1.60 billion in 2024 to USD 4.50 billion by 2032, exhibiting a compound annual growth rate of 13.8% during the forecast period.¹⁵
9. The largest reported funding by a crowdfunded project to date is “*Star Citizen*”, an online space trading and combat video game being developed by Chris Roberts and Cloud Imperium Games.¹⁶ It has raised over \$736,373,084 million to date.¹⁷
10. There are different kinds of crowdfunding, depending on the type of reward offered to contributors:¹⁸
 - (i) *Donation-based crowdfunding*, where individuals contribute to a project without receiving anything in return;¹⁹

¹¹ Yue Guo, Fu Xin, Stuart J Barnes and Qiong Jia, ‘Understanding the Effect of Fundraising Goals on Crowdfunding Behavior’ (Pacific Asia Conference on Information Systems Proceedings, 2017) 4

¹² P. Deepika, ‘Crowdfunding’ (2021) 9(9) International Journal of Creative Research Thoughts 398

¹³ J. Gamble, (2019) ‘Marketing madness or financial folly?: Implementing equity crowdfunding in the record industry’ (2019) 53(3) European Journal of Marketing 412

¹⁴ Lingfei Deng, Qiang Ye, DaPeng Xu, Wenjun Sun and Guangxin Jiang, ‘A literature review and integrated framework for the determinants of crowdfunding success’ (2022) 8 Financial Innovation 41

¹⁵ Fortune Business Insights, ‘Crowdfunding Market Size, Share & Industry Analysis, By Type (Equity-based, Debt-based, Blockchain-based, and Others), By End-user (Startups, NGOs, and Individuals), and Regional Forecast, 2024-2032’ (21 October 2024) < <https://www.fortunebusinessinsights.com/crowdfunding-market-107129> >

¹⁶ Paul Tassi, ‘Star Citizen’ Passes \$300 Million In Crowdfunding For Some Inexplicable Reason’ (Forbes, 14 June 2020) < <https://www.forbes.com/sites/paultassi/2020/06/14/star-citizen-passes-300-million-in-crowdfunding-for-some-inexplicable-reason/> >

¹⁷ Roberts Space Industries, ‘Funding Stats’ < <https://robertsspaceindustries.com/funding-goals> >

¹⁸ European Commission, ‘The different types of crowdfunding’ < https://single-market-economy.ec.europa.eu/access-finance/guide-crowdfunding/different-types-crowdfunding_en >

¹⁹ European Commission, ‘Crowdfunding explained’ < https://single-market-economy.ec.europa.eu/access-finance/guide-crowdfunding/what-crowdfunding/crowdfunding-explained_en >

(ii) *Rewards-based crowdfunding*, which involves contributors donating with expectation of receiving in return a non-financial reward, such as goods or services, at a later stage in exchange of their contribution;²⁰

(iii) *Debt-based crowdfunding*, also known as Lending Based and Peer-to-Peer Lending crowdfunding, where contributors lend money to businesses and receive their money back, with or without interest;²¹

(iv) *Equity-based crowdfunding*, also known investment-based crowdfunding, which concerns contributors investing directly or indirectly in businesses and receiving equity ownership and becoming shareholders or members of the business in return. Sometimes, they are offered bonds or preferred shares instead.²²

11. The existing regulation of crowdfunding in Mauritius is highly variable. This is so because while equity-based crowdfunding and lending-based crowdfunding are explicitly regulated, a dedicated legislation concerning donation-based crowdfunding and reward-based crowdfunding is non-existent.
12. Hence, with the aim of introducing a legislation specifically concerning crowdfunding in Mauritius in order to accommodate donation-based crowdfunding and to combat the downsides of crowdfunding, the Commission, in this Paper: (a) evaluates the advantages and disadvantages of crowdfunding; (b) discusses how crowdfunding is currently being regulated in Mauritius; (c) analyses the regulation of crowdfunding in other jurisdictions; (d) compares the current law in Mauritius with other jurisdictions; and (e) before concluding, proposes relevant reforms that can be brought under the Mauritian Law.

²⁰ *ibid*

²¹ Valeria Stefanelli, Greta Benedetta Ferilli and Vittorio Boscla, 'Exploring the lending business crowdfunding to support SMEs' financing decisions' (2022) 7(4) *Journal of Innovation and Knowledge*

²² Fabrice Hervé and Armin Schwienbacher, 'Crowdfunding and innovation' (2018) 32 *Journal of Economic Surveys* 1514

(A) ADVANTAGES AND DISADVANTAGES OF CROWDFUNDING

Advantages of Crowdfunding

13. In the digital era, crowdfunding platforms allow people to reach a wide community almost effortlessly and fund their favourite projects instantaneously.²³ Crowdfunding not only provides relief for a large number of sick people,²⁴ but also helps them to avoid medical bankruptcy.²⁵ In addition, crowdfunding enables borrowers to access finance, where it may not necessarily have been available to them from banks or other institutional lenders.²⁶
14. Besides, crowdfunding platforms allow start-up companies to grow their audience and receive the funding they need.²⁷ This is as a result of the fact that platforms have the ability to provide start-up company access to a larger and more diverse group of investors beyond the traditional circle of owners, relatives and venture capitalists.²⁸
15. Moreover, many products and businesses that are funded through crowdfunding become very successful and lucrative endeavours.²⁹ For instance, Oculus VR, an American company specialising in virtual reality hardware and software products, was funded through a crowdfunding campaign, launched in 2012, in order to make virtual reality headsets designed for video gaming available to developers.³⁰ The campaign

²³ Paul Belleflamme, Nessrine Omrani, and Martin Peitz, 'The economics of crowdfunding platforms' (2015) 33 Information Economics and Policy 16

²⁴ Lauren S. Berliner and Nora J. Kenworthy, 'Producing a worthy illness: Personal crowdfunding amidst financial crisis' (2017) 187 Social Science and Medicine 233

²⁵ Gordon Burtch and Jason Chan, 'Reducing Medical Bankruptcy Through Crowdfunding: Evidence from GiveForward Presenter Information' (2014) ICIS 2014 Proceedings 35

²⁶ Paul Belleflamme, Thomas Lambert and Armin Schwenbacher, 'Crowdfunding: Tapping the right crowd' (2014) 29(5) Journal of Business Venturing 585

²⁷ Gavin Cassar, 'The financing of business start-ups' (2004) 19(2) Journal of Business Venturing 261

²⁸ *ibid*

²⁹ Zvilichovsky David and Inbar Yael and Barzilay Ohad, 'Playing Both Sides of the Market: Success and Reciprocity on Crowdfunding Platforms' (17 September 2015)

³⁰ Md. Mukitul Hoque, 'Crowdfunding for Innovation: a comprehensive empirical review' (2024) 10 Future Business Journal 102

crowdfunded USD 2.4 million, 10 times the original goal of USD 250,000.³¹ In March 2014, Meta acquired Oculus VR for USD 2.3 billion in cash and stock.³²

16. Also, crowdfunding enables potential funders to choose how they invest their money more freely.³³ Besides, while most crowdfunding campaigns are for local causes, they can also be used to reach people worldwide.³⁴

Disadvantages of Crowdfunding

17. With the advantages of these crowdfunding platforms come opportunities for fraudsters to cheat the public.³⁵ The disadvantages of crowdfunding include the following:

(i) The use of crowdfunding has been criticised for funding quackery, especially costly and fraudulent cancer treatments.³⁶

(ii) Crowdfunding perpetuates inequalities - associated with variables such as gender, class, and race - in access to healthcare.³⁷ For instance, there is a socioeconomic gradient with crowdfunding, in which a higher socioeconomic status coincides with higher donation amounts demanded, higher proportions of fundraising targets reached, higher numbers of donations received, and more shares on social media.³⁸

³¹ Chien-Chi Chu, Ya-Fang Cheng, Fu-Sheng Tsai, Sang-Bing Tsai and Kun-Hwa Lu, 'Open Innovation in Crowdfunding Context: Diversity, Knowledge, and Networks' (2019) 11(1) Sustainability 180

³² Rob Gleasure, 'A Rift in the Ground: Theorizing the Evolution of Anchor Values in Crowdfunding Communities through the Oculus Rift Case Study' (2016) 17(10) Journal of the Association for Information Systems 708

³³ Saul Estrin, Daniel Gozman & Susanna Khavul, 'The evolution and adoption of equity crowdfunding: entrepreneur and investor entry into a new market' (2018) 51 Small Business Economics 425

³⁴ Hannah Forbes and Dirk Schaefer, 'Guidelines for Successful Crowdfunding' (2017) 60 Procedia CIRP 398

³⁵ Nick Harding, 'Murky World of Crowdfunding: From 'Abuse and Heartache' to Fraud, We Investigate What Happens When Online Fundraising Goes Wrong' (The Sun, 28 January 2018)

< <https://www.thesun.co.uk/fabulous/5402752/crowdfunding-katie-cutler-alan-barnes-jermaindefoe/> >

³⁶ David Gorski, 'Crowdfunding: The fuel for cancer quackery' (Science Based Medicine, 17 September 2018) < <https://sciencebasedmedicine.org/crowdfunding-the-fuel-for-cancer-quackery/> >

³⁷ Lauren S. Berliner and Nora J. Kenworthy, 'Producing a worthy illness: Personal crowdfunding amidst financial crisis' (2017) 187 Social Science & Medicine 233

³⁸ Cheng Cheng and Ren, Yifei, 'The paradox of seeking help: Socioeconomic inequality in medical crowdfunding in the era of the mobile internet' (2024) 10(1) Chinese Journal of Sociology 100

(iii) The priority of crowdfunding platforms is to produce profit.³⁹ As a result, they tend to elevate specific "desirable" or "good looking" campaigns at the expense of others.⁴⁰ This inevitably contributes to inequitable outcomes and disproportionately harms minorities and vulnerable groups.⁴¹

(iv) While crowdfunding is an innovative mechanism to help launch a product or support a cause, it is not a reliable tool to cover emergencies as there is no guarantee that anything close to the amount needed will be raised.⁴²

(v) Crowdfunding is a typical tool for obtaining one-off financing; and one-off funding is inadequate to finance chronic diseases and other life-long health problems.⁴³

(vi) Crowdfunding platforms may undermine privacy as in order to establish credibility and encourage donations, individuals launching a medical crowdfunding campaign are encouraged to disclose very personal health information.⁴⁴

(vii) The use of crowdfunding to finance medical bills or treatment might reduce the impetus to reform failing infrastructure to healthcare.⁴⁵

(viii) Crowdfunding platforms allocate funds raised to intended beneficiaries only after charging high administrative fees as a means of generating revenue.⁴⁶ Platforms

³⁹ Jen-Wen Chang, 'The Economics of Crowdfunding' (2020) 12(2) American Economic Journal: Microeconomics 257

⁴⁰ Rudi Palmieri, Chiara Mercuri and Sabrina Mazzali-Luratib, 'Persuasive Reasons in Crowdfunding Campaigns: Comparing Argumentative Strategies in Successful and Unsuccessful Projects on Kickstarter' (2022) 16(2) International Journal of Strategic Communication 332

⁴¹ Baah-Peprah, Rotem Shneur and Ziaul Haque Munim, "'In this together": on the antecedents and implications of crowdfunding community identification and trust' (2024) Venture Capital 18

