

115.19. Texas Crowdfunding Portal Registration and Activities.

(a) - (b) (No change.)

(c) Prohibited activities. A Texas crowdfunding portal shall not:

(1) - (2) (No change.)

(3) hold, manage, possess or otherwise handle investor funds or securities, except through the use of a segregated account if permitted under §139.25(f) of this title (relating to Intrastate Crowdfunding Exemption). When a segregated account is used to hold investor payments, the portal must disclose this to prospective purchasers and investors along with a statement that the portal, in administering the segregated account, must:

(A) be responsible for the prudent processing, safeguarding, and accounting for funds entrusted to the portal by the investors and the issuer;

(B) act to the advantage of and in the best interests of the investors and the issuer; and

(C) ensure that all requirements of the Account Agreement between the portal and the issuer are met before funds are disbursed from the segregated account;

(4) - (6) (No change.)

(d) (No change.)

(e) Recordkeeping.

(1) (No change.)

(2) A portal shall maintain and preserve for a period of five (5) years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, the following records related to offers and sales made through the Internet website and to transactions where the portal receives compensation:

(A) - (B) (No change.)

(C) any agreements and/or contracts between the portal and an issuer, prospective purchaser, ~~or~~ investor, bank or other depository institution;

(D) - (G) (No change.)

(H) ledgers (or other records) that reflect all assets and liabilities, income and expense, ~~and~~ capital accounts, and escrow or segregated accounts; and

(I) (No change.)

(3) - (7) (No change.)

(f) (No change.)

139.25. Intrastate Crowdfunding Exemption.

(a) - (e) (No change.)

(f) Escrow or segregated account to safeguard investor and issuer funds.

(1) All payments for purchases of securities offered under this section are directed to and deposited in an escrow account or a segregated account, if a segregated account is permitted under paragraph (2) of this subsection. The payments must ~~with a bank or other depository institution located in Texas and organized and subject to regulation under the laws of the United States or under the laws of Texas, and will~~ be held in an escrow account or a segregated account until the aggregate capital raised from all purchasers is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan. Investors will receive a return of all their subscription funds if the target offering amount is not raised by the time stated in the disclosure statement.

(2) A segregated account may be used in lieu of an escrow account if the maximum offering amount is \$100,000 or less.

(3) For purposes of this subsection:

(A) An "escrow account" is one administered by an independent escrow agent who is a bank or other depository institution.

(B) A "segregated account" is one established by a registered general dealer or a Texas crowdfunding portal pursuant to a written agreement ("Account Agreement") with the issuer and provides that the registered general dealer or portal will act on behalf of the issuer and investors to hold funds raised from investors in a specific securities offering until such time as those funds can be disbursed in accordance with paragraph (1) of this subsection. The Account Agreement must identify the bank or other depository institution and account number where the funds will be held. All signatories on the segregated account must be persons registered with the Securities Commissioner.

(4) The escrow account or segregated account must be in a bank or other depository institution located in Texas and organized and subject to regulation under the laws of the United States or under the laws of Texas.

(5) A separate account must be set up for each securities offering in which a segregated account is used in lieu of an escrow account. The Account Agreement entered into in connection with a segregated account, shall include requirements that the dealer or portal must, and the account shall be administered in accordance with the following principles requiring the dealer or portal to:

(A) be responsible for prudent processing, safeguarding, and accounting for funds entrusted to it by investors and the issuer;

(B) act to the advantage of and in the best interests of the investors and the issuer; and

(C) ensure that all requirements of the Account Agreement between the portal and issuer are met before funds are disbursed from the segregated account.

(6) The issuer shall inform all prospective purchasers and investors if a segregated account is to be used to hold investor payments. Additionally, a portal must make the disclosures mandated by §115.19(c)(3).

(g) - (i) (No change.)

(j) Notice filing. Before using any publicly available Internet website in an offering of securities in reliance on this section, the issuer shall file with the Securities Commissioner:

(1) Form 133.17, Crowdfunding Exemption Notice;

(2) the disclosure statement, required by subsection (i) of this section; ~~and~~

(3) the summary of the offering, required by subsection (h)(2)(B) of this section; and ~~and~~

(4) if investor funds are to be deposited into a segregated account as permitted by subsection (f) of this section, a copy of the written Account Agreement entered into between the issuer and the registered general dealer or Texas crowdfunding portal that will hold investor funds in the securities offering.

(k) - (m) (No change.)