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Community Based Investing:
Crowdfunding and the Michigan Invests Locally Exemption (MILE)



COMMUNITY BASED INVESTING

Crowdfunding and the Michigan Invests
Locally Exemption (MILE)

ABSTRACT

Investment crowdfunding presents a new way for Michigan companies to raise capital from the Michigan community. While access to capital and investment options is increasing, both entrepreneurs and investors will benefit from guidance on how to incorporate these new opportunities into their current plans.

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Community Based Investing: Crowdfunding and the Michigan Invests Locally Exemption (MILE)

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INTRODUCTION

This paper will review a brief history of crowdfunding nationally and its current status in Michigan as a tool to raise investment funds for businesses in the state. It will define crowdfunding in its various forms and will discuss the quickly changing regulatory environment. Further, it will detail the provisions outlined in Michigan Public Act 264, also known as the Michigan Invests Locally Exemption (MILE), which offers businesses an opportunity to seek *intrastate* investment crowdfunding from any resident of Michigan with the desire and means to invest in a Michigan-based business. Our paper is intended as a primer for those interested and working in areas of economic development, and for those in the small business community who are seeking a better understanding of ways to raise capital for their business. This effort is in support of growing Michigan's local economies as reasonably, sustainably, and thoughtfully as possible.

It should be noted upfront that any business seeking to solicit intrastate investment crowdfunding is issuing a regulated security and investment product to the public. This process cannot be taken lightly and it is strongly recommended that you consult with an attorney, CPA, and consultants familiar with securities offerings before you make any decisions or submit any applications to regulatory agencies. Information found in this paper should not be construed as legal advice, and is for informational purposes only.

Background

From the outset, it is critical to review a bit of recent history and to note that the U.S. economy has experienced many changes in the last 15 to 20 years. Many of these changes have instilled doubt and have fundamentally shaken the confidence of average Americans investing for the future, be they from the working class, or the middle and upper-middle class. From the dot-com bust in 2000, to the 2008 housing market crash and the subsequent Great Recession, millions of Americans have lost their jobs, their savings, and their trust in the consolidated top down design of our national economy. The off shoring of good paying low-skill jobs, massive corporate mergers, and the scandalous incidents that rocked the financial markets without any credible legal accountability, have all resulted in public confidence that is shaken to the core.

In response to these dramatic changes several social, cultural, and economic trends have begun to take shape. These are based on community responses to de-industrialization, the loss of agricultural and manufacturing jobs, and for many people overwhelming economic uncertainty. Some of these responses include the cultivation and proliferation of farmers markets, the embrace of entrepreneurial culture, and the desire to utilize crowdfunding to launch new small businesses and to scale successful enterprises.

Even before the Great Recession, nascent locally focused economic trends could be observed. Regional micro-economies could be seen taking root in the Pacific Northwest, the Upper Midwest and in the Northeast. "Buy Local" campaigns that supported small locally-owned businesses sprouted from Portland, Maine, to Madison, Wisconsin, to

Portland, Oregon. Accompanying these “shop local” efforts were a proliferation of farm to table markets and even attempts at creating local currencies, or time-dollar networks. Today, the evidence of these trends is also taking hold in the Carolinas, in the Gulf Coast States, and across the Great Lakes region. Locally-based, decentralized movements are being organized by leveraging the power of the Internet, social networking sites, and a shared concern for thriving local communities.

Reconsider sees a convergence of these trends into what we call the Social Impact Economy. This is defined as a regionalized economy built with companies who are organized around a set of core values. These values focus on *the triple bottom line* ideals of caring for not only profits, but also the local community and the local environment. Companies often use the adage “do good and do well,” to describe the concept of seeking profits for shareholders while also making a good faith effort to improve the quality of life and place in their community and region. Whether triple bottom line ideals are an overt business objective, or not, improving the quality of life and place has been proven to refocus local wealth in the local economy.

