

# Crowdfunding & Data Standards

JUNE 28, 2016 | NEW YORK CITY



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- Implications of Regulation Crowdfunding
- Speakers:
  - Kendall Almerico, CEO, Bankroll Ventures LLC
  - Sandra Clarke, Associate Director of FINRA's Membership Application Program group
  - Linda Rittenhouse, JD, Director, Capital Markets Policy, CFA Institute



Kendall  
CROWDFUND  
June



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Vladimir Ivanov  
SEC Lead Economist for  
Regulation CF

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# Where Did Crowdfunding Come From?



## Mozart

The First Rewards-Based Crowdfunding Campaign

In 1783, 176 backers paid him to list their names on a manuscript of three concertos he wanted to perform





# Where Did Crowdfunding Come From, Part Deux?



**Joseph Pulitzer**  
Raised \$100,000 from  
125,000 readers of his  
New York World  
newspaper to build the  
base of the  
Statue of Liberty



# Where Did Modern Crowdfunding Come From?



Modern crowdfunding was born as a result of the 2007-2008 financial crisis



# Where Did Modern Crowdfunding Come From?



**2008**

**INDIEGOGO**

**2009**

**KICKSTARTER**



# \$10,000 Watch



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# \$10,000,000 Watch



## Pebble: E-Paper Watch for iPhone and Android

by Pebble Technology

[Home](#)

[Updates](#) 43

[Backers](#) 68,929

[Comments](#) 15,523

[Palo Alto, CA](#)

[Product Design](#)

**Funded!** This project successfully raised its funding goal on May 18, 2012.



# 68,929

backers

# \$10,266,845

pledged of \$100,000 goal

# 0

seconds to go

**Funding period**

Apr 11, 2012 - May 18, 2012 (37 days)



Project by

**Pebble Technology**

Palo Alto, CA

[Contact me](#)

**K** First created · 42 backed

**f** Eric Migicovsky 744 friends

**Website:** [getpebble.com](#)

[See full bio](#)

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Pebble is a customizable watch. Download new watchfaces, use sports and fitness apps, get notifications

# Worldwide Phenomenal Growth



**\$7,000,000,000 Industry in 2013**  
**\$16,200,000,000 Industry in 2014**



**\$34.4 billion in 2015**



# Congress Took Notice!



Four unrelated bills relating to opening up capital markets to small businesses were combined...



# 2012: The JOBS Act Was Born!



April 5, 2012

President Obama signed the JOBS Act into law.



