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## As crowdfunding kicks in, 'proceed with caution,' attorney says



By RICK SMITH, WRAL TechWire Editor

Tags: Startups, Venture & Innovation

**RESEARCH TRIANGLE PARK, N.C.** — While SEC rules are finally in place for crowdfunding at a national level, investors and companies shouldn't make any hasty decisions, says a partner at Smith Anderson who closely follows the issue.

WRAL TechWire reached out to Benji Jones at Smith Anderson who has blogged extensively about crowdfunding for her reaction to the SEC rules launch on Monday - and also what a pending bill in the North Carolina General Assembly could mean for those interested in crowdfunding at a local level. (WTW also talked with Jim Verdonik of Ward and Smith in a blog linked with this post.)

By the way, Title III refers to JOBS Act (Jumpstart our Business Startups Act) passed by Congress and signed by President Obama in 2012, with crowdfunding being part of that bill.

"Title III of the JOBS Act (implemented through "Regulation Crowdfunding") lets companies raise up to \$1M every 12 months through the use of the internet. This is an historical event in the democratization of capital markets and for those of us interested in investment crowdfuding," Jones said.

"However, there are important reminders for folks to keep in mind."

Jones then spelled out several points, first for companies seeking capital and second for investors wanting to cash in on perceived best bets among startups and other companies.

- **For companies:**

"Companies that are considering investment crowdfunding should take care to understand that strict rules apply to raising capital over the internet.

"Among other things, they must use a crowdfunding intermediary (either a registered broker-dealer or registered funding portal) to conduct the offering – take care in choosing this partner.

"In addition, companies cannot freely advertise their offerings and will need to prepare specific disclosures and financial statements (an audit may be needed) – find good advisors to help with the process."

- **For investors:**

"Investors should proceed with caution and take time to determine whether crowdfunding the right path. Despite the best efforts of regulators, no one can totally prevent or eliminate fraud.

"Do your diligence. Read and understand the educational, financial and other disclosures provided before making a commitment.

"You may not be able to change your mind, or may only have a short window to do so, once you invest.

"Understand there are no guarantees of success – you should be prepared to lose your entire investment."

### **Impact on N.C. bill?**

So what impact does the SEC rules launch have on the recently introduced N.C. legislation, which is the same as proposed in 2015 under the so-called NC PACES Act, that never passed?

"Crowdfunding does not eliminate the need for the local offering exemption being considered in the General Assembly," Jones explained.

"They both create important flexibility in existing laws by adding new paths for companies to raise capital and investors to support businesses.

"There is no 'one-size-fits all' option that works for all situations – different companies may pursue different financing alternatives, depending on the underlying business objectives and the requirements imposed by the rules. More options lead to more opportunities."

So will North Carolina approve a bill?

"Unfortunately, at this time I am not at liberty to comment further about the new or existing bills in the General Assembly," she replied.

*(Note: A good website to follow for crowdfunding locally and nationally is <http://jobsnc.blogspot.com/>. Both Verdonik and Jones as well as others publish blogs there.)*

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