⁴² Loreta Valanciene and Sima Jegeleviciute, 'Valuation of Crowdfunding: Benefits and Drawbacks' (2013) 18(1) Economics and Management 39

⁴³ Mary Killela, Caitlin Biddell, Jessica Keim-Malpass, Todd A Schwartz, Sandra Soto, Jessica Williams, and Sheila Santacroce, 'The Use of Medical Crowdfunding to Mitigate the Personal Costs of Serious Chronic Illness: Scoping Review' (2023) 25 Journal of Medical Internet Research 44530

⁴⁴ Jeremy Snyder and Valorie A. Crooks, 'Is there room for privacy in medical crowdfunding?' (2021) 47(12) Journal of Medical Ethics 49

⁴⁵ Dressler Gabrielle and Kelly Sarah A., 'Ethical implications of medical crowdfunding: the case of Charlie Gard' (2018) 44(7) Journal of Medical Ethics 453

⁴⁶ Yigal Rechtman and Susanne O'Callaghan, 'Understanding the Basics of Crowdfunding' (2014) CPA Journal 3

sometimes threaten to withhold donation funds indefinitely if appeal organisers refuse to accept the administrative charges.⁴⁷

(ix) Donations funds received from crowdfunding are often used for purposes other than their proclaimed purposes.⁴⁸

(x) A crowdfunding campaign may raise an amount that significantly exceeds the need sought to be addressed. As a result, the surplus funds received is often misused.⁴⁹

(xi) Some crowdfunding platforms allow organisers to launch crowdfunding campaigns without the consent or even knowledge of the beneficiary.⁵⁰

(xii) Well-respected organisations, such as the Financial Action Task Force and the United Nations, have raised concerns about crowdfunding being used to move financial resources to individuals or entities that in turn support terrorism.⁵¹

(xiii) Crowdfunding may be particularly vulnerable to money laundering given the low barriers to entry for campaign organisers and current uncertain and limited regulation.⁵²

⁴⁷ Beth Pinsker, 'Your Money: Raising Money for an Emergency Raises Money Questions' (Reuters, 13 September 2017) < <https://www.reuters.com/article/us-money-charity-crowdfunding/yourmoney-raising-money-for-an-emergency-raises-money-questions-idUSKCN1B01M7> >

⁴⁸ Praveen Kumar, Nisan Langberg and David Zvilichovsky, 'Crowdfunding, Financing Constraints, and Real Effects' (2020) 66(8) Management Science 3295

⁴⁹ Blake Scott, 'Comment - Save That Money: Ensuring Donations Received Through Crowdfunding Are Properly Protected' (2018) 10 Estate Planning & Community Property Law Journal 397

⁵⁰ National Association of State Charity Officials, 'Internet and Social Media Solicitations: Wise Giving Tips' (2018) < <https://www.nasconet.org/wp-content/uploads/2018/02/Internet-and-Social-Media-Solicitations-Wise-Giving-Tips.pdf> >

⁵¹ Financial Action Task Force, 'Emerging Terrorist Financing Risks' (2015) 31 < <https://www.fatf-gafi.org/media/fatf/documents/reports/Emerging-Terrorist-FinancingRisks.pdf> > ; United Nations, 'United Nations Security Council - Counter-Terrorism Committee (CTC) - Understanding the abuse of crowdfunding for terrorism financing purposes' < <https://www.un.org/securitycouncil/ctc/news/understanding-abuse-crowdfunding-terrorism-financing-purposes> >

⁵² Eray Arda Akartuna, Shane D. Johnson and Amy E. Thornton, 'The money laundering and terrorist financing risks of new and disruptive technologies: a futures-oriented scoping review' (2022) 36 Security Journal 615

(B) REGULATION OF CROWDFUNDING IN MAURITIUS

Regulation of investment-based crowdfunding in Mauritius

Financial Services (Crowdfunding) Rules 2021

18. In September 2021, the Financial Services Commission ("FSC") of Mauritius issued the Financial Services (Crowdfunding) Rules 2021 ("Crowdfunding Rules"), which governs the activity of investment-based crowdfunding in Mauritius.⁵³
19. The salient definitions under the Crowdfunding Rules are the terms
- (i) "*crowdfunding*", which means the "*solicitation of funds from investors for a specific investment purpose through an online portal or electronic platform*";
 - (ii) "*crowdfunding operator*" which designates a legal person licensed by the FSC to operate a crowdfunding platform;
 - (iii) "*investment*", which means unlisted shares, debentures or other equity-like instruments or revenue sharing in a business;
 - (iv) "*issuer*", which means an entity seeking funding through the crowdfunding platform; and
 - (v) "*investor*", which means the person providing funding to the issuer through the purchase of an investment in the issuer's business on the crowdfunding platform.⁵⁴
- Investors can be of two types: expert investors or retail investors.
20. The Crowdfunding Rules state that no person is permitted to operate crowdfunding platforms in or from within Mauritius without a crowdfunding licence issued by the FSC.⁵⁵

⁵³ Financial Services (Crowdfunding) Rules 2021

⁵⁴ Rule 2 of the Financial Services (Crowdfunding) Rules 2021

⁵⁵ Rule 4 of the Financial Services (Crowdfunding) Rules 2021

21. Besides, the Crowdfunding Rules confirm that the features of a crowdfunding operator should include the following:
- (a) its registered office and principal place of business must be in Mauritius;⁵⁶
 - (b) its governance structure must provide for an effective oversight of its activities;⁵⁷
 - (c) it must implement adequate internal controls and adopt strategies, policies and processes and procedures, which are aligned with principles of sound governance and risk management;⁵⁸
 - (d) it must maintain a disaster recovery and business continuity plan to ensure that the necessary measures have been implemented to address disruptive and major events;⁵⁹
 - (e) it must set up and maintain at all times a risk management framework;⁶⁰
 - (f) it must set up a documented policy in relation to the outsourcing of any of its functions;⁶¹ and
 - (g) it must maintain an updated transactional record of its clients.⁶²
22. Moreover, a crowdfunding operator is required, at all times, to have a minimum unimpaired stated capital of MUR 2 million or its equivalent in any other currency, or a higher amount if determined by the FSC.⁶³
23. In addition, an issuer must not offer to raise an amount exceeding MUR 15 million on a crowdfunding platform.⁶⁴ The maximum investable amount for a retail investor to invest on a crowdfunding platform over a 12-month period must not exceeding MUR 350,000.⁶⁵ No investment limit applies to expert investors.⁶⁶
24. Also, the management of the crowdfunding operator shall be composed of a minimum 3 directors, of which at least - (i) 30 per cent shall be independent directors; and (ii) one

⁵⁶ Rule 5 of the Financial Services (Crowdfunding) Rules 2021

⁵⁷ Rule 7 of the Financial Services (Crowdfunding) Rules 2021

⁵⁸ *Ibid*

⁵⁹ Rule 9 of the Financial Services (Crowdfunding) Rules 2021

⁶⁰ Rule 11 of the Financial Services (Crowdfunding) Rules 2021

⁶¹ Rule 10 of the Financial Services (Crowdfunding) Rules 2021

⁶² Rule 13 of the Financial Services (Crowdfunding) Rules 2021

⁶³ Rule 6 of the Financial Services (Crowdfunding) Rules 2021

⁶⁴ Rule 19 of the Financial Services (Crowdfunding) Rules 2021

⁶⁵ Rule 18(1) of the Financial Services (Crowdfunding) Rules 2021

⁶⁶ Rule 18(2) of the Financial Services (Crowdfunding) Rules 2021

shall be resident in Mauritius.⁶⁷ Above and beyond the governance requirements, a crowdfunding operator is required to employ adequate staffs in Mauritius who are fit and proper and have the appropriate competence, experience and proficiency to properly perform the functions of the crowdfunding platform.⁶⁸

25. It should be noted that, in the Crowdfunding Rules, emphasis has been put on the information technology and cybersecurity of a crowdfunding operator with a requirement to have adequate measures in place ensuring: (a) that its information technology systems are resilient and not prone to failure; (b) protection of its information technology systems from damage, tampering, misuse or unauthorised access; and (c) the integrity of data forming part of, or being processed through, its information technology systems.⁶⁹ These measures must be reviewed at least annually to ascertain their adequacy.⁷⁰
26. Additionally, a crowdfunding operator is required to conduct due diligence (i) on each issuer prior to allowing the issuer to raise funds using the crowdfunding platform,⁷¹ and (ii) on each investor providing funding on its platform.⁷²
27. Furthermore, the crowdfunding operator is required to disclose a list of information on its crowdfunding platform.⁷³ Disclosure will include information such as the main risks of using the crowdfunding platform, the actual and expected failure rate of issuers who use the crowdfunding platform or key information about how the crowd operator services operate.⁷⁴

⁶⁷ Rule 7(c) of the Financial Services (Crowdfunding) Rules 2021

⁶⁸ Rule 8 of the Financial Services (Crowdfunding) Rules 2021

⁶⁹ Rule 12(1) of the Financial Services (Crowdfunding) Rules 2021

⁷⁰ Rule 12(2) of the Financial Services (Crowdfunding) Rules 2021

⁷¹ Rule 15 of the Financial Services (Crowdfunding) Rules 2021

⁷² Rule 16 of the Financial Services (Crowdfunding) Rules 2021

⁷³ Rules 22,23,24 and 25 of the Financial Services (Crowdfunding) Rules 2021

⁷⁴ *ibid*

Regulation of debt-based crowdfunding in Mauritius

Financial Services (Peer-to-Peer) Lending Rules 2020

28. In Mauritius, the operation of debt-based crowdfunding, also known Peer to Peer lending crowdfunding, is comprehensively regulated through the Financial Services (Peer to Peer Lending) Rules 2020 ("P2P Lending Rules")⁷⁵.