# Title III – Regulation CF

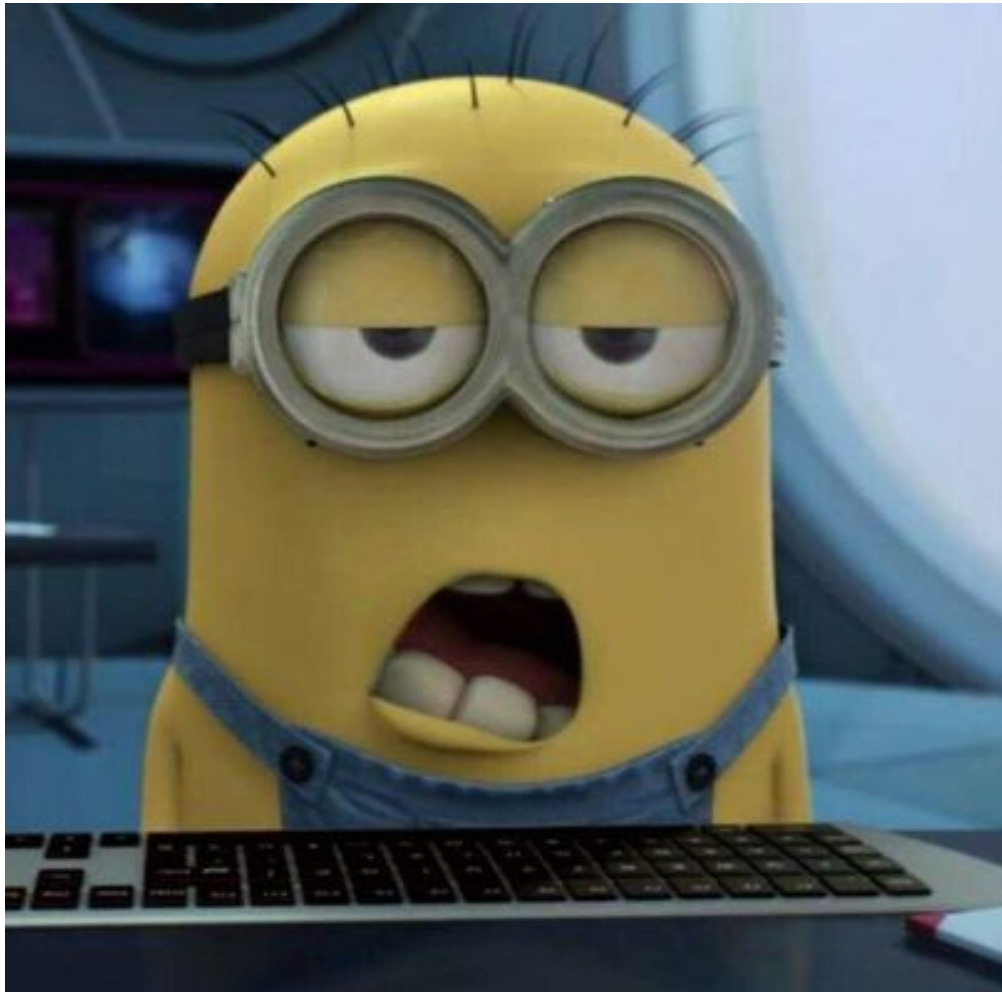


The most talked about provision of  
the JOBS Act:  
True Equity Crowdfunding was  
finally here!

Startup companies would be  
allowed to raise up to \$1,000,000  
from “the crowd” online – Just like  
Kickstarter!

Congress mandated the SEC to create  
rules to implement the equity  
crowdfunding law by January 1, 2013!

# Title III – Regulation CF



Four Years  
Five Months  
Six Days  
Later...

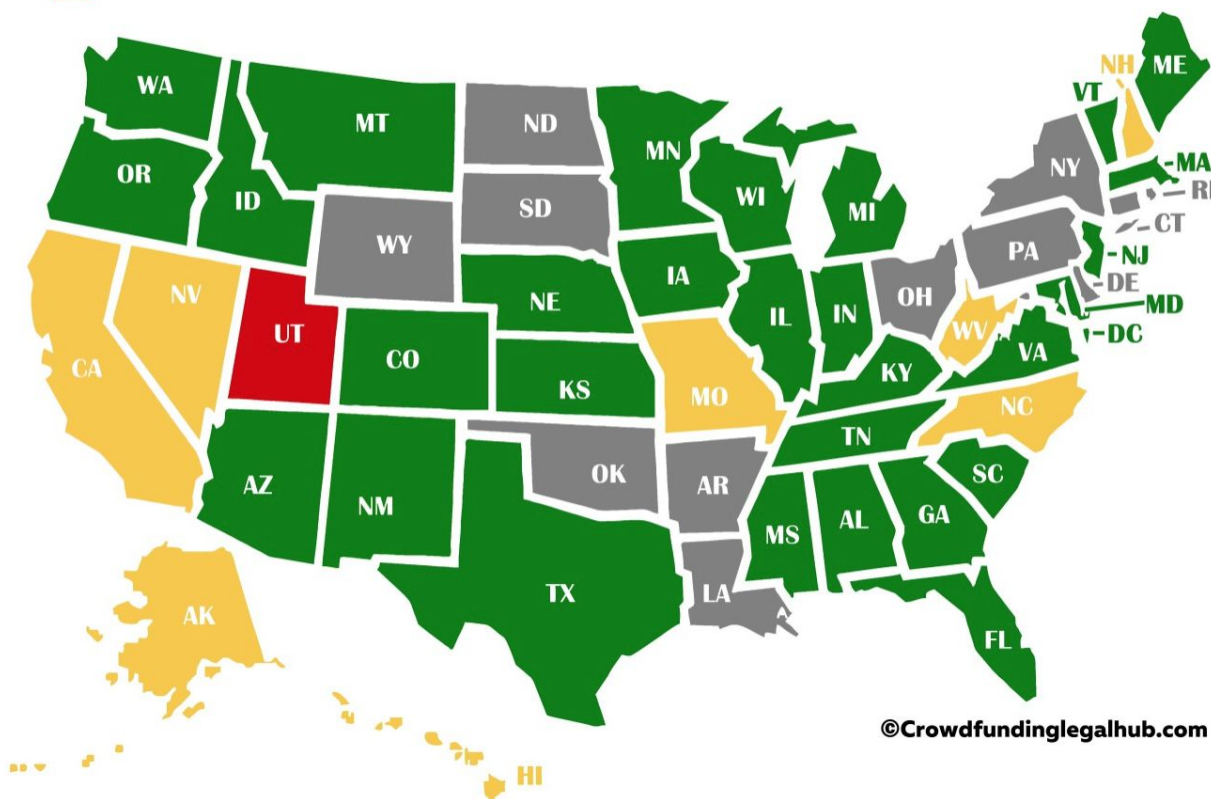
On May 16, 2016  
Regulation CF finally  
became legal.