Companies with these ideals are organized into a wide variety of both self-identified and legal entities. In Michigan, a company with a social mission can organize as a L3C, a relatively new limited liability corporation type of designation. In other parts of the country *Benefit Corporations* are recognized under individual state laws. Most commonly, however, companies, social enterprises, and nonprofit corporations worry less about the label and more about being the change they want to see in the world. For more background information on the social impact economy refer to these websites for case studies, and examples of local success stories from around the country:

- **The Triple Bottom Line Tool (www.tbltool.org):** Their casebook details numerous examples of how leveraging TBL principals can have a positive impact in many areas of economic development including business development, manufacturing, tourism and mixed use developments.
- **B Corp Certification from B Labs (www.bcorporation.net):** This site defines B Corps, explains the certification process and establishes a community and resource networks for members.
- **Business Alliance for Local Living Economies [BALLE] (www.bealocalist.org):** With a “local first” perspective, they facilitate information sharing among independent business owners and supporters of local economies.
- **Institute for Local Self Reliance [ILSR] (www.ilsr.org):** provides innovative strategies, working models and timely information to support environmentally sound and equitable community development.

The Problem

After the Great Recession, traditional forms of lending via banks largely dried up across the United States. As those working to build micro-economies began to mature, some started to look for investment vehicles whereby they could pursue local forms of financing, lending, and other means to raise capital. They quickly found federal regulatory roadblocks to investing directly in existing local businesses. Start-up companies were also locked out of capital vital to opening their doors for commerce. Those who were able to bootstrap, or self-finance, their new businesses would eventually find themselves unable to break through a financial glass ceiling once additional capital was needed for second stage growth. This barrier prevents growing companies from scaling up their business by acquiring a larger property or by making capital investments in equipment needed to satisfy growing market demands.

The Federal Securities Act of 1933 governs this area of investing. It states that only *accredited* investors are able to directly invest in businesses where there was no prior established personal or business connection between the owner and investor. Accredited investors are defined as an individual that earns more than \$200,000 per year (\$300,000 for a married couple) or has a net worth of over \$1 million, excluding their primary residence and primary mortgage. As of 2013, 8.5 million U.S. households qualify as accredited investors, or about 7% of U.S. households. In July of 2013, the Government Accountability Office recommended to the Securities and Exchange Commission that stricter qualifying criterion should be considered to account for inflation, raising the minimum net worth threshold to \$2.3 million. This resulted in a reduction in the number of qualifying U.S. households to 3.2% (GAO, 2013); (US Census, 2014).

Nearly 93% of U.S. households are excluded from the ability to easily invest in local businesses. The market has started to address the concerns of common investors by loosening restrictions on intrastate investments through crowdfunding. The US Securities and Exchange Commission regulate investment means and markets. Under their Rule 147, an intrastate exemption exists that has allowed fledgling markets to develop. There will be more discussion on this point later in this paper.

Investment: A changing landscape

Reconsider has observed a number of market trends that are helping to shape the nature of investing in our local economies. Many of these trends have been observed through our founder's work with hundreds of investors over the last decade, in addition to books, white papers, and conferences covering these individual topics. Here are a few examples that help illuminate the type of social and market trends that have been observed:

- Socially responsible investing has begun to mature, growing from 4% of the marketplace in 2002 to 12% in 2011. Further, this is beginning to evolve toward *values-based impact investing* (Forum, 2012).

- *Conscious capitalism* and triple bottom line ideals are gaining traction in the marketplace. Reference the websites noted earlier for case studies.
- A demonstrated interest by investors in diversifying into local community-based offerings.
- Global need for a healthier future borne out of acknowledgement of climate change.
- Emerging trends towards open sourcing and sharing information freely across communities to accelerate growth.
- Entrepreneurial and innovation-based cultural renaissance in economically declining regions like the “Rust Belt” and in areas of the Gulf Coast.
- Generational passing of wealth and leadership from Baby Boomers to *Millennials*, many of whom value working at a company with purpose.
- Alternative currencies and localized economic structures that are separated, or maintain a distance, from the global financial system.
- A rejection of complex financial ‘products’ by typically non-accredited investors.
- A reemergence of localized food systems to reduce risk from mass food production and concerns about increasing energy costs affecting transportation.

CROWDFUNDING

Reconsider defines crowdfunding as the practice of collecting small sums of money from a large number of people (the ‘crowd’) as a method of raising capital. Michael Sullivan coined the term “crowdfunding” in 2006, with the launch of his site *fundavlog* (Castrataro, 2011). While his early video blog crowdfunding site was not successful, he will forever be known as the first to utilize the now common term. It should be noted that the term itself is new enough that there is not a consensus on how it should be used in print, as one word, or two, similar to fundraising and fund raising. In this paper we will honor Sullivan’s original use as a single word, despite the disapproval of spell check and those who prefer it to be two words (Sullivan, 2013).

