

# “A Comparative Study of United State’s & Indian Crowdfunding Regulations”

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**Abstract:** The major objective of this research paper is to compare Crowdfunding regulations of United States & regulations of Indian Crowdfunding norms prescribed under the SEBI Consultation paper which was issued in 2014. This study is conducted to know whether draft Crowdfunding norms are capable of extracting lessons & experiences of already implemented regulations of other countries specifically with respect to US regulations. The study concludes that draft regulations of India are innovative in many ways as the banking & securities regulations have attempted to fit the new norms under the existing institutional infrastructure norms in India.

## I. INTRODUCTION

Web based crowdfunding has turned into an inexorably well known source to raise reserves for new businesses and early development organize organizations in creating economies around the globe. Crowdfunding in the creating scene is balanced for a touchy development period (multi year on year). The World Bank gauges that crowdfunding in the creating scene could develop by up to \$96 billion by 2025. While the market is still in an incipient stage, the socioeconomics, framework ventures, and great patterns in the reception of innovation imply that the market is on track to make up for lost time rapidly with the created world. While a few nations have promptly grasped the model, there are numerous others that remain to profit by encouraging crowdfunding for their economies.

There are numerous potential open doors in utilizing crowdfunding to help and store extends in the creating economies. Crowdfunding has been an exceptionally viable medium for raising assets for crisis and debacle help in creating nations. Crowdfunding, both monetary and non-monetary, has additionally assumed a critical part in advancing the development of sustainable power source, horticulture and administrations areas in creating countries.

Among creating economies around the globe, given its sheer size and expansive populace, Asia presents tremendous potential for crowdfunding. While in a few nations that potential is now being acknowledged, in others there is as yet far to go. As a nation that is beginning to change to a buyer economy, among the different Asian nations, India has been encountering quick development in both web entrance and web based business and is probably going to rise as a crowdfunding powerhouse sooner rather than later. As

indicated by Allied Crowds information, India scored best of the rundown among the nations that collected the most cash in 2015: India (USD 27.8 million), the Philippines (USD 26.9 million), Nepal (USD 25.5 million), Mexico (USD 24.8 million), and Kenya (USD 19.9 million) (Allied Crowds, 2016)

India, a prime example for crowdfunding accomplishment in Asia, is among the countries by and by during the time spent thinking about crowdfunding direction. Perceiving the need to set up an administrative administration for crowdfunding, the securities and keeping money controllers in India have as of late set conference papers in people in general area with a specific end goal to look for sees from the different partners on the future game-plan in regards to the direction of crowdfunding and P2P loaning in India. Regardless of endeavors to set up an administrative system since 2014, the controllers have neglected to measure the Indian crowdfunding pattern and declare unequivocal directions, leaving the lawful administration covered in vagueness.

While the presentation of crowdfunding has been especially fruitful in India, its advancement in fulfilling the immense request of back for modest and poor activities, and for new cutting edge and other startup wanders, brings up certain apropos issues—regardless of whether the proposed draft system in India is fit for guzzling the key viewpoints and subtleties of parallel model administrative structures winning in certain created economies, which have been perceived as being exceptionally steady of crowdfunding? What encounters can be extricated from as of now sanctioned and develop controls with a specific end goal to advance an administrative situation for crowdfunding in India, which is equipped for striking a fitting harmony between the development of enterprise and speculator assurance? With the regularly expanding money related requirements of financial speculators against the background of the progression of strategies in India, what controls will enable the crowdfunding stages to address such needs?

In order to provide insights to above questions, the research study is undertaken to compare US’s Crowdfunding regulations with the prevailing Indian Crowdfunding regulations for P2P lending which are drafted by SEBI in its consultation paper in 2014.

## II. INDIAN CROWDFUNDING REGULATIONS

SEBI released a Consultation Paper on Crowdfunding in India on 17th June, 2014. The Consultation Paper proposed a structure for the direction of crowdfunding in India in light of empowering access to capital markets, extending scope of beginning period subsidizing to new companies and little and medium-sized endeavors (SMEs), and presentation of measures for insurance of financial specialists. Likewise, the Consultation Paper additionally gave a concise outline of different existing systems over the globe, the related advantages and chances, and the surviving lawful structures representing raising support for new companies and SMEs in India.