# Intrastate Crowdfunding



## INTRASTATE CROWDFUNDING EXEMPTIONS ( As of April, 2016 )

- - Exemption Enacted
- - Exemption In Progress
- - Exemption Rejected



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# Regulation CF – The Law



- A U.S. or Canadian company may raise up to \$1,000,000 per year, online, by selling equity to anyone in the general public
  - Fairly straightforward form to file with the SEC, some review of financial records required
  - No state-by-state Blue Sky Law compliance
- Companies must use a “funding portal” to raise funds
- Annual income or net worth less than \$100,000, can invest 5% of lesser of annual income or net worth or \$2000 (whichever is more)  
Annual income and net worth more than \$100,000, can invest 10% of their annual income or net worth (whichever is less), up to \$100,000



# Contact Kendall



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- FINRA Funding Portal (FP) Membership Program: Overview and Process
- Sandra Clarke, Associate Director, FINRA

# FINRA Funding Portal (FP) Membership Program



## Overview: FP Membership Application Program

- **Funding Portal Membership**
  - Types of applications
  - How to file an application for membership
  - When to File a continuance of membership application
- **Challenges**
  - Qualified Third Party Relationships
  - Source of Funding
- **Statistical Program Data & Resources**
- **The Review Process**
  - How does an applicant meet the standards for approval?
  - The Decision

FP Membership Program Overview and Processes

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# FINRA Funding Portal (FP) Membership Program



## Funding Portal New Member Application (NMA) Filing

- NMAs -- New member filings
  - **File with the SEC**
    - Complete SEC Form Funding Portal
    - Obtain Funding Portal File Number
  - **Commence filing with FINRA through Firm Gateway**
    - Obtain FINRA Entitlement
    - Submit Fingerprint filing
  - **Completing Form Funding Portal New Member Application (FP NMA)**
    - Requires applicant to answer specific questions
    - Attach supporting documentation
  - **Pay Filing fee**
    - Filing fee is a fixed cost of \$2,700
    - Must be paid before application can be submitted
  - **Submit Application for Review and approval**

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# FINRA Funding Portal (FP) Membership Program



## The Review Process-Considerations

- FINRA must evaluate the application with its dedication to investor protection and market integrity through effective and efficient regulations: stopping bad actors “at the gate”, while expediting matters efficiently when the risk assessment is low.
- **Rule mandated timeframes that governs the process**
  - Staff has 14 days to deem application substantially complete and/or issue request for more information. All subsequent requests must be issued within 7 days of applicant’s response.
  - Applicant must respond within 7 days to each request for information.
  - Staff has 60 days to complete the entire review process and issue decision.

