

# CrowdfundUP

## **Submissions to the Senate Standing Committee on Economics**

### **Corporations Amendment (Crowd-sourced Funding) Bill 2015**

It is with great pleasure that CrowdfundUP Pty Limited (CFUP) make these submissions in response to the Corporations Amendment (Crowd-sourced Funding) Bill 2015.

CrowdfundUP is a crowdfunding provider which was launched in 2014. To date, CrowdfundUP has completed three crowdfunding deals raising a total amount of capital of \$1.5 million. CrowdfundUP currently provides a facility enabling real estate crowdfunding but intends to launch a separate platform to help facilitate small business raise capital from the crowd once the Corporations Amendment (Crowd-sourced Funding) Bill 2015 has been enacted.

The author of these submissions is the Founder and Managing Director of CrowdfundUP, Mr. Jack Quigley. Mr Quigley would be pleased to speak to the following, or any additional points, at any public hearing that the Committee may hold.

#### **Contact Details**

Jack Quigley

Founder and Managing Director, CrowdfundUP Pty Ltd

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5 February 2016

Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Sir or Madam,

## **Corporations Amendment (Crowd-sourced Funding) Bill 2015 – Submissions to the Senate Standing Committee on Economics**

As the representative of CrowdfundUP, I welcome the opportunity to present these submissions to the Senate Standing Committee on Economics regarding the Corporations Amendment (Crowd-sourced Funding) Bill 2015.

### **INTRODUCTION**

CrowdfundUP supports the introduction of an Equity Crowdfunding regime into the Australian crowdfunding market. CrowdfundUP has been working with Government agencies since March 2013 to help facilitate Crowdfunding in Australia. These submissions will deal only with what CrowdfundUP believes to be high priority areas required for the facilitation of Equity Crowdfunding in Australia as provided for by the Corporations Amendment (Crowd-sourced Funding) Bill 2015.

*Submissions continued over page.*



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## SUBMISSIONS

### 1. Requirement for a company to become an Unlisted Public Company

- 1.1 In CrowdfundUP's opinion, the requirement that a company must become an unlisted public company in order to raise capital from the crowd places undue compliance costs, administration costs, and regulatory burdens on start ups seeking to raise capital.
- 1.2 CrowdfundUP believe that to facilitate crowdfunding in Australia, an expansion of the existing Proprietary Ltd company regime should be introduced.
- 1.3 Currently, a Proprietary Ltd company has a maximum number of shareholders capped at 50. If the Corporations Act was amended to facilitate up to a 100 shareholder cap per Proprietary Ltd company, Crowdfunding in Australia by Proprietary Ltd companies could be facilitated without the proposed undue and unnecessary costs and burdens
- 1.4 In the United States, a crowdfunding regime exists that facilitates a pre-IPO round of up to \$20 million. If Australian legislators believe that the public company method is the best way to provide for crowdfunding in Australia, the amount of capital that could be raised via an online platform should be increased to \$20 million.

### 2. Cooling Off period

- 2.1 The cooling off period requirements in the proposed amendments to the Corporations Act are inappropriate for the desired outcome and potentially allow for the facilitation of market manipulation.
- 2.2 In practice, these amendments could allow cornerstone investors to commit substantial amounts of capital to a funding goal to gain momentum to fall the capital raise. If larger investors arrive to initially commit funds to give momentum to a project funding, then later withdraw the funding during the cooling off period, retail investors are given a false sense of security that a project is gaining momentum when in fact it is only being manipulated by investors who potentially have a conflict of interest.



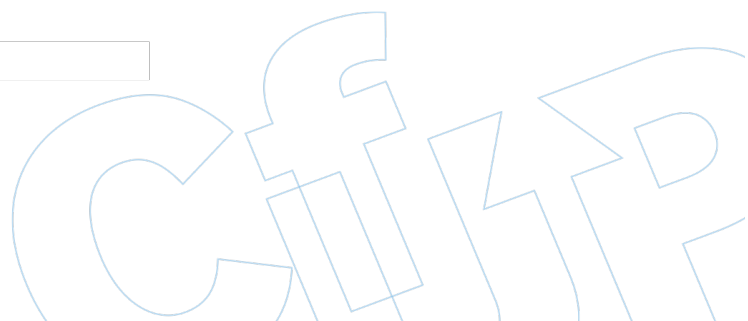
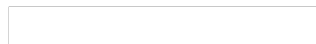
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## 3. Unit Trusts

- 3.1 CrowdfundUP believes that the facilitation of equity crowdfunding in Australia should be open to both Unit Trusts and Companies alike.
- 3.2 Unit trusts offer an accessible and understandable investment option that is widely accepted in today's marketplace. Currently, the same limitations regarding retail investors and disclosure apply to both Proprietary Ltd companies and Public companies.
- 3.3 If the manager of the Unit Trust held the appropriate financial services licenses, then they should be able to use a platform to inform investors of an investment opportunity.

## 4. Licensing

- 4.1 CrowdfundUP supports the legislation's approach to regulating intermediaries, as all intermediaries need to be governed by the appropriate licenses.
- 4.2 Under the proposed amendments, crowdfunding platform operators or intermediaries will be required to obtain an Australian Financial Services License (AFSL) that permits the operation of a crowdfunding platform.
- 4.3 The explanatory memorandum of the proposed amendments carves out the requirements to obtain an Australian Financial Services authorisation permitting dealing or arranging to deal and operate a managed investment. However, the explanatory memorandum does not carve out the requirements to obtain an Australian Market License, rather it states that a platform operator will be required to obtain a ministerial exemption or obtain an authorisation to operate an Australian market.
- 4.4 CrowdfundUP believes that the crowdfunding license should carve out the requirement to obtain a market license, and that intermediaries should be the gate keepers for the new regime and be appropriately licensed to protect the interests of investors and companies.



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4.5 To put an extra level of licensing on top of the already rigorous AFSL regime would be punitive in nature of the intermediaries.

## CONCLUSION

In its present form, the Corporations Amendment (Crowd-sourced Funding) Bill 2015 would not be attractive to start up companies due to the onerous requirement for a company to become a public company. Additionally, CrowdfundUP strongly suggest that after 12 – 24 months of the legislation being enacted, that it is revisited and revised.

I would be pleased to speak to the following, or any additional points, at any public hearing that the Committee may hold.

Jack Quigley

Founder and Managing Director, CrowdfundUP