Although the term crowdfunding is relatively new, the concept is not. The origins of collecting small sums of money from a large number of people as a means of raising capital can be traced back hundreds of years. The modern crowdfunding site Kickstarter references Alexander Pope’s six-volume translation of Greek poetry to English in 1713 as an example of a crowdfunded campaign; 750 subscribers pledged two gold guineas to bring Pope’s translation to production. The Kickstarter blog post also notes 176 supporters who received manuscripts of a new piano concerto to be performed in Vienna in 1783, in exchange for their financial contributions (Kazmark, 2013). Today, there has been an emergence of numerous types of crowdfunding, on typically web-based platforms. Some are *interstate* and some are *intrastate*. Some are donation based, and now some are investment based.

Today, the concept of raising capital by crowdfunding is inherent to our understanding of how the stock market works, just with a new name. A company goes through the arduous process of meeting the regulatory burdens set by states and the federal government whereby they may offer shares on a stock exchange for sale. Price Waterhouse Cooper, a leading facilitator of initial public offerings states that underwriting fees cost between 5% and 7% of the gross receipts. They also note: “In addition to underwriter fees, on average companies incur \$3.7 million of costs directly attributable to their IPO (PWC, 2012).

What happens, however, if your organization does not have millions of dollars available to raise millions more? The simple answer: In most cases, your organization is locked out of the system.

In the 1990s, musicians were the first to begin experimenting with utilizing crowdfunding as a means to independently raise money to cover album production costs and touring expenses. The British progressive rock group Marillion is often cited as the first band to successfully crowdfund. In 1997, they sent a mass email to 6,000 fans and were able to raise \$60,000 on 12,000 pre-orders of their upcoming album (Castrataro, 2011); (Simon, 2013).

In the early 2000s, charities began to see the growing value of the internet and the ability to reach a wide audience of existing and prospective donors. JustGiving.com launched in

the United Kingdom in 2001. They quickly gained traction with donors and today have helped over 21 million people donate over \$2.5 billion to over 13,000 charities (JustGiving, 2014). By the end of the 2000's a variety of charitable giving sites had taken hold on the web. Nearly every crowdfunding website touts amazing success stories as an example of why they are so great at facilitating fundraising. Examples of these sites are noted in *Figure 1* below.

Crowdfunding is developing into an expression of the desire of communities to leverage the collective wealth of non-accredited investors to help fund everything from new programs for nonprofits to your favorite band's new album. *Figure 1* represents examples of online crowdfunding sites and their launch dates.

Company	Year founded	Platform	Country
JustGiving	2001	crowdfunding	UK
Kiva	2005	peer-to-peer	USA
Prosper	2005	peer-to-peer	USA
LendingClub	2006	peer-to-peer	USA
IndieGoGo	2007	crowdfunding	USA
GiveForward	2008	crowdfunding	USA
Kickstarter	2009	crowdfunding	USA
GrowVC	2009	crowdfunding	USA
GoFundMe	2010	crowdfunding	USA
RocktHub	2010	crowdfunding	USA
CrowdCube	2011	crowdfunding	UK
CrowdFunder	2011	equity crowdfunding	USA
Fundable	2012	equity crowdfunding	USA
LocalStake	2013	equity crowdfunding	USA

Figure 1. List of popular online crowdfunding sites, Reconsider, 2014. Chart shows launch dates, platform type, and country origin.

Today, economic developers and small businesses are more open to the idea of raising local funds to support local businesses. *Local First*, of Grand Rapids hired the firm Civic Economics to determine the impact of independent businesses in Kent County, Michigan. The study found that with a 10% shift in spending from national retailers to local businesses there would be a significant impact on the local economy. These impacts include \$140 million in new economic activity, 1,600 new jobs, and over \$50 million in new wages paid by local employers. The dramatic impact of buying local can be seen in *Figure 2* noted in the report (Figure 2. Hillary & Houston, 2008).

