



SUBMISSION ON CROWD-SOURCED  
EQUITY CROWDFUNDING (CSEF)

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*crowdedspace is a Perth-based venture catalyst supporting early stage investment and development in technology that has the potential to disrupt traditional sectors by utilizing crowdsourcing and decentralized technologies.*

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# 1 Executive Summary

This paper is a submission made in response to the discussion paper released by Treasury in December 2014 about the regulatory future of Crowd-Sourced Equity Funding ('CSEF') in Australia<sup>41</sup>. The discussion paper seeks stakeholder feedback on characteristics of potential CSEF models, including a model put forward by the Corporations and Markets Advisory Committee ('CAMAC') in a report released in June 2014<sup>2</sup>, as well as a model similar to that recently implemented in New Zealand. These are benchmarked against the status quo.

## 1.1 Regulatory Framework – The Status Quo

The regulatory status quo on equity crowd-funding is best summarized by ASIC Commissioner, Greg Tanzer stating in August 2012<sup>3</sup> that:

*Crowd funding, as a discrete activity, is not prohibited in Australia nor is it generally regulated by ASIC. However, depending on the particular crowd funding arrangement, ASIC's view is that some types of crowd funding could involve offering or advertising a financial product, providing a financial service or fundraising through securities requiring a complying disclosure document. These activities are regulated by ASIC under the Corporations Act and ASIC Act and may impose legal obligations on operators of crowd funding sites and on people using those sites to raise funds. We want to make sure anyone involved in crowd funding is aware of these obligations to ensure they operate within the law and don't potentially expose themselves to penalties under the Corporations Act or ASIC Act*

## 1.2 Industry Growth

Over the past few years, crowdfunding has significantly increased across the globe with the US, China and EU making up nearly 90% of the market. Since the introduction of the JOBS act, year-on-year industry growth has neared 90% with the growth in CSEF being a key contributor to the additional growth.

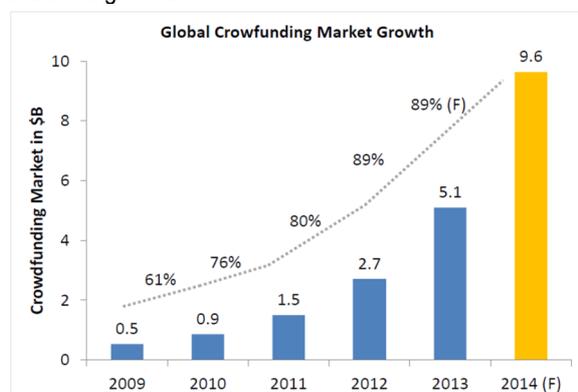


Figure 1: Global Crowdfunding Market Growth (USD)<sup>4</sup>

## 1.3 Macroeconomic Factors

The current inquiry into CSEF occurs against the backdrop of the following macroeconomic developments:

- As resource prices reach record lows, Australia seeks to diversify into value-adding industries.
- There is growing investor interest in technology projects, some of which are at a nascent stage in their development.
- The start-up sector in Australia does not receive the same access to funding as in other markets and is lagging behind OECD markets. This attracts projects away from Australia.
- Globally, CSEF has sought to target the growing pool of retail investors with risk appetite.
- Regulators throughout the world are struggling to keep up with developments in technology that allow for efficient decentralised systems to offer an alternative distribution channel for financial and other services.

The discussion paper highlights the tension between government intervention through regulation and free market theory, which dictates that the best efficiencies are created in a competitive market structure.

### 1.3.1 The Role of Technology

Crowdfunding platforms are the latest web application to take advantage of the internet's ability to connect users and facilitate disintermediation through a decentralized exchange of resources. In other words, we no longer need the middle man to facilitate transactions as we can connect demand and supply directly through cheap and effective means. It is this theme that binds Uber (transport), Airbnb (accommodation), Freelancer (contract work), eBay (goods), Bitcoin (currency) and Kickstarter (crowdfunding).

The future is likely to see further evolution in this field, with the emergence of smart contracts alongside decentralized financial exchanges (e.g. Counterparty, Medici Stock Exchange, Ethereum, Omni). Technology will evolve in an efficient market to achieve overall efficiency and satisfy needs not currently met by the status quo.

