



Invest Mississippi Crowdfunding

*New guidelines for soliciting & accepting
small business start-up and expansion capital
via Internet-based investing*

Intrastate Exemption Rule
Securities Rule 7.21

Simplified Registration Rule
Securities Rule 2.04

(Rules Effective May 26, 2015)

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Secretary of State

What is Crowdfunding?

Crowdfunding is a way for businesses to raise capital by soliciting and accepting small monetary amounts from a large number of people. In other words, a “crowd” of people helps to fund the business or project.

This fundraising method has become more popular in recent years now that crowdfunding can be accomplished over the Internet.

Types of Internet crowdfunding:

- **Equity Crowdfunding** is a way for a business to raise capital by accepting investments of small monetary amounts from multiple people. Investors receive an equity interest in the business based on the amount of their investment. The exchange of equity in the business for a monetary investment is a security and subject to state and federal securities laws.
- **Donation Crowdfunding** is a way for persons or businesses to collect pledges or donations of money from multiple people (donors) who support a platform or cause and, in return, receive a reward or experience.

Donation crowdfunding is typically done via websites such as *Kickstarter.com*, *GoFundMe.com* and *Indiegogo.com*. Unlike equity crowdfunding, donations are not subject to state and federal securities laws because donors do not receive ownership in the business.

Equity Crowdfunding is now allowed in Mississippi

The Secretary of State’s Office recently adopted administrative rules to allow Equity Crowdfunding in Mississippi after the federal Securities and Exchange Commission failed to adopt rules to implement the new crowdfunding method nationwide. The 2012 JOBS Act created a new federal exemption allowing small businesses to raise capital through securities offerings on the Internet but the federal rules cannot be used until rules are adopted.

The Secretary of State does not recommend any securities and does not confirm the accuracy or determine the adequacy of any crowdfunding offering. A filing of an offering with the Secretary of State under this Rule does not mean the Secretary of State has passed on the merits of the offering.

Invest Mississippi Crowdfunding Rules:

The Securities Division of the Mississippi Secretary of State's Office has adopted two rules known collectively as **Invest Mississippi Crowdfunding** which start-up companies and small businesses may use for equity crowdfunding.

- **Rule 7.21** is the **Intrastate Exemption Rule** which may be used to offer and sell securities to Mississippi residents only.
- **Rule 2.04** is the **Simplified Registration Rule** which may be used to offer and sell securities to both residents and non-residents of Mississippi.

Under both of these rules, a person may invest in a business in return for equity, or partial ownership. The percentage of equity or ownership the investor receives depends on the amount of the investment.

How does Invest Mississippi Crowdfunding work?

A Mississippi business wanting to raise investment capital via the Internet may develop an equity crowdfunding proposal by:

1. Determining how much money the business wants to raise and the specific purpose for which the investment will be used.
2. Completing online registration forms that outline the investment offering, financial and other information about the company seeking investments and the nature of the company's business plan. This information will also be provided to potential investors.
3. Preparing financial statements and projections.
4. Selecting a Mississippi bank to hold investments in escrow until the offering is completed.
5. Hiring a website portal registered with the Secretary of State to conduct the crowdfunding offering.
6. Filing the offering documents and obtaining acknowledgment by the Secretary of State's Office before offering the investment proposal via a registered website portal on the Internet.

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How much money may a business raise via Invest Mississippi Crowdfunding?

During a 12-month period, a Mississippi business may raise:

- **Up to \$1 Million** under Rule 2.04 (*by soliciting investments from both residents and non-residents of Mississippi*), or
- **Up to \$2 Million** under Rule 7.21 (*by soliciting investments from Mississippi residents only*).

What are the requirements to make an Invest Mississippi Crowdfunding offering?

Because Mississippi has established its own rules for crowdfunding, Mississippi corporations or Limited Liability Companies (LLCs) may now offer investment opportunities through crowdfunding via the Internet without having to register with the federal Securities and Exchange Commission and incurring associated expensive costs. However, before the Mississippi corporation or LLC can begin soliciting investors, the issuer must:

- **Be organized** as a corporation or an LLC in Mississippi, have its principal place of business within the State and conduct most of its business in the State.
- **Have at least 80%** of the company's assets in the State of Mississippi and have **at least 80%** of net revenues from the date of the offering be from Mississippi revenues.
- **Complete and file** online a copy of its Offering Form with the Secretary of State's Office and obtain written acknowledgment of the offering. **There is no filing fee.** Forms are available at **www.sos.ms.gov/crowdfunding**
- **Set** a minimum target offering amount and a deadline for raising the amount. In addition to other sources of financing, this amount **must be sufficient** to implement the business plan provided to potential investors.

To organize a business in Mississippi as a corporation or a Limited Liability Company, go to the Business Services section of the Mississippi Secretary of State's website at www.sos.ms.gov and complete an online form.