29. According to the P2P Lending Rules, no person should operate a P2P Lending platform without a Peer to Peer Lending licence issued by the FSC.⁷⁶

30. Besides, there are lending and borrowing limits which the P2P Lending Rules provide. For instance, through P2P lending platform, a lender who is a natural person, shall not lend more than MUR 1.5 million in any 12-month period, whilst for a lender who is a legal person, the limit is MUR 3 million.⁷⁷ These limits would not apply to expert investors who are lending to borrowers who are not resident in Mauritius, in any other currency than the Mauritian Rupee.⁷⁸ Lenders are required to provide a signed risk acknowledgement form in relation to each lending they make.⁷⁹ For borrowers, a natural person cannot borrow in excess of MUR 1 million, whilst a legal person cannot borrow in excess of MUR 5 million through P2P operators.⁸⁰ The reimbursement period of lending through a P2P Lending platform shall not exceed 84 months.⁸¹ The funds are made available to the borrower only after the required total funding has been pooled or raised for any project.⁸²

31. As regards the P2P operator, the P2P Lending Rules provide that it must be incorporated as a company in Mauritius and must have a minimum unimpaired stated capital of MUR

⁷⁵ Financial Services (Peer to Peer Lending) Rules 2020

⁷⁶ Rule 4 of the Financial Services (Peer to Peer Lending) Rules 2020

⁷⁷ Rule 6(1)(c) of the Financial Services (Peer to Peer Lending) Rules 2020

⁷⁸ Rule 6(1)(d) of the Financial Services (Peer to Peer Lending) Rules 2020

⁷⁹ Rule 14(2) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁰ Rule 6(1)(b) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸¹ Rule 6(2) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸² Rule 6(3) of the Financial Services (Peer to Peer Lending) Rules 2020

2 million or its equivalent in any other currency.⁸³ The FSC is empowered under the P2P Lending Rules to prescribe a higher amount of such unimpaired stated capital.⁸⁴

32. According to the P2P Lending Rules, the P2P operator should be managed by a board consisting of a minimum of three directors, one of whom shall be an independent director and a resident of Mauritius.⁸⁵ The P2P operator should at all times establish an office and employ staff proportionate to its size, nature and complexity of its business.⁸⁶ It also has to put in place all relevant information technology infrastructure for the carrying out of its business activities.⁸⁷ In addition, it has to preserve the integrity and privacy of information hosted on its lending platform.⁸⁸ Furthermore, it has to obtain the consent of the borrowers to ascertain their credit profiles from a credit information bureau and upon the grant of the funds to a borrower, the P2P operator will have to forthwith provide particulars thereof to the credit information bureau.⁸⁹ Moreover, the P2P operator has to put in place a business continuity and disaster recovery plan for its business.⁹⁰

33. A P2P operator, as a licensee of the FSC under section 14 of the Financial Services Act, is subject to all the obligations and responsibilities for putting in place AML/CFT measures.⁹¹

34. Prior to the admission of lenders and borrowers on a P2P Lending Platform, the operator of the platform is required to carry out due diligences on both lenders and borrowers in accordance with prevailing laws.⁹² Besides, it should also assess the creditworthiness of borrowers before admitting them on the lending platform.⁹³

⁸³ Rule 7(1) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁴ *ibid*

⁸⁵ Rule 7(3) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁶ Rule 7(4)(c) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁷ Rule 7(4)(a) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁸ Rule 7(4)(d) of the Financial Services (Peer to Peer Lending) Rules 2020

⁸⁹ Rule 7(4)(e) of the Financial Services (Peer to Peer Lending) Rules 2020

⁹⁰ Rule 7(4)(b) of the Financial Services (Peer to Peer Lending) Rules 2020

⁹¹ Section 14 of the Financial Services Act

⁹² Rule 12 of the Financial Services (Peer to Peer Lending) Rules 2020

⁹³ Rule 12(2) of the Financial Services (Peer to Peer Lending) Rules 2020

35. Besides, there are certain disclosure requirements to which the P2P operator should comply with.⁹⁴ These disclosures have to be made on the P2P operator's website and such a website should comply with the Guidelines for Advertisement and Marketing of Financial Products, issued by the FSC.⁹⁵ These disclosures pertain to key information relating to the conduct of its business namely: (i) general details on how the P2P Lending platform functions, (ii) information on costs and charges, (iii) measures to prevent money laundering and terrorist financing, (iv) measures to ensure security of the information technology and data protection systems on the lending platform, and (v) the dispute resolution process.⁹⁶
36. The website of the P2P operator is also required to publish two general risk statements in a prominent position which read as follows:
- (i) *"All funds transacted through this Peer to Peer Lending platform are not tantamount to bank deposits or credits in Mauritius and therefore, there shall not be any statutory compensation in case of loss through the use of this Peer to Peer Lending platform"*; and
- (ii) *"The Financial Services Commission, Mauritius does not vouch for the correctness of any information or statements published on this Peer to Peer Lending platform"*.⁹⁷
37. Additionally, there are a few specific disclosures which the P2P operator should make on its website: (a) a description of the borrower's project for which financing is brought sought through the P2P lending platform, (b) the latest financial statements of the borrowers and a disclaimer that the P2P operator gives no assurances about the accuracy of those financial statements, (c) a signed confirmation from the borrower that it is not seeking funds concurrently for the same project from other P2P lending platforms, (d) any credit scoring conducted by the P2P operator on the borrower, and (e) the historical default rate by borrowers on the P2P lending platform.⁹⁸

⁹⁴ Rules 10 and 11 of the Financial Services (Peer to Peer Lending) Rules 2020

⁹⁵ Rules 10(3) and 11(c) of the Financial Services (Peer to Peer Lending) Rules 2020

⁹⁶ Rule 10(1) of the Financial Services (Peer to Peer Lending) Rules 2020

⁹⁷ Rule 10(2) of the Financial Services (Peer to Peer Lending) Rules 2020

⁹⁸ Rule 11 of the Financial Services (Peer to Peer Lending) Rules 2020

38. P2P operators have record keeping and reporting obligations as well under the P2P Lending Rules.⁹⁹ Records have to be maintained for at least seven years.¹⁰⁰ P2P operators are required to submit quarterly reports to the FSC on their cumulative list of active lenders and borrowers, total amount of funds transacted on the platform, the credit score of and default amount by borrowers, and any other information that the FSC may require.¹⁰¹ Currently, two companies are registered by the FSC for Peer-to-Peer lending.¹⁰²

Regulation of donation-based crowdfunding in Mauritius

39. Donation-based crowdfunding is not regulated by law in Mauritius.
40. Nevertheless, like almost all donation-based crowdfunding platforms, Crowdfund.mu, the leading crowdfunding platform in Mauritius, has its own set of terms and conditions.¹⁰³
41. Crowdfund.mu provide that users of the platform should not lie, break laws, abuse people, steal data, and hack other people's computers.¹⁰⁴ It also explicitly specifies that:
- (i) *"Crowdfund.mu shall not be held liable nor responsible in the event that the project promoter does not use the Required Amount or any sum of money collected via the Site for the implementation of their project, irrespective of whether the project be a Major Project or not."*; and
 - (ii) *"in no event will Crowdfund.mu, its directors, employees, partners, suppliers, or content providers be liable for any direct, indirect, incidental, punitive, consequential, special, or exemplary damages of any kind, including but not limited to damages (a) resulting from your access to, use of, or inability to access or use the Services; (b) for*

⁹⁹ Rules 14 and 15 of the Financial Services (Peer to Peer Lending) Rules 2020

¹⁰⁰ Rule 14(3) of the Financial Services (Peer to Peer Lending) Rules 2020

¹⁰¹ Rule 15 of the Financial Services (Peer to Peer Lending) Rules 2020

¹⁰² Name of Licensee: FUNDKISS TECHNOLOGIES LIMITED, Date of Licence / Approval / Authorisation / Registration (DD/MM/YYYY): 01/04/2021, Type of Licence: FS-1.17 Peer to Peer Lending & Name of Licensee: Finance Club Limited, Date of Licence / Approval / Authorisation / Registration (DD/MM/YYYY): 19/2/2021, Type of Licence: FS-1.17 Peer to Peer Lending

¹⁰³ Crowdfund.mu, 'About Us' < <https://www.crowdfund.mu/about-us> >

¹⁰⁴ Crowdfund.mu, 'Conditions and Privacy' < <https://www.crowdfund.mu/condition-and-privacy> >

*any lost profits, data loss, or cost of procurement or substitute goods or services; or (c) for any conduct or content of any third party on the Site."*¹⁰⁵

42. Based on the analysis of the legislations made above, it can be said that while investment-based crowdfunding and lending-based crowdfunding are explicitly regulated, donation-based crowdfunding and reward-based crowdfunding do not fall within the scope of any existing regulatory framework for crowdfunding activities. Besides, it can be assumed that the individual terms of use of crowdfunding platforms seek to exclusively protect their own interests, rather than that of donors and beneficiaries.

¹⁰⁵ *ibid*

(C) REGULATION OF CROWDFUNDING IN OTHER JURISDICTIONS

UNITED STATES

43. The United States ("US") dominates the crowdfunding market.¹⁰⁶ In the year 2021, crowdfunding statistics provides that the US raised around \$73 billion in funds from crowdfunding.¹⁰⁷

Regulation of Investment-based crowdfunding and loan-based crowdfunding in the US

Jumpstart Our Business Startups (JOBS) Act 2012

44. In the US, before the enactment of the Jumpstart Our Business Startups (JOBS) Act 2012, conducting a crowdfunding campaign was only possible if all restrictive conditions were met.¹⁰⁸ Nevertheless, the enactment of the JOBS Act led to the inclusion of Title III, known as the "Capital Raising Online While Deterring Fraud and Unethical Non-Disclosure Act of 2012" or the "Crowdfund Act", which creates an exemption under Section 4(a)(6) of the Securities Act 1933^{109, 110} Title III allows eligible companies to raise funds through crowdfunding without registering the offering with the Securities and Exchange Commission ("SEC"), provided certain conditions are met.¹¹¹

¹⁰⁶ Tania Ziegler, Rotem Shneor, and Bryan Zheng Zhang, 'The Global Status of the Crowdfunding Industry' (Palgrave Macmillan, 2020) 45

¹⁰⁷ Barry Elad, 'Crowdfunding Statistics – By Country, Success Rate, Region, Funding Amount, Industry' (15 February 2023, Enterprise Apps Today) < <https://www.enterpriseappstoday.com/stats/crowdfunding-statistics.html> >

¹⁰⁸ Ying Zhao, Phil Harris and Wing Lam, 'Crowdfunding industry - History, development, policies, and potential issues' (2019) 19(1) Journal of Public Affairs 1

¹⁰⁹ Section 4(a)(6) of the Securities Act of 1933

¹¹⁰ Title III of the Jumpstart Our Business Startups (JOBS) Act 2012

¹¹¹ *ibid*

45. To implement this exemption and establish the regulatory framework, the SEC adopted Regulation Crowdfunding in 2015.¹¹² Regulation Crowdfunding allows eligible companies to offer and sell securities to a broad investor base, including non-accredited investors, through online crowdfunding platforms, subject to specific regulatory requirements and limitations.¹¹³
46. To be eligible for a Regulation Crowdfunding offering, an issuer, that is a company offering and selling securities through Regulation Crowdfunding, must:
- (i) Be U.S.-based: The entity must have its headquarters and principal place of business in the United States. This does not entirely preclude foreign entities from utilising Reg CF, but they must establish a U.S.-based headquarters and do actual business in the U.S., and not merely funnel revenue to a foreign office;¹¹⁴
 - (ii) Not be an investment or shell company: The issuer must not be an investment company, blank check company, or shell company as defined under the Securities Exchange Act of 1934.¹¹⁵ This means that the company must have a well-defined, operational business plan and cannot exist solely to acquire or merge with other companies;¹¹⁶ and
 - (iii) Not be disqualified: The issuer must not be disqualified under Regulation Crowdfunding's "bad actor" provisions, which include disqualifications due to certain criminal convictions, regulatory or court orders, and other legal sanctions.¹¹⁷
47. Regulation crowdfunding allows issuers to raise up to \$5 million in a 12-month period.¹¹⁸

¹¹² Title 17, Part 227, Chapter 11 of the Electronic Code of Federal Regulations

¹¹³ Title 17, Part 227, Chapter 11, § 227.100 of the Electronic Code of Federal Regulations

¹¹⁴ Title 17, Chapter II, Part 227, Subpart A, § 227.200(b)(1) of the Electronic Code of Federal Regulations

¹¹⁵ Title 17, Chapter II, Part 227, Subpart A, § 227.200(b)(3) of the Electronic Code of Federal Regulations