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# FINRA Funding Portal (FP) Membership Program



## The Review Process-Considerations Cont'd

- Funding Portal NMAs and CMAs are evaluated pursuant to the 5 Standards in Rule 110(a). For an application to be approved, the Firm must demonstrate that it can meet each of the Standards in Rule 110(a)(10):
  - FP and its associated persons are capable of complying with applicable federal securities and FP rules.
  - FP has adequate contractual arrangements in place to conduct its business.
  - FP has adequate supervisory system that is reasonably designed to achieve compliance with rules.
  - Adequate evidences the direct and indirect source of funding.
  - Adequate recordkeeping system to be able to comply with rules and regulations.

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# FINRA Funding Portal (FP) Membership Program



## The Review Process-Considerations Cont'd

- **Collaboration**
  - While MAP makes the ultimate decision on a matter, input from other areas of FINRA are also sought as part of the process (e.g., Advertising Regulation, Corporate Finance).
- **Membership Interview**
  - All new member applicant must have a Membership Interview
  - Must be conducted before a decision can be issued.

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# FINRA Funding Portal (FP) Membership Program



## The Decision

- Three types of Decision- Applications can be approved, denied, or lapsed by the Staff.
  - **Approval** – The applicant has demonstrated it can meet each of the 5 standards in Rule 110(a)(10).
  - **Denial** – The FP did not meet each of the 5 standards
    - Denied applications may be appealed to FINRA’s National Adjudicatory Council (NAC),
    - FINRA staff (including staff outside of MAP) may be called to testify in a hearing.
  - **Lapse** – The rules allow the staff to close the application if:
    - The applicant did not timely provide the information requested or
    - The applicant did not attend the membership interview.
- An applicant may withdraw its application at any time.

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# FINRA Funding Portal (FP) Membership Program



## Funding Portal Challenges

- **Securing Qualified Third Party (QTP) Relationships.**
  - QTPs are banks, credit unions or a broker dealer that is allowed to carry customer or broker or dealer accounts and hold funds or securities for those persons.
- **Communication with the Public – Advertising Regulation**
  - Fair and Balance
  - No Misrepresentation.
- **Source of Funding**
  - FP not able to provide the necessary documentation to evidence where the money came from to fund it.
    - Persons and or entities who invested in the FP not wanting to provide personal documentation
    - Persons and/or entities are located in foreign countries and not will to provide funding documentation.
- **Funding Portal Platform not ready for Review by Staff**

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# FINRA Funding Portal (FP) Membership Program



## Statistical Data

- Number of Applications Submitted to the SEC.
- Number of Applications filed with FINRA.
- Number of Applicants that have requested Entitlement with FINRA.
- Number of Approved applications.
- Number of Applications currently open.

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# FINRA Funding Portal (FP) Membership Program



ANY  
QUESTIONS  
?

ANY  
QUESTIONS  
?

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# FINRA Funding Portal (FP) Membership Program



## MAP Resources – Links and Contacts

- Guidance Relating to Funding Portal  
<http://www.finra.org/industry/funding-portals/>  
*Investor Alerts - What Investors Should Know*  
<http://www.finra.org/investors/alerts/crowdfunding-and-jobs-act-what-investors-should-know>
- Funding Portal Rules  
[http://finra.complinet.com/en/display/display\\_main.html?rbid=2403&element\\_id=12218](http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=12218)
- List of Funding Portals Members  
<http://www.finra.org/about/funding-portals-we-regulate>
- FINRA Regulatory Notices 16-06, 16-07,  
<http://www.finra.org/industry/notices>
- MAP contacts:
  - Lisa Robinson, Director (Phone: 212-858-4764); Email: [alissa.robinson@finra.org](mailto:alissa.robinson@finra.org)
  - Sandra Clarke, Associate Director (Phone: 212-858-4251); Email: [sandra.clarke@finra.org](mailto:sandra.clarke@finra.org)
  - James Murphy, Application Manager (Phone: 212 416-0708); Email: [james.murphy@finra.org](mailto:james.murphy@finra.org)