### 1.3.2 The Role of Government

A 2013 World Bank report into crowdfunding discovered that:

*...highly regulated economies and those with overly burdensome barriers to market entry are less likely to benefit from crowdfund investing. ...Data seem to suggest that crowdfunding platforms are more likely to emerge in economies with low market entry costs and adequate investor protection.*

Thus, the role of government regulations in this area should be restricted to two areas. First, government, through its regulatory agents, must ensure that markets operate efficiently without being hindered by monopolistic behaviour and self-interest. Second, government should ensure that the investor is not defrauded of their funds through misrepresentations.

When it comes to investor protection and the regulation of risk, the intervention of the law 'is not merely to relieve someone from the consequence of his own foolishness. It is to prevent victimization' (Justice Deane).<sup>5</sup>

### 1.3.3 The Role of the Market

Markets function to match capital demand with capital supply in the most efficient manner possible. As technology increases, the role of the intermediary decreases to a relatively trust-less position. The role of intermediary will be limited to facilitating an efficient market transaction rather than anything else (e.g. relationships with project owners or investors).

## 1.4 Microeconomic Factors

The capital demands of business follows a similar pattern across industries, increasing as the business expands until it achieves maturity and is capable of self-funding. However, the options available for sourcing capital for startups and small businesses are clearly distinguished.

The following diagram represents the typical financing life-cycle of a company (Figure 2).

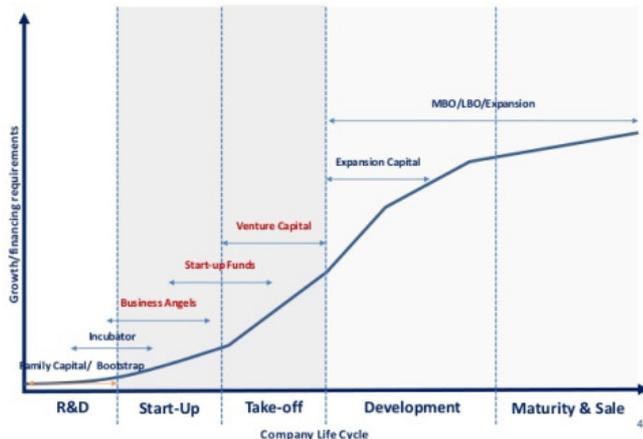


Figure 2 – The Company/Investment life-cycle<sup>6</sup>

The financing life cycle for technology start-ups follows:

- The **R&D phase** is funded by family capital is used in combination with the R&D grant.
- The market for the **start-up phase** is largely undeveloped in Australia.
- The **take-off phase** is funded through personal debt and venture capital (itself an under-developed industry)
- The **development phase** is financed through corporate debt and private equity (leveraged buy outs (LBO) and expansion capital),
- **Maturity & Sale** leads to trade sales, Initial Public Offerings ('IPOs') and backdoor listings.

For small businesses, financing is even more limited with the early stages typically being funded by family capital, the take-off stage by debt secured against personal guarantees, land or equipment. At the development stage, funding is

more easily obtained through commercial debt, small scale offerings and private equity. Finally, at the maturity & sale phase, exits typically take the form of trade sales. Small businesses are starved from cash at a time they need it most. Policy makers should facilitate the expansion of the pool of funds available for small business investment.

## 1.5 Cost-Benefit Analysis

The International Organization of Securities Commissions (IOSCO) in its 2014 report<sup>7</sup> cited the following key benefits and risks in financial-return crowdfunding:

<b>Key Benefits</b>	<ul style="list-style-type: none"> <li>a. Helps economic growth through new and increasing flows of credit to SMEs and other users in the real economy</li> <li>b. Fills a gap left by banks</li> <li>c. Lower cost of capital/high returns - Leverages off a lower cost basis</li> <li>d. Provides a new product for portfolio diversification</li> <li>e. Cost efficient</li> <li>f. Convenient</li> <li>g. Increases competition in a space traditionally dominated by a few providers</li> </ul>
<b>Key Risks</b>	<ul style="list-style-type: none"> <li>a. Project risk</li> <li>b. Platform risk</li> <li>c. Fraud risk</li> <li>d. Information asymmetry and quality</li> <li>e. Risk of investor inexperience</li> <li>f. Liquidity risk</li> <li>g. Cyberattack</li> </ul>