¹¹⁶ Title 17, Chapter II, Part 227, Subpart A, § 227.200(b)(6) of the Electronic Code of Federal Regulations

¹¹⁷ Title 17, Chapter II, Part 227, Subpart E, § 227.503 of the Electronic Code of Federal Regulations

¹¹⁸ Title 17, Part 227, Chapter 11, § 227.100(a)(1) of the Electronic Code of Federal Regulations

48. Furthermore, according to Regulation Crowdfunding, issuers must provide comprehensive disclosures to potential investors. The disclosures concern: (i) information about the issuer, its officers, directors, and significant shareholders; (ii) description of the business and its financial condition, including financial statements; (iii) intended use of proceeds and target offering amount; (iv) offering price and valuation of securities; (v) ownership and capital structure and (vi) risk factors associated with the investment.¹¹⁹
49. At the end of a crowdfunding campaign, the issuer is under the obligation to regularly report on the spending of funds to its investors and the SEC.¹²⁰
50. It should be noted that, in the US, intermediary, that is, a crowdfunding platform (which include either a registered broker-dealer or a funding portal) that facilitates Regulation Crowdfunding transactions¹²¹ must register with the SEC and Financial Industry Regulatory Authority ("FINRA") as either a broker-dealer or funding portal.¹²²
51. Moreover, intermediary should: (i) assess the suitability of investors, ensuring they meet the appropriate financial and investment criteria to participate in crowdfunding offerings; (ii) provide investors with comprehensive and accurate information about the companies seeking funding, including financial statements, business plans, and risk factors; and (iii) maintain ongoing reporting and compliance with FINRA and SEC regulations, ensuring they continue to operate within the legal and regulatory framework. In addition, any marketing or promotional materials used by the intermediary must comply with FINRA's rules on communications with the public, which include the avoidance of misleading or exaggerated claims.¹²³

¹¹⁹ Title 17, Chapter II, Part 227, Subpart B, § 227.201 of the Electronic Code of Federal Regulations

¹²⁰ Title 17, Chapter II, Part 227, Subpart B, § 227.201 of the Electronic Code of Federal Regulations

¹²¹ Title 17, Chapter II, Part 227, Subpart C, § 227.300(c)(3) of the Electronic Code of Federal Regulations

¹²² Title 17, Chapter II, Part 227, Subpart C, § 227.300(a) of the Electronic Code of Federal Regulations

¹²³ Rule 2210(d)(1)(B) of the Financial Industry Regulatory Authority

Regulation of Donation-based crowdfunding in the US

52. In the US, there is no specific legislation regulating donation-based crowdfunding at federal level.
53. Nevertheless, at state level, California enacted a law in 2023, that require both (i) crowdfunding platforms that raise money for charities and (ii) charities, such as PayPal Giving Fund, that facilitate the activity of such a platform, to register and file regular reports with the state's Registry of Charitable Trusts and to make certain public disclosures.¹²⁴ The Californian law also requires such platforms to obtain a charity's written consent before soliciting funds for its benefit (with some exceptions).¹²⁵
54. In addition, many other types of laws implicitly apply to donation-based crowdfunding in the US.¹²⁶ The laws include those designed to protect consumers¹²⁷ and to combat fraud.¹²⁸ For instance, in the US, the case of *Illinois ex rel. Madigan v Telemarketing Associates Inc.* [2003] gave rise to a civil fraud claim against a for-profit fundraising company for alleged misrepresentations to prospective donors relating to client charity.¹²⁹ Similarly, the case of *State v Burgett* [2019] involves the criminal telecommunications fraud conviction of an individual who misrepresented that her son suffered from a terminal illness on "GofundMe", a crowdfunding platform.¹³⁰
55. Moreover, the Uniform Law Commission (ULC) in the United States has drafted a uniform act on donation-based crowdfunding.¹³¹ The ULC's draft has currently been put on hold.

¹²⁴ Section 9 of the AB-488 Charitable organizations: charitable fundraising platforms and platform charities. (2021-2022) (California)

¹²⁵ Section 16 of the AB-488 Charitable organizations: charitable fundraising platforms and platform charities. (2021-2022)

¹²⁶ Bruce R. Hopkins & Alicia M. Kirkpatrick, 'The Law of Fundraising' (5th edn. 2013 Wiley) 86-88

¹²⁷ Ely R. Levy and Norman Silber, 'Nonprofit Fundraising and Consumer Protection: A Donor's Right to Privacy' (2004) 15 Stanford Law & Policy Review Online 537

¹²⁸ C. Steven Bradford, 'The Regulation of Crowdfunding in the United States - In: Cumming, D., Hornuf, L. (eds) The Economics of Crowdfunding' (2018) Palgrave Macmillan 185

¹²⁹ *Illinois ex rel. Madigan v Telemarketing Associates, Inc.* [2003] 538 U.S. 600

¹³⁰ *State v Burgett*, No. C-180029 2019 (Ohio Ct. App. December 27, 2019)

¹³¹ Uniform Law Commission, Fundraising Through Public Appeals Act (Draft) 2020

56. Besides, the Federal Trade Commission of the US provides cautions to individuals considering donating to a charitable crowdfunding campaign.¹³²
57. Furthermore, at state level, the office of the California Attorney General does offer a brief guide to help potential donors avoid fraudulent donation-based crowdfunding platforms through practical steps such as researching creators and crowdfunding platforms, doing reverse Google image searches, asking direct questions and more, as well as providing contact information to both common crowdfunding platforms and watchdog agencies such as the FTC and Better Business Bureau.¹³³
58. Also, the New York Attorney General has used her authority to create a voluntary alternate beneficiary form for charitable crowdfunding, or any other type of fundraising, that benefits a particular individual or set of individuals in need.¹³⁴ On its face, the purpose of the form is to ensure that if the individual to be benefitted is not able for whatever reason to accept the donated funds, there is an alternate beneficiary in place.¹³⁵
59. In addition, the Washington state offers guidance for how crowdfunding donations should be considered for taxation purposes.¹³⁶

¹³² Federal Trade Commission, 'Donating Through Crowdfunding, Social Media, and Fundraising Platforms' < <https://www.consumer.ftc.gov/articles/donating-throughcrowdfunding-social-media-and-fundraising-platforms> >

¹³³ CBS News, 'AG Bonta warns of crowdfunding scams in wake of Half Moon Bay, Monterey Park shootings' (24 January 2024) < <https://www.cbsnews.com/sanfrancisco/news/half-moon-bay-monterey-park-mass-shootings-ag-bonta-warns-crowdfunding-scams/> >

¹³⁴ State of New York – Department of Law, 'Charitable Solicitation for the Relief of an Individual' < https://ag.ny.gov/sites/default/files/regulatory-documents/char017_solicitation_relief.pdf >

¹³⁵ *ibid*

¹³⁶ Department of Revenue Washington State, 'Crowdfunding' < <https://dor.wa.gov/forms-publications/publications-subject/tax-topics/crowdfunding> >

FRANCE

60. The French crowdfunding market is one of the biggest in the EU.¹³⁷
61. According to *Financement Participatif France*, the French crowdfunding association, in 2022, there was an exponential/unprecedented growth in funds collected through crowdfunding platforms that attained € 2 billion, representing a growth of more than 25% from the year before.¹³⁸
62. Besides, it is interesting to note that France was one of the first countries in Europe to enact special legislation to regulate crowdfunding that has gradually been refined and developed.¹³⁹
63. In France, the different types of crowdfunding platforms are principally regulated by the *Code Monétaire et Financier* ("CMF").¹⁴⁰

Regulation of Reward-based and donation-based crowdfunding in France

64. Reward-based and donation-based crowdfunding platforms, known as *intermédiaire en financement participatif* ("IFP") under the CMF, must categorise their services in accordance with article L.548-1 and article L.548-2 of the CMF that define the service as linking through the internet project initiators and project funders.¹⁴¹ They are required by article L548-3 of the CMF to register as such with the *Organisme Pour Le Registre Des Intermédiaires En Assurance* ("ORIAS").¹⁴² The IFP may also be required

¹³⁷ Rotem Shneor, Karsten Wenzlaff, Kostyantyn Boyko and Prince Baah-Peprah, 'The European Crowdfunding Market Report 2023' (Crowdfunding Research Centre, January 2024) < file:///C:/Users/HP/Downloads/EuropeanCrowdfundingMarketReport2023.pdf >

¹³⁸ Financement Participatif France, 'Nouveau record pour le crowdfunding : 2 milliards d'euros collectés en 2022' (9 Février 2023) < <https://financeparticipative.org/nouveau-record-pour-le-crowdfunding-2-milliards-deuros-collectes-en-2022/> >

¹³⁹ Mikhail A. Garmashev, Julia A. Sakhno Belgorod, Inna N. Peremyslennikova, and Natalya A. Sedova and Marina M. Staroselzeva, 'Legal Regulation of Crowdfunding and Investment Platforms: The Experience of the United States, Russia and Europe' (2021) 5(53) *Linguistics and Culture Review* 962

¹⁴⁰ Code monétaire et financier

¹⁴¹ Articles L.548-1 and L.548-2 of the Code monétaire et financier

¹⁴² Article L548-3 of the Code monétaire et financier

to obtain further licences (such as a payment institution licence or the status of agent of a payment institution) if other regulated services are provided by the platform.¹⁴³

65. It is important to note that only corporations can register as IFPs.¹⁴⁴

66. Crowdfunding service providers registered as IFP are under the supervision of *Autorité de contrôle prudentiel et de résolution* ("ACPR"), which is an independent administrative body attached to the Bank of France.¹⁴⁵

67. IFP must comply with the rules of good conduct found under Article L548-6 of the CMF.¹⁴⁶ Article L548-6 of the CMF provides that:

"Les intermédiaires en financement participatif doivent se comporter d'une manière honnête, équitable, transparente et professionnelle en tenant compte des droits et des intérêts de leurs clients, y compris de leurs clients potentiels.

A cette fin, ils prennent et documentent toutes les mesures raisonnables visant à détecter et empêcher les risques de conflits d'intérêts pouvant se poser dans le cadre de leur activité.

Les intermédiaires en financement participatif respectent des règles de bonne conduite et d'organisation qui tiennent compte de la nature des opérations qu'ils effectuent.

Sans préjudice des exigences en matière de lutte contre le blanchiment des capitaux et le financement du terrorisme, lorsqu'ils présentent des offres de financement, par prêts ou par dons, prenant la forme d'une collecte ouverte au public, les intermédiaires en financement participatif doivent veiller à ce que le projet présenté soit prédéfini en termes d'objet, de montant cible de financement, de calendrier, de description chiffrée de l'utilisation prévue des fonds levés et de résultat attendu.