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The Offering Form and Financial Requirements:

- The **Invest Mississippi Crowdfunding** “Simplified Registration Form” for Rule 2.04 offerings and the “Invest Mississippi Crowdfunding Form” for Rule 7.21 offerings both include important information regarding the company, its business plan and its finances.

These forms must be completed online and submitted to the Mississippi Secretary of State’s Office for review and acknowledgment before any equity crowdfunding offering is made.

The information included on these forms, once acknowledged by the Secretary of State, must be provided to potential investors to guide them in making a decision on whether or not to invest in the crowdfunding offering.

The Simplified Registration Form (Rule 2.04) and the Invest Mississippi Crowdfunding Form (Rule 7.21) are available and can be completed online at www.sos.ms.gov/crowdfunding. There is no fee to file either of the forms.

- If a crowdfunding offering seeks more than \$1 Million in investments, an audited financial statement certified by a CPA is also required and will be shared with potential investors.
- All Invest Mississippi Crowdfunding offerings must be made via a website portal registered with the Securities Division of the Secretary of State’s Office.
- Portal Registration Fees are \$200 a year.
- Money from crowdfunding investors (or, offering proceeds) must be deposited into an escrow account with a Mississippi bank until the minimum offering amount has been raised.

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Investor Limits:

There are **annual investment limits** for individual investors, regardless if the investor participates in only one equity crowdfunding offering or in multiple crowdfunding offerings:

- **\$5,000 or up to 5% of an investor's annual income or net worth, whichever is greater**, may be invested during a 12-month period.
- **Up to 5% of an investor's annual income or net worth, not to exceed \$50,000**, may be invested in a 12-month period,
 - IF:**
 - An investor's net worth is at least **\$1 Million**,
 - OR**
 - An investor had an annual income of at least **\$200,000** each year for the past two years (or **\$300,000** jointly, if married), and expects to earn the same amount or more in the current year.
 - **Individuals holding \$5 Million or more** in certain types of investments have no limit to the amount or number of crowdfunding proposals in which they can participate.

Limits on Refunds:

- **At least 50% of the offering amount** must be raised by the deadline stated in the Offering Form.
- **If the amount is not raised** by the deadline, an investor may cancel his investment commitment and receive a refund upon written notice to the escrow agent.
- **Before** the deadline, an investor may not cancel his investment or receive a refund.

Limits on the Use of Money Raised from Investors:

- The business must intend to use **at least 80%** of the funds raised in the offering in the State of Mississippi.

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Detailed guidelines for determining an investor's net worth for the purposes of Invest Mississippi Crowdfunding limitations can be found on the Secretary of State's website at www.sos.ms.gov.

Crowdfunding Investment Limitations:

- There is **no limit on the number of investors** who may invest in a single Invest Mississippi Crowdfunding offering.
- **Investor Residency:** Investors in a **Simplified Registration Offering** (Rule 2.04) may be residents or non-residents of Mississippi. **Intrastate Exemption Offering** (Rule 7.21) investors must be residents of the State of Mississippi.
- There are certain limits on the **resale** of securities.

Advertising Limitations:

- All **Invest Mississippi Crowdfunding** offerings must be made via a website portal registered with the Secretary of State.
- The business may make a **very limited statement or announcement** on a website, Facebook page, Twitter account and/or other social media platforms, but only after the offering has been acknowledged by the Secretary of State's Office.
- The business may also provide a **link** on social media sites to direct potential investors to the registered Internet portal's website where the crowdfunding offering is posted.
- Otherwise, **all** communication between the business and any prospective investors must be conducted through the registered website portal.

Other Securities Laws Apply to Simplified Registration Offerings (Rule 2.04):

- **Before** a business may offer the crowdfunding investments in states other than Mississippi (to non-residents of Mississippi), the business should check with the securities regulator in each of those states to find out what each state requires for filings and fees.
- Businesses using Rule 2.04 will have to file a **Form D** with the SEC to comply with the Federal Securities Laws.

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For more information on Invest Mississippi Crowdfunding:

Contact the Mississippi Secretary of State's Office
Securities Division
601-359-1334
www.sos.ms.gov/Crowdfunding
Crowdfunding@sos.ms.gov

The Securities Division of the Office the Secretary of State is responsible for regulating the offer and sale of securities investments.

There are many legal considerations in the start-up and operation of a small business, such as the legal structure of the entity (corporations, LLC, partnership, etc.), tax considerations and filing requirements with various government agencies.

Federal and State securities laws apply when a business seeks to raise money by issuing ownership interests (stocks, membership or partnership interests), debt obligations (bonds or promissory notes), or when the business promises a return to investors.

This brochure provides basic information about Invest Mississippi Crowdfunding rules, but is not a substitute for competent legal counsel. Additional information should be obtained by contacting the Securities Division and by reviewing the Secretary of State website www.sos.ms.gov. Also see the Federal Securities and Exchange Commission website at <http://www.sec.gov> for information on federal securities laws.



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