## 1.6 Key Recommendations

1. In the short term, the New Zealand model should be adopted as soon as possible to address the immediate need for a CSEF market.
2. Relevant acts be amended to relax capital raising restrictions for proprietary companies.
3. In the medium term, features from CAMAC model should be jointly adopted by Australia and NZ.
4. The exempt public company form should be considered in a broader capital markets context.
5. In the long term, the market should evolve to establish three distinct groupings:
  - a. **Group 1:** privately funded proprietary company; no disclosure requirements
  - b. **Group 2:** a publicly funded proprietary company (NZ model) or a public exempt company (CAMAC model); basic disclosure requirements
  - c. **Group 3:** Public companies and listed entities; comprehensive disclosure requirements.
6. The aim should be to allow the market to evolve most efficiently through minimal regulatory intervention. Where applied:
  - a. Regulations must both accommodate and differentiate small businesses and startups.
  - b. Regulators must allow for enough flexibility to deal with that which is yet to be invented.

## 2 The Crowdfunding Opportunity

1. *Is the main barrier to the use of CSEF in Australia a lack of a CSEF regulatory structure, or are there other barriers, such as a lack of sustainable investor demand?*

The main barrier for the development of a successful CSEF market is a lack of clarity about the regulatory framework surrounding this field. In the US, CSEF has experienced exponential growth since the introduction of the JOBS Act. China's liberalisation of crowdfunding has been the other major growth factor that now has the industry as a whole (rewards, donations, equity and lending) experiencing year-on-year growth of approximately 90%.<sup>8</sup>

For Australia, the lack of regulatory clarity has meant that it arrives on the global Crowdfunding scene as a late player in a period rife for market consolidation. As for investor demand, the current market for investment-driven crowdfunding is thin but growing.

In general, Australian investors are not risk averse. Australians have high levels of investment in exploration shares, notwithstanding their inherent risk. With the recent decline in the mining market and the increased appetite in the technology market, there is an opportunity to divert some of that risk appetite to early stage venture funding, including equity crowdfunding.

2. *Do the existing mechanisms of the managed investment scheme regime and the small scale personal offer exemption sufficiently facilitate online offers of equity in small companies?*

No. The current provisions are inflexible and inefficient when applied to crowdfunding. They envision an intermediated solution for the delivery of capital which no longer stands the test of time.

- The Managed Investment Scheme is not flexible enough to be a useful mechanism to facilitate that which CSEF does.
- The Small Scale Personal Offer Exception, also known as the '20/12 rule', should be modified to increase the number of investors to 50. However, this alone is insufficient to cater for the needs that CSEF addresses. In the long run, a more flexible solution is required in order to utilize technology in delivering an efficient and liquid market.

3. *Other than the restrictions identified above in relation to limitations on proprietary companies, public company compliance requirements and disclosure, are there any other barriers to the use of CSEF in Australia?*

The lag in establishing an effective regulatory regime and ASIC's early ambivalent attitude towards crowdfunding has allowed crowdfunding in the U.S., EU and New Zealand to grow at a quicker pace to the Australian industry. The

number of crowdfunding platforms across the world nears 1000 with Australia being grossly underrepresented with a handful of operating platforms.

In the coming two years, one would expect the market to contract with a number of multinational platforms dominating the crowdfunding and expanding horizontally into new areas as the cost of regulation decreases and the platforms' efficiency increases. The smaller crowdfunding platforms which survive consolidation will target niche markets. In short, the cautious approach in effecting policy changes in Australia has slowed the growth of the crowdfunding industry to the detriment of Australian start-ups who face limited financing options.

4. *Should any CSEF regime focus on the financing needs of small businesses and start-ups only, or is there a broader fundraising role?*

The aim of government should be to increase financing options of small business and start-ups. It need not look beyond that.

However, once the CSEF policy debate is settled, and an efficient early-stage secondary market emerges, crowdfunding may be seen as an alternative investment market and attract some small-capped ASX companies. Lower compliance costs would be the key incentive. While such an approach has been tried by some (e.g. ASSOBS), it has been largely unsuccessful at filling the funding gap, since it operated in a market constrained by regulation. Liberalisation of the CSEF regime could therefore have a broader fundraising impact. Such a development should not be discouraged by policy makers as it ultimately promotes efficiency in the market resulting in a better return to the investor.

In the long term, the market should evolve to establish three distinct groupings:

- **Group 1:** a privately funded proprietary company; no disclosure requirements
- **Group 2:** a publicly funded proprietary company (NZ model) or a public exempt company (CAMAC model); basic disclosure requirements
- **Group 3:** Public companies and listed entities; comprehensive disclosure requirements.