Les intermédiaires en financement participatif doivent:

¹⁴³ Article L548-2, paragraph 11 of the Code monétaire et financier

¹⁴⁴ Article L548-2 of the Code monétaire et financier

¹⁴⁵ Autorité de contrôle prudentiel et de résolution, 'Financement participatif' < <https://acpr.banque-france.fr/autoriser/financement-participatif> >

¹⁴⁶ Article L548-6 of the CMF

- 1. Fournir au public, de manière lisible et compréhensible, toute information permettant d'être identifié et contacté;*
- 2. Informer le public des conditions de sélection des projets et des porteurs de projet;*
- 3. Publier un rapport annuel d'activité;*
- 4. Fournir aux prêteurs ou donateurs les informations concernant les caractéristiques du projet et, le cas échéant, du prêt concerné s'agissant en particulier du taux d'intérêt applicable, du montant total du crédit, de la durée du prêt, de ses modalités et conditions de remboursement ainsi que de l'existence ou non d'une faculté de rétractation du prêteur;*
- 5. Mettre en garde:*
 - (a) Les prêteurs, sur les risques liés au financement participatif de projet, notamment en publiant les taux de défaillance enregistrés sur les projets en cours et les projets financés depuis plus de douze mois;*
 - (b) Les porteurs de projets, sur les risques d'un endettement excessif ;*
- 6. Mettre à disposition des prêteurs les outils permettant d'évaluer le montant du prêt envisageable compte tenu de leurs revenus et charges ainsi que les éléments pertinents leur permettant d'apprécier la viabilité économique du projet, en particulier le plan d'affaires;*
- 7. Fournir aux porteurs de projet et aux prêteurs ou donateurs les informations concernant la rémunération de l'intermédiaire en financement participatif ainsi que l'ensemble des frais exigés;*

8. *Fournir aux porteurs de projet et aux prêteurs ou, le cas échéant, aux donateurs, un contrat type permettant de formaliser les conditions du financement dont les modalités de présentation et les mentions obligatoires sont fixées par décret en Conseil d'Etat;*

9. *Fournir aux porteurs de projet un document synthétique comportant le montant total de l'opération et, le cas échéant, le taux conventionnel, la durée du prêt, ses modalités de remboursement ainsi que son coût total;*

...

*La publicité relative à leur activité, dès lors qu'elle indique un taux d'intérêt ou des informations chiffrées liées à l'opération de financement, les mentionne de façon claire, précise et visible."*¹⁴⁷

68. Besides, IFPs must conform to the rules regarding the prevention of money laundering and the financing of terrorism, as stipulated under Title VI of the CMF.¹⁴⁸

Regulation of investment-based crowdfunding and loan-based crowdfunding in France

69. Crowdfunding services providers that offer debt, equity or mini-vouchers in order to fund a project are required to register with the ORIAS as *conseiller en investissements participatifs* ("CIP")¹⁴⁹ or be licensed by the ACPR as *prestataires de services d'investissement* ("PSI").¹⁵⁰

70. Crowdfunding services providers registered as CIP are under supervision of Autorité des Marchés Financiers ("AMF") and those licensed as PSI are jointly supervised by the ACPR and the AMF.¹⁵¹

¹⁴⁷ *ibid*

¹⁴⁸ Article L561-2(4) of the Code monétaire et financier

¹⁴⁹ Article L541-4-1 of the Code monétaire et financier

¹⁵⁰ Article L532-1 of the Code monétaire et financier

¹⁵¹ Autorité de contrôle prudentiel et de résolution, 'Crowdfunding' < <https://acpr.banque-france.fr/en/autorisation/crowdfunding> >

71. Article L541-8-1 of the CMF sets out the rules of good conduct that CIPs should follow.
The Article provides that

"Les conseillers en investissements financiers doivent :

1. Agir d'une manière honnête, loyale et professionnelle, servant au mieux les intérêts des clients;

*2. Exercer leur activité, dans les limites autorisées par leur statut, avec la compétence, le soin et la diligence qui s'imposent, au mieux des intérêts de leurs clients, afin de leur proposer une offre de service adaptée et proportionnée à leurs besoins et à leurs objectifs; ... "*¹⁵²

72. Additionally, CIP should ensure that all information, including marketing communications, addressed to their customers, including potential customers, is accurate, clear and not misleading.¹⁵³

73. In particular, the information provided must always indicates correctly and prominently any relevant risks when it refers to a potential benefit of an investment service or a financial instrument; be sufficient and presented in a way that can be understood by an investor; not distort, minimise or conceal important facts, statements or warnings; and be up to date and adapted to the means of communication used.¹⁵⁴

74. Like CIPs, PSIs have the following obligations under the CMF. According to Article L533-1 of the CMF, PSI should act honestly, fairly and professionally, in a manner that promotes the integrity of the market.¹⁵⁵

75. In addition, Article L533-12 of the CMF provides that:

¹⁵² Article L541-8-1 of the Code monétaire et financier

¹⁵³ Article L541-8-1, paragraph 8 of the Code monétaire et financier

¹⁵⁴ Article 325-12 of the Règlement Général De L'autorité Des Marchés Financiers

¹⁵⁵ Article L533-1 of the Code monétaire et financier

"I. - Toutes les informations, y compris les communications à caractère promotionnel, adressées par un prestataire de services d'investissement autre qu'une société de gestion de portefeuille à des clients, notamment des clients potentiels, présentent un contenu exact, clair et non trompeur. Les communications à caractère promotionnel sont clairement identifiables en tant que telles.

II.-Les prestataires de services d'investissement autres que les sociétés de gestion de portefeuille communiquent en temps utile à leurs clients, notamment leurs clients potentiels, des informations appropriées en ce qui concerne le prestataire de services d'investissement autre qu'une société de gestion de portefeuille et ses services, les instruments financiers et les stratégies d'investissement proposés, les lieux d'exécution et tous les coûts et frais liés.

III.-Les informations mentionnées au II sont fournies sous une forme compréhensible de manière à ce que les clients, notamment les clients potentiels, puissent raisonnablement comprendre la nature du service d'investissement et du type spécifique d'instrument financier proposé ainsi que les risques y afférents, afin que les clients soient en mesure de prendre leurs décisions d'investissement en connaissance de cause.

Ces informations peuvent être fournies sous une forme normalisée dans des conditions fixées par le règlement général de l'Autorité des marchés financiers."¹⁵⁶

¹⁵⁶ Article L533-12 of the Code monétaire et financier

CANADA

76. The current crowdfunding legal landscape in Canada is bewildering as the country's various provinces and territories regulate crowdfunding in a varying and overlapping manner, through various legislations concurrently.¹⁵⁷

Regulation of investment-based crowdfunding in Canada

77. The main legislations concerning investment-based crowdfunding in Canada include: Multilateral Instrument 45-108,¹⁵⁸ Multilateral CSA Notice 45-316 (repealed),¹⁵⁹ Rule 45-517 Prospectus Exemption for Start-up Businesses¹⁶⁰, and National Instrument 45-110 Start-up Crowdfunding Registration and Prospectus Exemptions,¹⁶¹ none of which are nationally harmonized. The legislations have been briefly explored below.

(I) National Instrument 45-110 ("NI 45-110")

78. In 2021, the Canadian Securities Administrators (CSA) published the National Instrument 45-110 ("NI 45-110"), which is a regulation that provides a harmonised national framework for securities crowdfunding for start-ups and early-stage businesses.¹⁶²
79. The NI 45-110 applies in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia.¹⁶³ The NI 45-110 provides (i) *eligible*

¹⁵⁷ Muna M Alhamma, Rawan abdullah Alothman and Chekfoung Tan, 'Review of Crowdfunding Regulations across Countries: A Systematic Review Study' (2021) 6(4) Journal of Information Systems 5

¹⁵⁸ Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁵⁹ Start-up Crowdfunding Registration and Prospectus Exemptions - Multilateral CSA Notice 45-316 (2015)

¹⁶⁰ Alberta Securities Commission, Rule 45-517 Prospectus Exemption for Start-up Businesses < <https://www.asc.ca/-/media/ASC-Documents-part-1/Regulatory-Instruments/2018/10/5304557-45-517-Companion-Policy.ashx> >

¹⁶¹ Canadian Securities Administrators, National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁶² *ibid*

¹⁶³ Canadian Securities Administrators, 'Notice of Publication of National Instrument 45-110 Start-up Crowdfunding Registration and Prospectus Exemptions' (23 June 2021) < https://www.osc.ca/sites/default/files/2021-06/csa_20210623_45-110_crowdfunding-registration-prospectus-exemptions_0.pdf >

issuers with an exemption from prospectus requirements if distributing eligible securities through online funding portals,¹⁶⁴ and (ii) certain *eligible online funding portals* with an exemption from dealer registration requirements in facilitating such distributions.¹⁶⁵

Eligible issuers

80. Issuers eligible for the exemption consist of corporations, limited partnerships, general partnerships, and other associations (as defined in NI 45-110) with head offices in Canada, provided the securities being offered are eligible equity or debt securities.¹⁶⁶ Besides, an issuer must not be: (i) an investment fund, (ii) a reporting issuer, or (iii) an issuer commonly referred to as a "blank check company" without operations other than identifying and evaluating assets or businesses to invest in, merge with, or acquire.¹⁶⁷
81. Under NI 45-110, issuers have a maximum of 90 days to complete an offering¹⁶⁸ and must, within 30 days of the closing date, distribute a written confirmation to each investor who purchased securities. The confirmation should set out, among other things, the quantity, price, and description of the securities purchased, and any commissions or fees payable in connection with the offering.¹⁶⁹ It should be taken into account that, as per the NI 44-110, issuers may only have one active crowdfunding campaign at any given time.
82. Besides, according to the NI 45-110, eligible issuers can raise up to \$1.5 million in a 12-month period through one or more distributions of eligible securities, provided the

¹⁶⁴ Part 4 of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁶⁵ Part 2 of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁶⁶ Section 5(1) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁶⁷ *ibid*

¹⁶⁸ Section 5(1)(i) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁶⁹ Section 5(2)(b) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

distributions are facilitated through a portal that operates in compliance with NI 45-110.¹⁷⁰

Eligible online funding portals

83. Portals eligible for the exemption under the NI 45-110 include registered portals as well as non-registered portals with head offices in Canada provided that, among other things, a majority of the portal's directors ordinarily reside in Canada and that the portal remains solvent and maintains all required policies, procedures and records.¹⁷¹ The exemption is not available if the portal or any of its principals is or has been the subject of certain proceedings in the last 10 years related to conduct such as fraud, theft, or breach of trust.¹⁷²
84. Eligible investors can contribute a maximum amount of \$2,500 per distribution, with such maximum amount increasing to \$10,000 if the investor has been advised by a registered dealer.¹⁷³

(II) Multilateral Instrument 45-108 ("MI 45-108")

85. In November 2015, the regulatory authorities in Manitoba, Ontario, Québec, New Brunswick and Nova Scotia (the "Participating Jurisdictions") published Multilateral Instrument 45-108 ("MI 45-108"), which became effective in January 2016.¹⁷⁴ MI 45-108 helps the Participating Jurisdictions to keep up with the trend of liberalising small business' access to capital through crowdfunding.¹⁷⁵

¹⁷⁰ Section 5(1)(g) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁷¹ Section 3(1) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁷² Section 3(1)(r) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁷³ Section 5(1)(p) of the National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (2021)

¹⁷⁴ Ontario Securities Commission - Canadian Securities Administrators, 'Notice of Publication of Multilateral Instrument 45-108 Crowdfunding' (5 November 2015) 1 <
https://www.osc.ca/sites/default/files/pdfs/irps/csa_20151105_45-108_multilateral-crowdfunding.pdf >

¹⁷⁵ *ibid*

86. MI 45-108 has two principal components: (i) the Crowdfunding Prospectus Exemption;¹⁷⁶ and (ii) the Funding Portal Requirements.¹⁷⁷ The components have been summarised below.