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# FINRA Funding Portal (FP) Membership Program



## MAP FP Resources -- Five Standards of Rule 110(a)(10)

1. Capability of complying with rules, regulations, laws, and observing high standards of commercial honor.
2. Contractual arrangements and other business relationships with banks, broker-dealers, escrow agents etc. in place initiate the operations described in FP Applicant's Form FP-NMA.
3. Supervisory system, that is reasonably designed to achieve compliance with applicable federal securities laws, the rules thereunder and the Funding Portal Rules.
4. The FP Applicant has fully disclosed and established through documentation all direct and indirect sources of funding.
5. Recordkeeping systems that enables the FP Applicant to comply with federal, state, and self-regulatory organization recordkeeping requirements.

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# FINRA Funding Portal (FP) Membership Program



## MAP Resources – MAP Deadlines (Calendar Days)

Event	Required Action and Timeline
Filing of Application	Staff to determine if application is substantially complete in 14 days
Issue Initial Information Request	Staff to make request in 14 days of filing of initial application
Submit Response to Initial Request	Applicant to respond in 14 days

Event	Required Action and Timeline
Issue Subsequent Information Request	Staff may make these at any time after the initial information request
Submit Response to Subsequent Requests	Applicant to respond in 7 days
Provide Notification of Membership Interview	Staff to provide notification 5 days before MI.
Conduct Membership Interview	Staff to conduct at least one MI
Issue Decision	Due within 60 days of filing of FP Application

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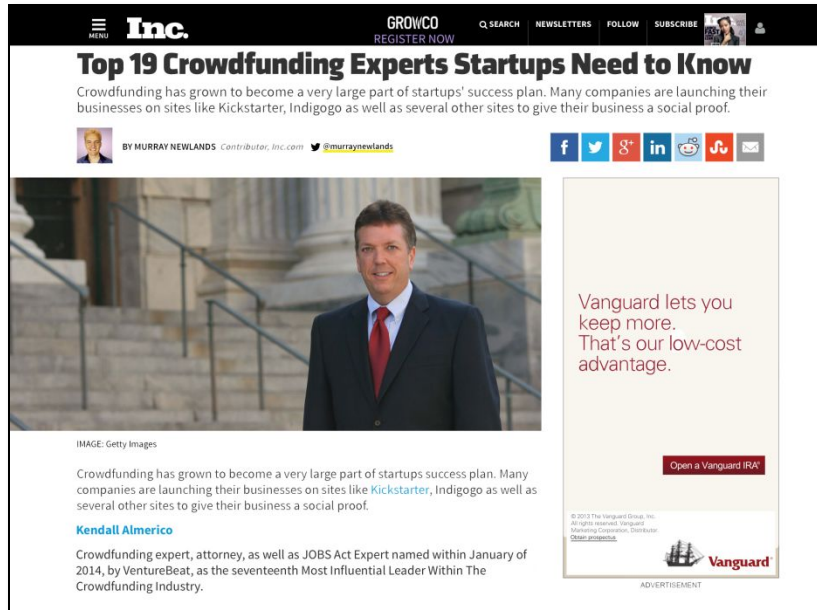
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# Kendall Almerico

“He’s kind of a big deal” – Ron Burgundy



“Kendall Almerico is one of the top crowdfunding and JOBS Act attorneys in the country.”

# Forbes



# Kendall Almerico



- 27 years experience starting, funding and growing businesses and taking new products to the market
- Columnist for *Entrepreneur.com*
- USA Today, New York Times, Forbes Washington Post, Bloomberg, CNN, Huffington Post, Reuters, Fox Business News, New York Daily News, Fox TV, CNBC, ABC & more.