### 3 Policy Options

#### 3.1 Option 1: Regulatory Framework Based on the CAMAC Model

5. *Do you consider that, compared to existing public company compliance costs, the exempt public company structure is necessary to facilitate CSEF in Australia?*

The exempt public company structure is a concept that is worth exploring in a broader context of a review of the Corporations Act. It should not be considered only within the narrow prism of CSEF funding as this is a change that could have wide-ranging impacts, and though it could be of assistance to the crowdfunding industry, it is not an immediate imperative if an alternate model of CSEF liberalisation is adopted instead (e.g. the NZ model). As such, while a novel structure such as the 'exempt public company' could be of benefit, it is not a pre-requisite for the introduction of a CSEF market.

6. *To what extent would the requirement for CSEF issuers to be a public company, including an exempt public company, and the associated compliance costs limit the attractiveness of CSEF for small businesses and start-ups?*

The requirement for CSEF issuers to be a public company limits the attractiveness of CSEF for small business and start-ups, many of which require tight control and low administrative costs in order to survive. While the exempt public company has less demanding compliance requirements than an ordinary public company, it may still be too onerous for small business. A liberalisation of the existing private company structures is a preferable model, and one that would be closer to the NZ model.

For small business, liberalisation of the funding rules for proprietary companies would provide alternatives for small businesses seeking early stage and growth funding. The introduction of an exempt public company in due course could further assist businesses seeking expansion capital.

7. *Compared to the status quo, are there risks that companies will use the exempt public company structure for regulatory arbitrage, and do these risks outweigh the benefits of the structure in facilitating CSEF?*

While it is true that the existence of such a structure would incentivise firms to structure themselves as exempt public companies to avoid costs associated with compliance requirements, this is not a bad outcome. Firstly, any such decision to change company structure would require shareholder approval. Once shareholders have agreed to reduce compliance requirements in exchange for reduced costs and higher profitability, it is not the role of government

to prevent that from occurring. Secondly, the current environment has resulted in companies raising capital on the ASX when they cannot afford the regulatory burden associated with this. A CPA study of ASX-listed companies<sup>9</sup> found that nearly one third of all ASX listed companies (including a majority of bottom 500) were facing serious financial uncertainty in 2013. Requiring such companies to carry the heavy costs of compliance is against their shareholders' best interest. It is likely that such companies could benefit from an exempt public company structure.

8. *Do you consider that the proposed caps and thresholds related to issuers are set at an appropriate level? Should any of the caps be aligned to be consistent with each other, and if so, which ones and at what level?*

At first instance, alignment with the NZ model takes precedence and as such the caps should be left as is. It is suggested that this is insufficient for many startups and small businesses, and both Australia and New Zealand should consider lifting the issuer cap from \$2 million to \$5 million over a 12-month period.

9. *Do CAMAC's recommendations in relation to intermediary remuneration and investing in issuers present a significant barrier to intermediaries entering the CSEF market, or to companies seeking to raise relatively small amounts of funds using CSEF?*

There should be no imposed cap on intermediary remuneration as market forces are better positioned to punish overpriced intermediaries.

Intermediaries should be able to arrange for their fees to be taken in script. Platforms are well positioned to expand this offering of professional services for equity to other service providers (e.g. lawyers, accountants, developers). Over-regulation in this area will limit the ability of the market to offer innovative solutions for startups and small businesses starved of cash and in need of services.

10. *Do the proposed investor caps adequately balance protecting investors and limiting investor choice, including maintaining investor confidence in CSEF and therefore its sustainability as a fundraising model?*

The proposed investor caps do little by way of protection while infantilizing the investor and limiting the investor's personal property rights. A person wishing to make an investment, even a bad one, should be free to do so, as long as they are fairly informed of the associated risks. The protection offered through a disclosure document (or a variation thereof) is more than sufficient to protect the investor.

The assumption that protection can be achieved through mandatory investor caps is also flawed for the following reasons:

- A high risk portfolio is best de-risked through diversification. By limiting the number of projects one may invest in, the investor remains carrying

greater risk, not less.