## III. UNITED STATE'S CROWDFUNDING REGULATIONS

In the United States, Crowdfunding is managed by the Securities Exchange Commission ('SEC') as far as Title III of

the Jumpstart Our Business Startups Act, 2012 ('JOBS Act') which was established on April 5 2012 ('Title III') under the Securities Act, 1933 and Securities Exchange Act 1934. Accordingly, the SEC has likewise embraced another Regulation on Crowdfunding to actualize the necessities of Title III, which is successful from May 16, 2016 (together called as 'US Crowdfunding Regulations').

The JOBS Act builds up an administrative structure for new companies and private ventures to raise capital by method for securities contributions (both obligation and value) utilizing the Internet through crowdfunding. Title III endorses rules administering the offer and offer of specific securities under a crowdfunding issue which, if satisfied, would bring about an exception from enlistment of such securities with the SEC.

## IV. REGULATORY BASED COMPARATIVE ANALYSIS OF CROWDFUNDING

Table 1 – Comparative Analysis

S.No.	Parameter	United States	India
1.	Investors Eligibility	There are 'NO' restrictions on type of investors or who can invest under a Crowdfunding investments.	Only the following accredited investors are allowed to participate under crowdfunding investments. QIBs, Indian Companies with a minimum net worth of Rs. 200 million, High Net Worth Individuals with a minimum net worth Rs. 20 million, Eligible Retail Investors
2.	Maximum Number of Investors	There is 'NO' specific limit prescribed on number of Investors	Number of investors are restricted to 200 persons (excluding QIBs)
3.	Minimum Investment Limit	There is 'NO' specific limit prescribed for minimum investment under a crowdfunding investments.	<b>QIBs:</b> at least 5 times the minimum offer value per person, subject to a minimum collective investment of 5% of the securities issued. <b>Companies:</b> at least 4 times the minimum offer value per person <b>HNIs:</b> at least 3 times the minimum offer value per person. <b>ERIs:</b> at least the minimum offer value per person.
4.	Maximum Investment Limit	Investment by individual investor in all crowdfunding offerings in a 12-month period not to exceed: If either the annual income or net worth of the investor < \$100 000: the greater of \$2000 or 5% of the investor's annual income or net worth, whichever is lower If both the annual income and net worth of the investor are ≥ \$100 000: 10% of investors' annual income or net worth, whichever is lower.	Investment by ERIs: Individual investment limited to Rs. 60 000/- per ERI Aggregate investment per ERI limited to 10% of ERI's net worth in one year

5.	Issuer Entity Requirements	Negative List as prescribed above where certain entities are not permitted to be issuer entities Private Company permitted to be an issuer entity	Positive List as prescribed above where certain entities are permitted to be issuer entities Private Company not permitted to be an issuer entity
6.	Requirements for crowdfunding/ intermediary platform	Certain activities like investment advice and solicitation and management of funds or securities can be undertake by a crowdfunding platform if it is registered as a broker dealer and not permitted for a funding portal.	Such activities are prohibited for crowdfunding platforms in India
7.	Restriction on transferability of securities	Transfers of securities are permissible in the secondary market based on a lock-in period of 1 year or compliance with an exemption from the lock-in period.	Transfers are not permissible on secondary markets
8.	Exit from Crowdfunding	Exit available to investor are not dependent on occurrence of any event	Exit available to investor only upon occurrence of certain events No lock-in period prescribed for exit
9.	Applicability of State Laws	State offering registration requirements are pre-empted “Intrastate crowdfunding” may be applicable	Not contemplated

#### V. CONCLUSION

Indian Crowdfunding norms are compared with US norms because according to the World Bank Global Indicators of Regulatory Governance, the USA and the UK are both model legislators scoring 6 points on a 6-point scale. The study concludes that draft regulations of India are innovative in many ways as the banking & securities regulations have attempted to fit the new norms under the existing institutional infrastructure norms in India. However, in doing so, at times, the legislator forgets that at the early stages of an industry, regulation should be enabling and not limiting. The study is not only helpful in Indian context but also helps other

Crowdfunding emerging countries like Vietnam, Thailand, Malaysia etc

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