# A Case Study in How Equity Crowdfunding Should Work



46,000 rabid fans, brand ambassadors, users of their products and online evangelists, making BrewDog the fastest growing food and drink company in the UK – 44 BrewDog bars across the world, 600+ employees.

## BrewDog

Largest equity crowdfunding raise in the world: Raised more than £26M (+/- \$36,000,000) from 46,000+ investors using the UK equity crowdfunding laws.



How did BrewDog do it?

- Great product – Great brand integrity – Great culture
- Proper pricing - £95 for two shares
- Building a Community
- Mix Perks with Shares
- **MARKETING, MARKETING MARKETING**



# What Equity Crowdfunding Looks Like Online



**BankRoll** ABOUT LEARN CONTACT WP ADMIN EXPLORE INVESTMENTS

**BREWDOG** CRAFT BEER FOR THE PEOPLE BREWDOG

**INVEST NOW**

**FOLLOWING**

COMPANY: Private: BrewDog USA Inc.

CEO: Tess

AMOUNT OF OFFERING: \$50,000,000

MINIMUM INVESTMENT: \$95

AVAILABLE UNTIL: 12.31.2016

SHARE: f in p t i

**EQUITY FOR PUNKS**

BACK IN 2007, BREWDOG WAS FOUNDED BY JAMES WATT AND MARTIN DICKIE, TWO GUYS AND THEIR DOG, AT THE START OF A MISSION TO MAKE PEOPLE PASSIONATE ABOUT GREAT CRAFT BEER.

They were bored of the industrial lagers and stuffy ales that dominated the UK market. The solution? To take matters into their own hands and brew beer themselves. Eight incredibly busy years later

## BrewDog Regulation A+ Offering on BankRoll

Looks virtually the same as reward-based crowdfunding sites like Kickstarter.

Videos, graphics, photos and texts illustrate the company and offering.

Invest by clicking button and being walked through online investment engine – compliance built in and all documents e-signed, money transferred online.

# JOB Act: Title III vs. Title IV



## Regulation CF

Raise up to \$1M online from anyone in the general public

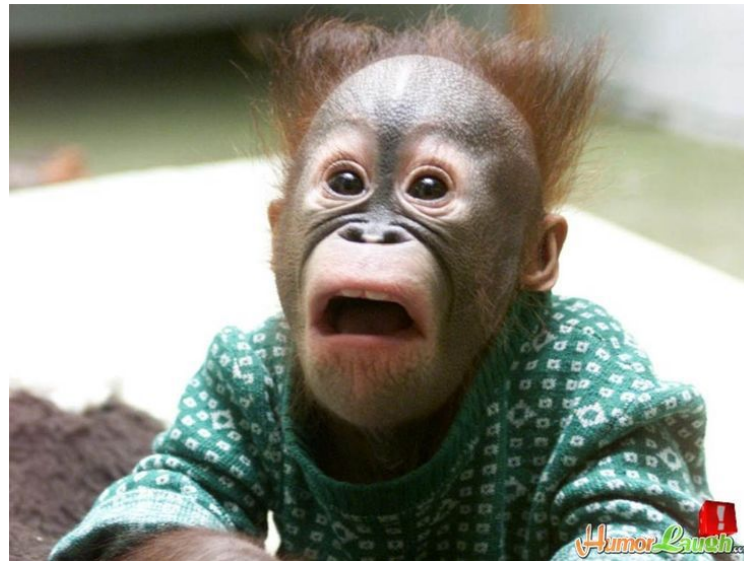
Stock *not* immediately liquid

*Significant* restrictions on marketing

Minimal ongoing SEC reporting

Limits on all investors including accredited

Expensive?