- The paper assumes that CSEF investors are likely to be uninformed mom-and-pop investors. However, CrowdFundIQ<sup>10</sup> suggests that the target investor is a medium to high income earner with four years of tertiary education. This class arguably requires less protection than the many mom-and-pop investors in Telstra who were subject to no caps on investment.
- Restrictions on investor's ability to risk capital is incompatible with Australia's liberal approach to gambling, where no such protection exists (e.g. Kakavas<sup>11</sup>). It would be absurd if the CSEF regulations imposed stricter limits on risked capital than those imposed on gamblers, especially considering CSEF is a far more productive allocation of capital (generating \$6.36 in GDP for every \$1 invested<sup>12</sup>).

11. *Are there any other elements of CAMAC's proposed model that result in an imbalance between facilitating the use of CSEF by issuers and maintaining an appropriate level of investor protection, or any other elements that should be included?*

Save for the proposed investor caps and issuer caps, the CAMAC model adequately balances the competing needs of CSEF's stakeholders. It is therefore suggested that following the adoption of the New Zealand model, Australia and New Zealand move to jointly adopt those of CAMAC's recommendations that assist in creating a more effective market.

### 3.2 Option 2: Regulatory Framework Based On The New Zealand Model

12. *Do you consider it is important that the Australian and New Zealand CSEF models are aligned? If so, is it necessary for this to be achieved through the implementation of similar CSEF frameworks, or would it be more appropriate for CSEF to be considered under the Trans-Tasman mutual recognition framework?*

While it may be a bitter pill to swallow for Australian regulators, New Zealand has been a regional leader when it comes to establishing a workable framework that supports entrepreneurship through equity crowdfunding. Australia, by contrast, has lagged behind.

The adoption of the NZ model in whole or in part (enough to be cross-compliant) and the development of a trans-tasman mutual recognition framework has the following advantages.

- Australia can benefit from a framework that has been tried and tested in a marketplace which is relatively comparable in size and operates in a similar corporate and regulatory environment.
- Any other option is likely to delay the implementation of policy changes in this field beyond the current calendar year. Australia is already behind the global equity crowdfunding

market and any further delays will handicap the Australian startup sector further. Adopting the NZ model could be a way to speed up the market reform in this area.

- The emergence of a regional market where crowdfunding campaigns listed in one country will qualify for listing in the other with no further compliance costs. This will be a boon for Australian and New Zealander entrepreneurs, investors and platform operators.

Legislators would then have the ability to consider some of CAMAC's recommendations and other suggestions made in the process of the CSEF consultation in time with proper consideration to its impact on the financial market as a whole rather than focus on the narrow prism of equity crowdfunding in an environment where change is long overdue. Any future long-term changes should be closely collaborated with NZ regulators to ensure that any trans-tasman recognition framework is not adversely affected.

13. *Do you consider that voluntary investor caps and requiring increased disclosure where investors contribute larger amounts of funds appropriately balances investor protection against investor choice and flexibility for issuers?*

The voluntary investor cap has merit over the CAMAC model in that it increases the level of flexibility available to entrepreneurs, allowing them to assess the cost-benefit analysis of greater compliance in exchange for potential access to greater investor funds. However, it is onerous on the platform operator and can be costly to implement. Upon the adoption of the NZ model, the voluntary framework could remain in place. In Australia, the framework should be optional for both investors and platform operators and operators should not be forced to implement such a mechanism until there is solid evidence to support the policy's efficacy.

14. *What level of direction should there be on the amount of disclosure required for different voluntary investor caps?*

It is preferable that the regulator's requirement for level of disclosure be uniform, notwithstanding voluntary investor caps, and provide guidance for the lowest bar. The standard should be that which is minimally required to make an informed judgement about the company's prospects. We make no submission as to what such a document should contain but welcome CAMAC's recommendation that a standardised template be adopted. Ideally, it would be best if industry were allowed to self-regulate in this area and produce a document which is suited for CSEF.

It is imperative to highlight that as long as the investor is made aware that this is a "short form" disclosure document, and consents to invest based on the limited information provided, the investor requires no further protection from the regulator, so long as the information provided is true and accurate.

### 3.3 Option 3: Status Quo

15. *How likely is it that the obstacles to CSEF that exist under the status quo would drive potential issuers, intermediaries and investors to move to jurisdictions that have implemented CSEF regimes?*

The lack of easy access to capital funding for Australian startups has significantly limited the abilities of Australian companies to compete on a global scale. Along with other factors, including geographical isolation, the shortage in risk capital can be attributed in part to the lack of an established CSEF regime. This must be seen within the broader view of a regulatory and legal system that rewards conservatism over risk in an effort to protect the investor. It is likely that that approach has yielded the opposite result.