Crowdfunding Prospectus Exemption

87. The Crowdfunding Prospectus Exemption addresses both (i) the distribution of the securities to investors in a crowdfunding offering¹⁷⁸ and (ii) the ongoing disclosure private issuers must provide regarding both the issuer and the securities issued.¹⁷⁹

Distribution Requirements

88. An issuer that wishes to take advantage of being exempt from prospectus requirements needs to comply with certain requirements such as (i) it must not raise more than \$1,500,000 during any 12-month period;¹⁸⁰ (ii) Except in Ontario, it must not raise more than \$2,500 from any non-accredited investor,¹⁸¹ or more than \$25,000 from any accredited investor, in any single offering;¹⁸²

89. The issuer must provide each investor with an offering document ("Offering Document") that contains, among other items, the aggregate minimum proceeds of the offering, and a certificate stating that there are no untrue material statements in the Offering Document;¹⁸³

90. Through the funding portal, the issuer may make additional materials available to investors.¹⁸⁴ The additional materials include a term sheet, a video or other materials

¹⁷⁶ Part 2 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁷⁷ Part 3 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁷⁸ Part 2, Division 1 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁷⁹ Part 2, Division 2 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸⁰ Part 2, Division 1, section 5(1)(b) of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸¹ Part 2, Division 1, section 5(1)(d)(i) of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸² Part 2, Division 1, section 5(1)(d)(ii) of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸³ Part 2, Division 1, section 5(1)(f) of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸⁴ Part 2, Division 1, section 12(1) of the Multilateral Instrument 45-108 Crowdfunding (2016)

summarising the information in the Offering Document.¹⁸⁵ The materials must be consistent with the information in the crowdfunding offering document.¹⁸⁶

91. It may not close any distribution unless it has: (i) raised the aggregate minimum proceeds described in the Offering Document, and (ii) received from each purchaser a risk acknowledgement form which confirms the purchaser's understanding of the risks disclosed in the Offering Document.¹⁸⁷

Ongoing Disclosure Requirements

92. Private companies who issue securities in reliance on MI 45-108 must provide: (i) A full set of financial statements within 120 days of its fiscal year, which must be accompanied by an auditor's report if the company has raised more than \$750,000 in securities offerings since its founding;¹⁸⁸ and (ii) a report on its use of the proceeds raised in the offering.¹⁸⁹

93. MI 45-108 also imposes the requirement that issuers retain certain documents (such as the Offering Document and Additional Materials) for at least 8 years after closing.¹⁹⁰

Funding Portal Requirements

94. Under MI 45-108, funding portal must: (i) register as either an investment dealer, exempt market dealer or restricted dealer;¹⁹¹ and (ii) promote or distribute the Offering Document and related materials on its online platform in a fair, balanced and reasonable manner and not through any other means;¹⁹²
95. Before allowing an issuer to promote an offering on its platform, the funding portal must: (i) Enter into an agreement with the issuer that includes language stating that the

¹⁸⁵ *ibid*

¹⁸⁶ Part 2, Division 1, section 12(2) of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸⁷ Part 2, Division 1, section 6 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸⁸ Part 2, Division 2, section 16 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁸⁹ Part 2, Division 2, section 17 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁰ Part 2, Division 2, section 20 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹¹ Part 3, Division 1 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹² Part 3, Division 2, section 24 of the Multilateral Instrument 45-108 Crowdfunding (2016)

funding portal must terminate any offering and report immediately to the securities regulators if it appears that the issuer is not conducting its business with integrity,¹⁹³

(ii) Conduct background checks for each director, executive officer and promoter of the issuer,¹⁹⁴ and (iii) Review the Offering Document and Additional Materials and require the issuer to revise any misleading information contained therein prior to posting on the platform.¹⁹⁵

96. Besides, a funding portal must require potential investors to acknowledge that: (i) no securities regulator has reviewed or approved any information regarding the offering, and (ii) they may lose all or most of the money invested in the offered securities.¹⁹⁶

97. In addition, a funding portal must include on its online platform prominent disclosure of all compensation, including fees, costs and other expenses that the funding portal may charge to, or impose on, an eligible crowdfunding issuer or a purchaser, and any such other disclosure that may be required under securities legislation.¹⁹⁷

98. If it registers as a restricted dealer, it must ensure that its chief compliance officer and all other individuals who act on its behalf have and will maintain sufficient education, training and experience to effectively perform in their respective positions.¹⁹⁸

(III) Multilateral CSA Notice 45-316 ("MCSAN 45-316")

99. In May 2015, regulators in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia (the "MCSAN Jurisdictions") promulgated Multilateral CSA Notice 45-316 ("MCSAN 45-316").¹⁹⁹ It should be noted that MCSAN 45-316 was repealed in 2021.

¹⁹³ Part 3, Division 2, sections 25 and 26 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁴ Part 3, Division 1, section 27 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁵ Part 3, Division 2, section 27 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁶ Part 3, Division 2, section 33 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁷ Part 3, Division 2, section 35 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁸ Part 3, Division 3, section 43 of the Multilateral Instrument 45-108 Crowdfunding (2016)

¹⁹⁹ Canadian Securities Administrators, 'Multilateral CSA Notice 45-316 Start-up Crowdfunding Registration and Prospectus Exemptions' (14 May 2015) < <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilières/0-avis-acvm-staff/2015/2015mai14-45-316-avis-acvm-en.pdf> >

100. As with MI 45-108, MCSAN 45-316 had provisions that govern both issuers and funding portals. A summary of some of the distinctive provisions of MI 45-108 has been provided below.

MCSAN 45-316's Rules Affecting Issuers

101. The rules under the MCSAN 45-316 that concerned issuers include:
- (i) Publicly traded companies could not qualify for the exemption afforded by MCSAN 45-316.
 - (ii) The issuer's head office had to be located in one of the MCSAN Jurisdictions (MI 45-108 has no similar restriction);
 - (iii) An issuer was not able raise more than \$250,000 in any one offering, and could not conduct more than two offerings in any calendar year;
 - (iv) No investor could invest more than \$1,500 in any offering (this applies to accredited investors as well); and
 - (v) An issuer is not compelled to provide financial statements or other ongoing disclosure but must provide similar disclosure to what is required under MI 45-108.²⁰⁰

MCSAN 45-316's Rules Affecting Funding Portals

102. Under the MCSAN 45-316, a funding portal did not have to go through the extensive registration process found under the Canadian securities laws if it met certain conditions, such as:
- (i) It (and each of its principals) had provided information forms to each regulator in the MSCAN Jurisdictions at least 30 days prior to the first crowdfunding distribution;

²⁰⁰ Canadian Securities Administrators, 'Multilateral CSA Notice 45-316 Start-up Crowdfunding Registration and Prospectus Exemptions' (14 May 2015) < <https://fcnb.ca/sites/default/files/2020-02/45-316-CSAN-2015-05-14-E3.pdf> >

- (ii) It was not providing advice to a prospective purchaser about any investment listed on its platform;
- (iii) It was not receiving any remuneration from a purchaser of securities listed on its platform;
- (iv) It was not allowing an investor to purchase securities listed on its platform until it received written confirmation that such investor had read and understood the applicable offering disclosure and risk warnings; and
- (v) It did not receive notification from any regulator that any of the funding portal's principals demonstrate a lack of integrity, financial responsibility, relevant knowledge or expertise;²⁰¹

(IV) Rule 45-517 Prospectus Exemption for Start-up Businesses

103. The Alberta Securities Commission has adopted Rule 45-517 Prospectus Exemption for Start-up Businesses ("Rule 45-517"), which has been introduced to help facilitate Alberta-based small or start-up issuers seeking to raise modest amounts of capital from Alberta investors through online funding portals.²⁰²

104. Rule 45-517 provides that an issuer in Alberta, who is seeking to raise funds from investors, does not have to clear and file any prospectus, provided that certain conditions are met.²⁰³ Some of the conditions include: (i) The funding portal through which fund is being raised is registered;²⁰⁴ (ii) The issuer has prepared an offering document in the required form, which includes certain information about its business, its management and the offering, including how it intends to use the funds raised, and the minimum offering amount;²⁰⁵ and (iii) The issuer provides each investor with a specified form clearly explaining certain risks of investing and must obtain an

²⁰¹ *ibid*

²⁰² Alberta Securities Commission, Rule 45-517 Prospectus Exemption for Start-up Businesses < <https://www.asc.ca/-/media/ASC-Documents-part-1/Regulatory-Instruments/2018/10/5304557-45-517-Companion-Policy.ashx> >

²⁰³ *ibid*

²⁰⁴ Part 1, section 2 of the Alberta Securities Commission, Rule 45-517 Prospectus Exemption for Start-up Businesses

²⁰⁵ Part 3, section 13 of the Alberta Securities Commission, Rule 45-517 Prospectus Exemption for Start-up Businesses

acknowledgment from each investor that they have read and understood the contents of that form.²⁰⁶

Regulation of loan-based crowdfunding in Canada

105. There is no law that regulates loan-based crowdfunding in Canada.

Regulation of donation-based crowdfunding in Canada

Uniform Benevolent and Community Crowdfunding Act 2020 (Canada)

106. The Uniform Law Conference of Canada ("ULCC") is a body that develops model legislation that all provinces and territories in Canada can adopt to create a consistent and harmonious legal framework across jurisdictions.²⁰⁷ The Uniform Benevolent and Community Crowdfunding Act ("UBCCA")²⁰⁸ was proposed for adoption in all Canadian territories and provinces except Québec by the ULCC in August 2020.²⁰⁹ The UBCCA seeks to regulate donation-based crowdfunding by providing greater protection for donors and recipients, while limiting the power of the crowdfunding platform when it is involved in administering and distributing the funds.²¹⁰ It should be noted that UBCCA is a revision of the Uniform Informal Public Appeals Act ("UIPAA"), which was adopted by the ULCC in 2011.²¹¹
107. The UBCCA confirms that money raised through a crowdfunding campaign is held in trust for the object of the appeal.²¹²

²⁰⁶ Part 3, section 14 of the Alberta Securities Commission, Rule 45-517 Prospectus Exemption for Start-up Businesses

²⁰⁷ Uniform Law Conference of Canada, 'What We Do' < <https://www.ulcc-chlc.ca/About-ULCC/What-We-Do> >

²⁰⁸ Uniform Benevolent and Community Crowdfunding Act 2020

²⁰⁹ Uniform Law Conference of Canada, 'Final Report of The Working Group On A Uniform Benevolent And Community Crowdfunding Act' (August 2020) < https://www.ulcc-chlc.ca/ULCC/media/EN-Uniform-Acts/Uniform-Benevolent-and-Community-Crowdfunding-Act-Final-Report_1.pdf >

²¹⁰ Michelle Cumyn, 'Commissioned Paper: Donation-Based Crowdfunding: Legal Framework for Crowdfunding and Governance of Online Platforms' (Public Order Emergency Commission, 13 October 2022) 2 < <https://publicorderemergencycommission.ca/files/documents/Policy-Papers/Donation-Based-Crowdfunding-Cumyn.pdf> >