## Regulation A+

Raise up to \$50M online from anyone in the general public

Stock *is* immediately liquid

*No* restrictions on marketing

Moderate ongoing SEC reporting

Limit on non-accredited investors only

Very expensive



# Regulation CF Challenges

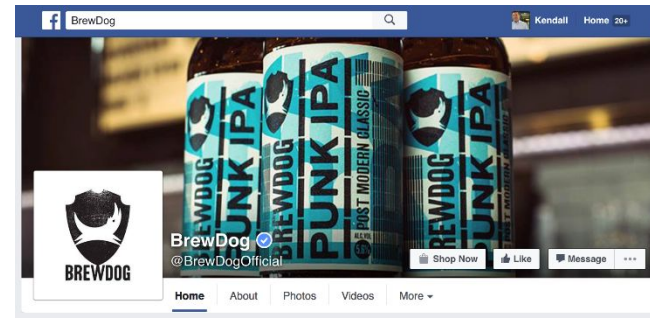
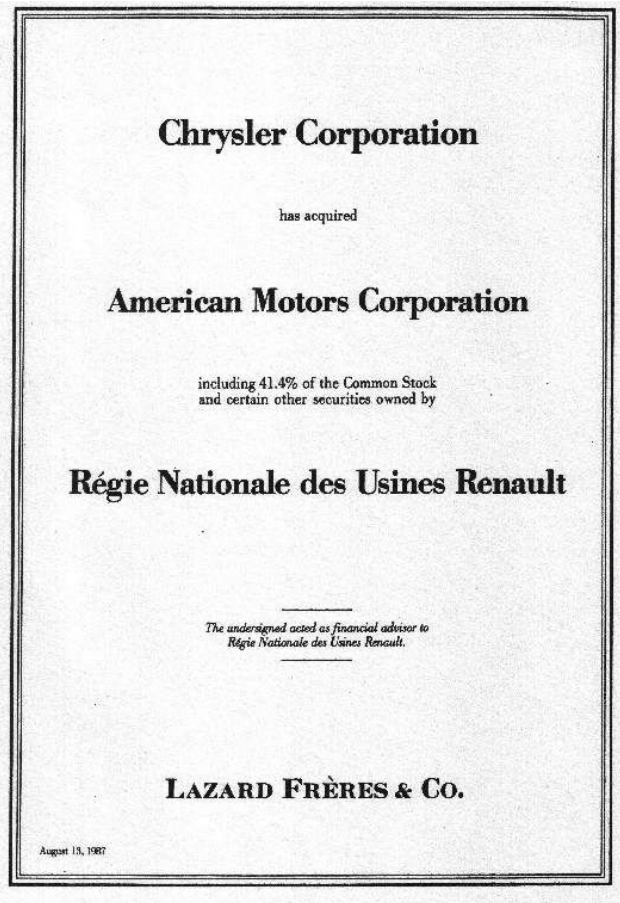


- Limit of \$1M – Too Low
- No liquidity or secondary market
  - No SPVs
- Marketing limitations gut the model of crowdfunding
- Same marketing budget – raise far more with Reg A+



# Title III vs. Regulation A+

## Tombstone Ads vs. Real Marketing



# Regulation CF: The Good



Good for a company that needs to raise \$1M and under

Good for a company with a large number of customers, fans, followers or users they can easily and inexpensively access

Able to set own valuation so no need to give away as much of company as with a private offering with angels or VCs

No loss of control of your company

Excellent for a popular local business looking to open another location

# Title III 6 Week Report Card



**Since Title III – Regulation CF Went Into Effect on May 16, 2016  
(as of Sunday, June 26, 2016)**

## WeFunder

23 Live Regulation CF Offerings –  
8 have reached their goal

## StartEngine

7 Live Regulation CF Offerings –  
None have raised 25% of their goal

## SeedInvest

3 Live Regulation CF Offerings –  
None have raised 25% of their goal

## FlashFundrers

2 Live Regulation CF Offerings –  
1 has reached its goal

## Venture.co

3 Live Regulation CF Offerings –  
None have reached their goal

## NextSeed

2 Live Regulation CF Offerings –  
1 at 60% of goal - 15 days remaining

***Cardinal Rule of Crowdfunding – 30% Rule***



# Contact Kendall



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