

Refining and Reinforcing the Supervision of Internet Crowdfunding

Feng Guo, *Wuhan University*

With the development of the Internet, crowdfunding has become a new way of financing. And with the help of Internet technology and financing platform, it directly connects financiers and investors. Compared to traditional financing methods, it has many advantages such as low threshold and strong participation, which provides a promising future for small business and entrepreneurship. It's also good to relieve the financing difficulties of small and micro businesses and to create a good atmosphere for "Mass Entrepreneurship and Innovation". However, the strict securities legislation, the uncertainties of legal risk and the lack of effective regulation not only scare away the investors, but also bring about a homogenized and disordered situation of Internet crowdfunding, which seriously affect and restrict its healthy development.

I. Difficulties It Faces in China

First, the Securities Law of China stipulates strict approval procedures for the public issuance of securities. Issuance to more than 200 non-specified objects is considered as a public offering, which must be reported to the securities regulatory authority under the State Council or the department authorized by the State Council for approval. According to Criminal Law and other relevant legislation, unauthorized public offering of securities constitutes a crime of illegal public offering of securities and will be severely punished.

Second, financiers and financing platforms face the risk of illegal fund-raising. For illegal fund-raising, there are strict laws and regulations in China, such as the charges in the Criminal Law like the illegal absorption of public deposits, unauthorized issuance of securities and illegal establishment of financial institutions, and the judicial interpretations by the Supreme People's Court like Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Criminal Cases of Illegal Fund-raising. Though crowdfunding is not a behavior of absorbing public deposits, it is similar to the illegal fund-raising defined by the Supreme People's Court. And how the relevant law enforcement departments view it decides its final destiny. Thus, the risk of illegal fund-raising is always hanging over it like the sword of Damocles.

Finally, the lack of effective supervision causes a huge credit and moral risk for the investors, including risks of project initiators and

As a new financing model, Internet crowdfunding is not only conducive to relieve the financing difficulties of small and micro businesses, but also create a good atmosphere for "Mass Entrepreneurship and Innovation". However, the strict securities legislation, the uncertainties of legal risk and the lack of effective regulation bring about a lot of challenges to it. Therefore, refining and reinforcing the supervision of Internet crowdfunding is of great significance.

crowdfunding platforms. In the actual operation, the investor first put the money in the account of the crowdfunding platform, and then transfer to the account of the succeeded project. We can see that the platform not only plays a role of paying agent, but also a supervisor of project auditing and management. Because its income depends on those successful projects, it tends to lower the threshold to draw in more projects, thus it will be less capable to audit the files and supervise the projects carefully. Moreover, to raise enough money, the initiators may conduct misleading propaganda or fraud financing, which requires sound legal regulations to clarify the legal liability of the financier and the financing platform. Due to the uncertainty of rules and the lack of supervision, the investor's interests can not be effectively protected, which undoubtedly discourages the investors to step forward.

II. Suggestions on regulation of internet crowdfunding

First, amend the Securities Law and related regulations, achieving the audit exemption to the issuance of small-scale crowdfunding while clarifying the boundary between it and illegal fund-raising.

Second, implement appropriate regulation of the investors. Since the Internet financing mainly focuses on the individuals, the educational emphasis of the investors should shift from the capability of risk identification to risk bearing. Here are some specific measures: set a general access threshold, and appropriately expand the scope of the investors' participation; restrict the scale of the investment, as well as set a limit of individual investment to control the risk, and the investment limit should be varied based on the income levels, net wealth, investment experience of the investors; apply relatively loose management rules to the approved investors and encourage qualified investors to participate in crowdfunding.

Third, strengthen the supervision of the financing subject: 1) Strengthen the issuer's information disclosure system and require the issuer to disclose the basic information to investors through the platform; 2) Set varied limits of the financing amount based on the different industry, asset size and operating income of the issuers, to distinguish crowdfunding from traditional financing models and fully present its own characteristics; 3) Clarify the project initiator's fiduciary duty and fund supervision to the investors, to avoid their moral risks.

Fourth, strengthen the supervision of crowdfunding platforms: 1) Set a strict access standard for financing platforms. Implement license access system, setting access standards for the information technology, business processes, and risk control of the platforms; 2) Introduce third party

institutions and carry out third-party fund custody to ensure the fund security; 3) Strengthen the platform's obligation and legal liability to the verification of the issuer's information and fund supervision; 4) Stipulate the platform's duty of proper promotion, requiring it to reveal the risk in conspicuous position for the investors while introducing the project, and strengthen the protection of data and privacy.

Last but not least, in addition to the effective administrative supervision, a sound and perfect social credit system and judicial system is also indispensable for the health development of the crowdfunding market. Therefore, we need to make use of the big data to establish a national credit system as soon as possible, improve electronic evidence rules, expand the complaint channels, reduce the investor's cost of rights, increase disciplinary efforts on dishonesty, to create a relax and healthy legal environment for Internet crowdfunding.

Translator/Li Tianqi