²¹¹ Uniform Informal Public Appeals Act 2011

²¹² Section 3(1) of the Uniform Benevolent and Community Crowdfunding Act 2020

108. The UBCCA allows any person, who did not consent to have a crowdfunding campaign launched for their benefit or on their behalf, to terminate or be excluded from the campaign.²¹³ The crowdfunding platform is then required to honour this request.²¹⁴
109. Besides, the UBCCA provides a scheme for distributing surplus funds.²¹⁵ The preferred solutions are to return the surplus to the beneficiary or to an organisation whose purpose is similar to that of the campaign.²¹⁶
110. Furthermore, under the UBCCA, the court has broad powers, that allow any interested person, such as a donor, trustee or beneficiary to seek remedy with the court in the event of difficulty.²¹⁷
111. It should be noted that, in Canada, only Saskatchewan has enacted the UBCCA.²¹⁸ The value of the UBCCA was demonstrated in the aftermath the Humboldt Broncos junior hockey team tragedy in 2018.²¹⁹ An appeal with general objects was launched locally on a crowdfunding platform, GoFundMe, and it raised approximately \$15 million.²²⁰ Questions were raised about how the moneys should be distributed. The UIPAA (the predecessor of the UBCCA) had been enacted in Saskatchewan. Therefore, the crowdfunding organisers and the Saskatchewan Court of Queen's Bench had the tools needed to craft a distribution scheme that gained wide support among the victims and their families.²²¹ Had the Act not been in place, or had the accident occurred in another Canadian jurisdiction, there may have been considerable added delay and expense in bringing the matter to an acceptable conclusion.²²²

²¹³ Section 25 of the Uniform Benevolent and Community Crowdfunding Act 2020

²¹⁴ *ibid*

²¹⁵ Part 3 of the Uniform Benevolent and Community Crowdfunding Act 2020

²¹⁶ Sections 9-12 of the Uniform Benevolent and Community Crowdfunding Act 2020

²¹⁷ Uniform Benevolent and Community Crowdfunding Act 2020

²¹⁸ Informal Public Appeals Regulations, chapter I-9.0001 (2015)

²¹⁹ Richard Foot, 'Humboldt Broncos Bus Crash' (19 October 2018, The Canadian Encyclopedia) <<https://www.thecanadianencyclopedia.ca/en/article/humboldt-broncos-bus-crash> >

²²⁰ Mercedes Leguizamon and Brandon Griggs, 'The GoFundMe for the Canada hockey crash victims is already among the top 5 campaigns on the platform' (10 April 2018, CNN) <<https://edition.cnn.com/2018/04/10/health/canada-hockey-gofundme-trnd/index.html> >

²²¹ *Re Humboldt Broncos Memorial Fund Inc.* [2018] SKQB 341 (CanLII)

²²² Johanna C.C. Caithness, 'Legal Issues Associated with Informal Public Appeals and Crowdfunding' (2020) 39 ETPJ 288

Regulation of crowdfunding platforms as a whole in Canada

Proceeds of Crime (Money Laundering) and Terrorist Financing Act 2000

112. In Canada, in accordance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act,²²³ in order to combat terrorist activities and organised crimes, crowdfunding platforms are under the obligation (i) to register with the Financial Transactions and Reports Analysis Centre of Canada (“FINTRAC”), which is the financial intelligence unit and anti-money laundering and anti-terrorist financing regulator of Canada; (ii) to develop and maintain a compliance program; (iii) to carry out know-your-client requirements, including verifying the identity of persons and entities for certain activities and transactions; (iv) keep certain records, including records related to transactions and client information; (v) report certain transactions to the FINTRAC.²²⁴

²²³ Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c. 17)

²²⁴ Proceeds of Crime (Money Laundering) and Terrorist Financing Regulation (SOR/2002-184)

UNITED KINGDOM

Regulation of loan-based crowdfunding and investment-based crowdfunding in the United Kingdom

113. In the UK, crowdfunding is primarily regulated by the Financial Conduct Authority ("FCA"), which categorises crowdfunding into loan-based (peer-to-peer lending) and investment-based platforms.²²⁵

Loan-Based crowdfunding

114. Section 36H of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the RAO) establishes that loan-based crowdfunding platform ("P2P platforms") carry on a regulated activity, which requires FCA authorisation, if it constitutes an electronic system which facilitates an "Article 36H agreement".²²⁶ This covers P2P platforms which: (i) operate a system, which is capable of determining which agreements should be made available to each lender and borrower; (ii) undertake to receive payments from the lender and make payments due to the borrower; (iii) procure the repayment of debt from the borrower.²²⁷

115. It should be noted that an "Article 36H agreement" is an agreement under which the investor provides the borrower with credit, in relation to which: (i) the operator of the P2P platform does not provide the credit itself, or assume the rights of the investor or borrower;²²⁸ (ii) either the lender is an individual, or the borrower is an individual and either: the credit is less than or equal to £25,000,²²⁹ or the agreement is not entered

²²⁵ Financial Conduct Authority, 'Loan-based ('peer-to-peer') and investment-based crowdfunding platforms: Feedback to CP18/20 and final rules' (Policy Statement, June 2019) 3 < <https://www.fca.org.uk/publication/policy/ps19-14.pdf> >

²²⁶ Section 36H of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

²²⁷ Section 36H, paragraph 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the RAO)

²²⁸ Section 36H, paragraph 4A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the RAO)

²²⁹ Section 36H, paragraph 6(a) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.²³⁰

116. All P2P platforms authorised by the FCA are required to comply with FCA rules set out in the FCA Handbook of Rules and Guidance, which details various customer protection measures, systems and controls, and prudential requirements.²³¹
117. According to the FCA Handbook, a P2P lending platform needs have a risk management framework which requires taking the following measures: (i) collecting information about the borrower that allows to access the credit risk; (ii) categorising borrowers based on their credit risk and (iii) setting the interest rates and prices that reflect the risk profile of the borrower.²³²
118. Along with this, platforms should have clear rules for how they manage defaulted loans, procedures of their transferring and provide a clear plan of how the loans and repayments will be managed if the platform stops working.²³³
119. Furthermore, a P2P platform may advertise a specific return rate of a P2P offering only if it can demonstrate with reasonable certainty that such a return rate may indeed be reached.²³⁴
120. Besides, each platform shall publish an outcome statement with all the data for the previous year.²³⁵ This statement includes useful information for investors about offerings, their success rate, and returns that investors have made.²³⁶

²³⁰ Section 36H, paragraph 6(b) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

²³¹ Financial Conduct Authority, 'FCA Handbook' < <https://www.handbook.fca.org.uk/handbook> >

²³² Section 18.12.18 of the FCA's Conduct of Business Sourcebook 2019

²³³ Section 18.12.24 of the FCA's Conduct of Business Sourcebook 2019

²³⁴ Section 18.12.14 of the FCA's Conduct of Business Sourcebook 2019

²³⁵ Section 18.12.21 of the FCA's Conduct of Business Sourcebook 2019

²³⁶ Section 18.12.23 of the FCA's Conduct of Business Sourcebook 2019

121. In addition, P2P lending platforms are obliged to hold regulatory capital equal to either a percentage of loaned funds or a fixed minimum of £50,000, whichever is higher.²³⁷
122. Moreover, P2P lending platforms are permitted to communicate offerings directly only to the following investor types: (i) Certified, sophisticated, or high-net-worth investors; (ii) Investors who received expert advice or investment management services from an authorized person regarding the advertised offering; or (iii) Individual investors who agree to invest not more than 10% of their net investible assets.²³⁸

Investment-based crowdfunding

123. In the UK, investment-based crowdfunding activities are subject to more stringent regulations as the Financial Conduct Authority considers equity investment riskier than P2P lending.²³⁹
124. According to the FSC's rule, investment-based crowdfunding platforms should offer their services only to investors who are: (i) Retail clients classified as corporate finance contacts or venture capital contacts; (ii) Sophisticated or high-net-worth investors; (iii) Individuals who receive financial advice from an authorized person or service; or (iv) Individuals who confirm that they will not invest more than 10% of their net investible assets, which excludes primary residence, pension, and life cover.²⁴⁰
125. Besides, when promoting a service or an offering, the platform should be clear about the risks involved in each investment.²⁴¹ Also, the platform should include a notification about whether a secondary market is available or not, whether there is any

²³⁷ Section 12.2.6 of the FCA's The Interim Prudential Sourcebook for Investment Businesses

²³⁸ Section 4.7 of the FCA's Conduct of Business Sourcebook 2019

²³⁹ Financial Conduct Authority, 'COBS 4 Annex 1 Risk summaries' <
<https://www.handbook.fca.org.uk/handbook/COBS/4/Annex1.html> >

²⁴⁰ Section 4.12A.17 of the FCA's Conduct of Business Sourcebook 2023

²⁴¹ Section 4.7.6H of the FCA's Conduct of Business Sourcebook

compensation scheme, and whether due diligence was performed on investees and the outcome of the due diligence process.²⁴²

Regulation of Donation Based crowdfunding in the UK

126. Donation-based crowdfunding is not regulated in the UK. Nevertheless, the FCA has issued guidance stating that its existing payment services rules apply to platforms that facilitate charitable crowdfunding.²⁴³ Besides, the Fundraising Regulator has also provided a list of voluntary best practices for platforms.²⁴⁴

²⁴² Financial Conduct Authority, 'FCA expectations for Investment-based crowdfunding platforms' (15 January 2024) < <https://www.fca.org.uk/publication/correspondence/expectations-investment-based-crowdfunding-platforms-portfolio-letter.pdf> >

²⁴³ Financial Conduct Authority, 'Crowdfunding' < <https://www.fca.org.uk/consumers/crowdfunding> >

²⁴⁴ Fundraising Regulator, 'Guidance for online fundraising platforms' (17 February 2023) < <https://www.fundraisingregulator.org.uk/more-from-us/resources/guidance-online-fundraising-platforms> >; Fundraising Regulator, Code of Fundraising Practice 2019

(D) COMPARISON OF MAURITIUS TO OTHER JURISDICTIONS

127. Based on the analysis made above, it can be said that the crowdfunding regulations of most jurisdictions, except France, focus on investment-based crowdfunding and sometimes on loan-based crowdfunding, without addressing donation-based crowdfunding. Notwithstanding the absence of legislations concerning donation-based crowdfunding, the Government of those jurisdictions have nevertheless sought to implement certain strategic initiatives in order to address donation-based crowdfunding. For example, in Canada, The Uniform Law Conference of Canada has adopted the Uniform Benevolent and Community Crowdfunding Act, that can be enacted by Canadian territories and provinces.²⁴⁵
128. In the United Kingdom, the Financial Conduct Authority has issued guidance stating that its existing payment services rules apply to platforms that facilitate charitable crowdfunding,²⁴⁶ and the Fundraising Regulator has provided a list of voluntary best practices for donation-based platforms.²⁴⁷ In the US, the Uniform Law Commission has drafted a uniform Act on donation-based crowdfunding, modelled on the Canadian version.²⁴⁸
129. Compared to other jurisdictions, in Mauritius, even though the popularity of crowdfunding platforms has skyrocketed, the regulation of donation-based crowdfunding is non-existent in legislation as well as through strategic initiatives by the Government.
130. Therefore, taking inspiration from other jurisdictions, the Commission has analysed some potential legislative strategies that can be implemented in Mauritius in order to regulate donation-based crowdfunding platforms.