Consider for example the limiting effect of access to capital that GoCatch has had as compared to its rival Uber. Three years ago, the two companies had developed similar products and both had low market penetration rates. Uber is currently valued at over 1000 times its Australian competitor<sup>13</sup> for one reason only: access to capital at the right time.

In enforcing regulation and seeking to protect vulnerable investors, Australian regulators have hamstrung innovation in Australia and have driven firms to go overseas. One such example is Kaggle.com which followed the money trail and set up shop in San Francisco. While they are now well beyond the realms of crowdfunding, it is possible that had they had better access to capital in Australia, they would have remained an Australian company. Indeed, one of its founders is quoted as saying:<sup>14</sup>

The most important thing for raising money is location. If you're not in Silicon Valley, it's really unlikely you'll raise that kind of money. So step one is get to the Valley.

While the problem is larger than CSEF, the current regulatory framework is indicative of a risk-averse mindset that promotes the status quo over change and results in an Australian location being a serious handicap for start-ups.

## 4 Comparative Analysis

16. *What are the costs and benefits of each of the three options discussed in this consultation paper?*

Rather than examine in detail each of the features of the three options, the comparison will be made here at a high level.

- The status quo is not workable.
- The NZ Model addresses most of the issues. It has the benefit of: being open to proprietary companies; minimal disclosure requirements as baseline; no mandated investor caps; no restrictions on fee structure or on investment by platform operator – but mostly, it has the benefit of having been tried and tested in a similar market.
- The CAMAC model has some features that have advantages over the NZ Model, namely: the introduction of the Exempt Public Company; minimal template disclosure document; AFSL licensing requirements; prohibition on provision of advice. These should be adopted in due course, but not at the expense of an immediate solution to CSEF.
- Both models set the maximum funds an issuer may raise per annum too low. CAMAC repeats this approach in its proposed investment caps.

17. *Are the estimated compliance costs for the CAMAC and New Zealand models presented in the appendix accurate?*

The compliance estimates appear fairly accurate.

18. *How many issuers, intermediaries and investors would be the expected take up online equity fundraising in Australia under the status quo, the CAMAC model and the New Zealand model?*

The market is too nascent for accurate predictions.

One likely scenario follows. As many intermediaries have delayed their launch awaiting legislative changes, the market will be flooded with platforms when a CSEF model is finally introduced. Supply will thus initially outstrip investor demand and platforms will cannibalise each other, ultimately leading to industry consolidation over the coming two years, and the emergence of an oligopoly serving the mainstream market and smaller platforms serving niche markets.

19. *Are there particular elements of the New Zealand model that should be incorporated into the CAMAC model, or vice versa?*

Refer to Q16

20. *Are there particular elements of models implemented in other jurisdictions that would be desirable to incorporate into any final CSEF framework?*

Other jurisdictions have sought to balance investor protection with minimal compliance burden by proposing a form of self-governance. These proposals are preferred over

CAMAC's proposed investment caps:

- In the UK, the FCA proposed an 'appropriateness test' via an automated system by which the platform can assess the clients' understanding of risk. Similarly, the investor can self-certify that they comply with sophisticated investor requirements or by certifying they will not invest more than 10% of the net investment portfolio in unlisted shares.
- The Israeli Securities Authority proposed 10% of each project's funding must be contributed by a sophisticated investor. There is merit in aligning the interests of the unsophisticated investor with the sophisticated investor.

Further, jurisdictions such as the US, the UK and other European nations have developed frameworks for peer-to-peer lending platforms. Australia should follow suit with an effective light-handed regulatory environment that will attract platform operators. Australian will be well positioned to expand on any innovations in the field, including the introduction over smart contracts and other decentralized peer-to-peer platforms.

Finally, one issue that has arisen in New Zealand is the effect of the takeover provisions on companies raising funds on equity crowdfunding campaigns. Policy makers should ensure that no such issues arise when Australia implements CSEF.