²⁴⁵ Uniform Law Conference of Canada, 'Final Report of The Working Group On A Uniform Benevolent And Community Crowdfunding Act' (August 2020) < https://www.ulcc-chlc.ca/ULCC/media/EN-Uniform-Acts/Uniform-Benevolent-and-Community-Crowdfunding-Act-Final-Report_1.pdf >

²⁴⁶ Financial Conduct Authority, 'Crowdfunding' < <https://www.fca.org.uk/consumers/crowdfunding> >

²⁴⁷ Fundraising Regulator, 'Code of Fundraising Practice 2019' < <https://www.fundraisingregulator.org.uk/code> >

²⁴⁸ Uniform Law Commission, Fundraising Through Public Appeals Act (Draft) 2020

(E) REFORM PROPOSALS

131. The Commission is proposing that a Crowdfunding Bill, particularly concerning donation-based crowdfunding, should be introduced in Mauritius to provide greater protection to donors and beneficiaries, while limiting the power of crowdfunding platforms when they are involved in administering and distributing funds.

132. In brief, the Crowdfunding Bill proposed by the Commission may include the following aims, provisions and approach.

Reasonable administrative fee

133. The Commission is recommending that the Crowdfunding Bill should have a provision that shall ensure that funds collected through crowdfunding platforms reach the intended beneficiaries without excessive deductions or unnecessary intermediaries. This is so because entities operating crowdfunding platforms are generally commercial in nature and thus their operations centre on profit maximisation.²⁴⁹ Accordingly, it is unsurprising that those platforms levy significant administrative fees on funds collected as a means of generating revenue.²⁵⁰

Authenticity of campaigns

134. Besides, the Commission is proposing that the Bill should contain a provision that shall place a duty on crowdfunding platforms to (i) verify the authenticity of campaigns before authorising them to be listed on the platform and (ii) monitor the whole fundraising process. This could involve stringent checks, such as verifying relevant legal documents that can demonstrate the reason as to why funds need to be raised or contacting the intended beneficiaries directly. The provision will have the effect of improving the integrity of crowdfunding platforms and deterring individuals

²⁴⁹ Elena Belavina , Simone Marinesi , and Gerry Tsoukalas, 'Rethinking Crowdfunding Platform Design: Mechanisms to Deter Misconduct and Improve Efficiency' (2020) 66(11) Management Science 4980

²⁵⁰ Moriah Meyskens and Lacy Bird, 'Crowdfunding and Value Creation' (2015) 5(2) Entrepreneurship Research Journal 156

from creating false campaigns under the guise of raising money for urgent medical needs or other seemingly charitable causes, only to subsequently abscond with the collected funds.

Transparency

135. Furthermore, the Commission is of the opinion that the Bill should include provisions that shall enhance transparency pertaining to the use of funds raised through crowdfunding platforms. The provisions can therefore provide that donors should be regularly kept informed by beneficiaries about how funds donated by the donors are being used, along with relevant evidence. The provision will have the effect of (i) reducing the risk of beneficiaries using funds collected for purposes other than their proclaimed purposes and (ii) eventually enhancing the trust of donors.

136. In addition, the Bill may introduce a certification or accreditation system, where crowdfunding campaigns that meet all legal and ethical standards receive a certification mark. The latter would help donors to distinguish trustworthy campaigns from potential scams.

Preventing Money Laundering

137. Crowdfunding platforms present an attractive avenue for illicit actors to launder money.²⁵¹ Funds raised through these platforms can be difficult to trace, and their sources are often anonymous, providing an environment conducive to concealing illegal activities.²⁵²

138. Money laundering through donation-based crowdfunding is a sophisticated yet alarmingly straightforward method of sanitising illicit funds, leveraging the charitable facade of donation campaigns. This subtle disguise exploits the inherent generosity and

²⁵¹ Zachary Robock, 'The Risk of Money Laundering Through Crowdfunding: A Funding Portal's Guide to Compliance and Crime Fighting' (2014) 4(1) Michigan Business & Entrepreneurial Law Review 113

²⁵² Shai Farber and Snir Ahladi Yehezkel, 'Financial Extremism: The Dark Side of Crowdfunding and Terrorism' (2024) Terrorism and Political Violence 1

trust of donors, ultimately facilitating the integration of criminal proceeds into the legitimate economy.

139. Donation-based crowdfunding platforms, by their nature, enable individuals or organisations to solicit funds purportedly for charitable or socially beneficial objectives without offering tangible returns. The opacity and informal character inherent to some of these platforms can facilitate laundering activities through several mechanisms:

1. Placement Stage (Introduction of Illicit Funds)

Criminal actors introduce illicit funds into crowdfunding campaigns by making donations anonymously or under fabricated identities, often employing multiple accounts to evade suspicion. Digital platforms frequently allow relatively frictionless account creation, thus offering fertile ground for such deceptive entry of illegal money.

2. Layering Stage (Obfuscation of Origin)

Funds collected from various sources become commingled within crowdfunding platforms. The presence of numerous small contributions can effectively obscure large donations from dubious origins. Additionally, criminals may deliberately structure their donations in smaller increments (structuring) across several campaigns, complicating traceability and weakening suspicion.

3. Integration Stage (Funds Appear Legitimate)

Finally, once laundered funds accumulate in crowdfunding campaigns, they become seemingly legitimate charitable proceeds, typically withdrawn into legitimate bank accounts. Criminals then reinvest or use these funds openly, having effectively obscured their illicit origins beneath layers of purported philanthropy.

140. In 2019, the Financial Action Task Force (FATF) highlighted the case of ISIS exploiting crowdfunding platforms for money laundering and terrorist financing. ISIS sympathisers established multiple fictitious humanitarian appeals online, leveraging donation-based crowdfunding to attract contributions ostensibly earmarked for emergency aid to civilians in conflict zones. In reality, substantial portions of these contributions were diverted to support terrorist activities. Investigations revealed layered transactions and decentralised contributions making it extraordinarily challenging to trace the ultimate beneficiaries.

141. For Mauritius, a jurisdiction actively enhancing its financial sector’s transparency and robustness, the absence of clear regulations governing donation-based crowdfunding could inadvertently facilitate similar illicit activities. Mauritius has been historically committed to combating money laundering and terrorism financing, as evidenced by its recent reforms resulting in removal from the FATF grey list in 2021. A failure to address regulatory gaps specifically relating to donation-based crowdfunding risks undermining these achievements.

142. Therefore, according to the Commission, the Crowdfunding Bill should require platforms to comply with anti-money laundering frameworks similar to those imposed on traditional financial institutions in order to prevent money laundering.

Audits, Code of Conduct and Registration of crowdfunding platforms

143. Moreover, the Commission is recommending that the Crowdfunding Bill should include provisions that may prevent crowdfunding platforms from facilitating illegal activities. Accordingly, the Commission is of the opinion that crowdfunding platforms should (i) be registered with a relevant governmental body, (ii) carry out regular audits; and (iii) have a code of conduct that shall include clear policies against fraudulent campaigns.

Proportionality

144. While the Crowdfunding Bill shall aim to prevent abuse, it is also important to strike a balance that does not overburden legitimate users of crowdfunding platforms with unnecessary bureaucracy. The Bill will have to be carefully calibrated so as not to stifle innovation or hinder those genuinely in need of assistance. This balance could be achieved through proportionality in regulatory requirements, where, for instance, small-scale fundraisers or individuals might be subject to fewer requirements compared to larger entities or organisations raising significant amounts. Besides, according to the Commission, the Bill should establish a legal recourse for donors and beneficiaries to seek remedies in cases of fraud or misuse.

CONCLUSION

145. It is often in the margins of society that innovation germinates. Crowdfunding - that unassuming fusion of altruism and algorithm - was born not of grand legislative halls or institutional design, but of an impulse deeply human: the desire to help, to build, to belong. Its very essence is democratic, almost insurgent, bypassing traditional gatekeepers and financial orthodoxies to connect one stranger's need with another's compassion. In this, crowdfunding reveals its double face: luminous and generous, but also susceptible to shadows and deception.
146. The crowdfunding craze is showing no signs of slowing down as it is a cheap, fast and far-reaching way to raise funds for a multitude of purposes.²⁵³ For instance, in the blink of an eye, when one has been touched by an unexpected accident or devastating illness, crowdfunding can be invaluable for the victim.²⁵⁴
147. Nevertheless, crowdfunding has certain drawbacks, which concern the charging of unreasonable fees by crowdfunding platforms, the misuse of funds raised by beneficiaries, and the misappropriation of donation funds by crowdfunding platforms.²⁵⁵ There is also a risk of crowdfunding campaigns being used to provide financial support for criminal activities such as money laundering and terrorism financing.²⁵⁶
148. In order to combat the drawbacks of crowdfunding, Mauritius has valiantly customised relevant rules to regulate investment-based crowdfunding and loan-based crowdfunding.²⁵⁷ However, nothing has been done yet to regulate donation-based crowdfunding as a whole in a comprehensive way.

²⁵³ Lloyd Hitoshi Mayer, 'Regulating Charitable Crowdfunding' (2022) 97(4) Indiana Law Journal 1375

²⁵⁴ Michael J. Young, and Ethan Scheinberg, 'The Rise of Crowdfunding for Medical Care: Promises and Perils' (2017) 317(1) Journal of the American Medical Association 1623

²⁵⁵ Jennifer Cona and Dana Walsh Sivak, 'The potential perils of crowdfunding Donations' (2017) New York Law Journal

²⁵⁶ *Ibid*

²⁵⁷ Financial Services (Crowdfunding) Rules 2021; Financial Services (Peer-to-Peer) Lending Rules 2020

149. Mauritius, keen to affirm its international standing as a secure, innovative, and rights-respecting jurisdiction, can no longer afford the silence of its legal texts on donation-based crowdfunding. The *laissez-faire* approach which allows for the proliferation of platforms operating without regulatory scrutiny has, paradoxically, both empowered the vulnerable and exposed them to new forms of exploitation. The absence of a comprehensive legal framework is not merely a gap; it is a risk, an abdication, and a missed opportunity.
150. As this Opinion Paper has demonstrated, the experience of comparative jurisdictions — from the principled exactitude of French legislation to the cautious pragmatism of Canada’s Uniform Benevolent and Community Crowdfunding Act — offers Mauritius a palette of legislative options, each finely attuned to a common concern: how to preserve the spirit of generosity while safeguarding the public interest.
151. The Law Reform Commission therefore recommends the enactment of a Crowdfunding Act that, without choking the spontaneity or accessibility that defines crowdfunding, will instil it with a necessary architecture of accountability. The legislation should be proportionate, rights-conscious, and technologically informed. It should enshrine principles of transparency, prevent misappropriation and fraud, and ensure that crowdfunding platforms do not become unwitting vehicles for money laundering or the financing of terrorism. Crucially, it must give voice and recourse to donors and beneficiaries alike - those whose trust forms the true currency of this digital philanthropy. Nevertheless, the Commission cautions against the overregulation of this sector as it may hamper legitimate activity of non-profit and humanitarian work.