## 5 Future Directions

21. *Do the issues outlined in this consultation paper also apply to crowd-sourced debt funding? Is there value in extending a CSEF regime to debt products?*

While the consultation paper was focused around CAMAC work which dealt specifically with equity crowdfunding, the regulatory environment needs to be flexible enough to accommodate other financial products that could cater for the same market, including peer-to-peer lending, revenue-sharing agreements and smart contracts. To the extent capital raising rules are relaxed under future proposals, such a position should apply across funding models, including debt.

22. *To what extent would the frameworks for equity proposed in this discussion paper be consistent with debt products?*

The frameworks required for debt products ought to be developed separately but in parallel to the developments in CSEF. For instance, debt financing in a real estate context would require consideration for structures such as unit trusts, which have not been contemplated in the discussion paper. This in turn could have flow-on effects. Policy should be flexible enough to look beyond form into the function of each structure and apply similar changes to any CSEF reforms in the legislations governing other structures.

23. *Would any of the options discussed in this paper, or any other issues, impede the development of a secondary market for CSEF securities?*

- The licensing requirements for the operator of a secondary market should be no more onerous than that of a primary issuer operator.
- Regulators should ensure regulations are flexible to cater for the developments at the convergence of finance and technology (e.g. Counterparty, Medici Stock Exchange, Ethereum and Omni).
- Compliance and licensing costs should be kept to minimum to ensure that barriers to entry are low to attract the most efficient market technology.

### 5.1 Recommendations

#### 5.1.1 General Recommendations

1. The New Zealand model should be adopted as soon as possible to address the immediate need for a CSEF market.
2. Relevant acts be amended to relax capital raising restrictions for proprietary companies.
3. Features from the CAMAC model be adopted in the medium term.
4. The exempt public company form be considered in a broader context of capital markets.
5. In the long term, the market should evolve to

establish three distinct groupings:

- a. **Group 1:** privately funded proprietary company; no disclosure requirements
  - b. **Group 2:** a publicly funded proprietary company (NZ model) or a public exempt company (CAMAC model); basic disclosure requirements
  - c. **Group 3:** Public companies and listed entities; comprehensive disclosure requirements.
6. The aim should be to allow the market to evolve most efficiently through minimal regulatory intervention.
    - a. Regulations must both accommodate and differentiate small business and startups.
    - b. Regulators must allow for enough flexibility to deal with that which is yet to be invented.

#### 5.1.2 Issuers

7. The Maximum of funds an Issuer may raise should be \$5 million in any 12-month period.<sup>15</sup>
8. The number of non-employee shareholders be amended to 200.<sup>16</sup>
9. Initial disclosure be by way of a minimal document based on an approved template.
10. Minimal ongoing disclosure by way of quarterly project updates should be mandatory and should take place on the intermediary platform for a prescribed period after the capital raising.

#### 5.1.3 Intermediaries

11. Fees should not be prescribed but left to market forces.
  - a. Intermediaries should disclose their fees.
  - b. Intermediaries should be allowed to accept payment for their services in shares subject to disclosure.
12. Platform operators (both primary and secondary) should be allowed to operate under either an AFSL or a special-purpose ASIC license.
13. Civil Liability should be confined to negligence and not extend to a strict liability associated with a breach of statutory duty.

#### 5.1.4 Investors

14. No mandatory investment caps should apply. Investors can make their own choices. Regulatory protection should be limited to fraud risk.
15. Investors should be encouraged to reduce risk through diversification.
16. Government should consider if certain CSEF investments should be promoted through tax incentives. This may be achieved through a variation of the R&D grant.

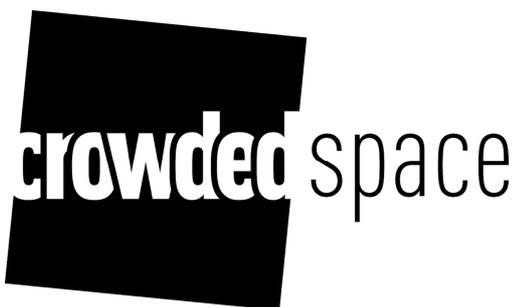
## 6 Bibliography

### 6.1 Influenced by:

Adam Levine, K&L Gates  
Andrew Ward, GetAngelsNow  
Jack Quigley, CrowdfundUP  
Jeff Broun, Fat Hen Ventures  
Matthew Pinter, Crowdfunding Institute of Australia  
Shachar Weiser, JustStartIt!  
Adam Smith, Economist  
Ludvig von Mises, Economist  
Milton Friedman, Economist

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