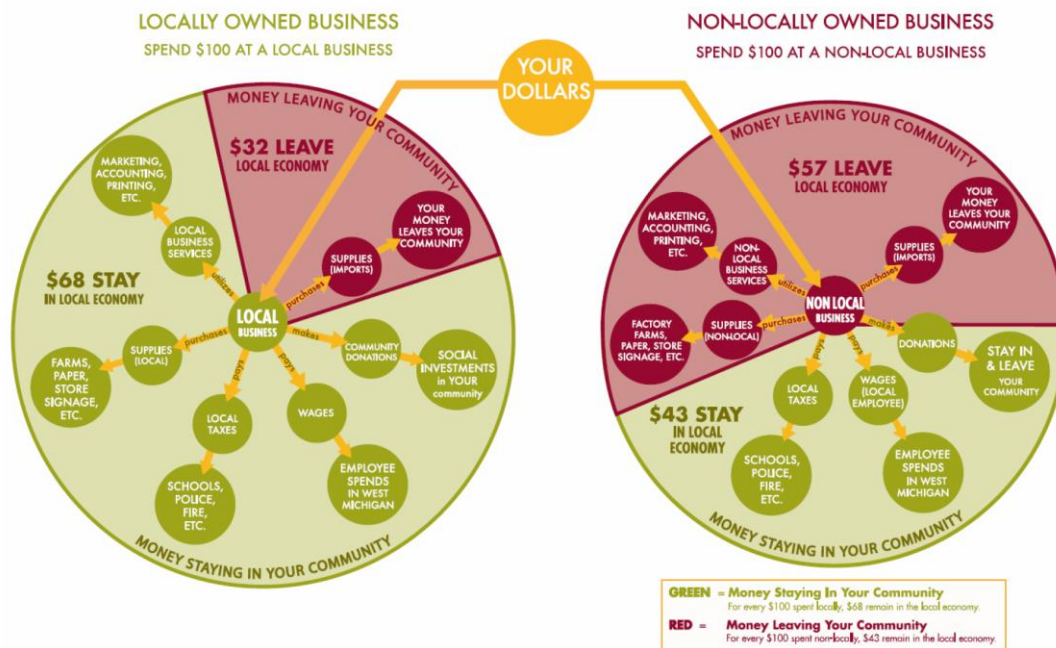


Figure 2. Effect of consumer spending at locally-owned businesses versus non-locally owned businesses, Grand Rapids, MI, 2008.

There are four basic types of crowdfunding platforms. These include debt based or peer-to-peer lending, donation based, reward based, and investment based crowdfunding. The MILE Act paves the way, for the first time in modern history, for investment based crowdfunding by non-accredited investors.

Debt based peer-to-peer lending has been popularized by Kiva. This website facilitates transactions whereby those with capital make micro-loans available to those with limited resources. Kiva boasts a greater than 98% repayment rate, with over \$536 million in funding to nearly 1.3 million borrowers in 73 countries. The average loan amount made on Kiva is \$415. Loans are targeted to vulnerable, rural and under-banked communities across the developing world. Loans are used to purchase water filtration systems, to purchase inventory for small businesses, and to finance education. Kiva has launched micro-sites in Detroit and Flint, Michigan to test its model in U.S. markets. (Kiva, 2014).

Donation based crowdfunding can be found on sites like GoFundMe. On this website nonprofit charities and individuals raise donated funds to meet specific needs. Common fundraising causes are for people who have lost their homes due to fire or natural disaster, to pay medical bills, or to raise funds for a special gift. Donors have no expectation of being repaid for their gift, and it is up to individual donors to do any due diligence that would support the validity of the cause. According to their website, GoFundMe users have raised over \$210 million from over 3 million donors (GoFundMe, 2014).

Reward based crowdfunding has been popularized by Kickstarter. The site boasts over \$1 billion in capital raised for projects since launching in 2009. Over 135,000 projects have been launched and 57,180 have been fully funded. 58 of those funded projects raised \$1 million or more. Kickstarter is used by musicians to record albums and launch tours, by entrepreneurs who have invented new products they would like to take to market, and by authors seeking to self-publish books and magazines. Funders are enticed to contribute to campaigns by receiving rewards such as pre-paying for an album, or receiving acknowledgement in the credits, or receiving a house visit by the chef or musician seeking funding (Kickstarter, 2014).

Investment based crowdfunding is the newest form of internet based crowdfunding. Investment crowdfunding can mean any type of security offering, and most commonly involves debt, equity, convertible notes, and revenue sharing agreements. Localstake, an Indianapolis based platform was the first to enter the Michigan marketplace. The company launched in 2013, and currently has 3 of 17 companies tagged as funded on their website. Their target markets are companies that are looking to raise up to \$1 million (Localstake, 2014). This new and highly regulated market is growing in real time, and new companies will continue to sprout across the country as federal and state regulations continue to evolve and become better understood by the public. The MILE Act is specifically an intrastate crowdfunding allowance. The SEC is in the process of writing rules for interstate crowdfunding. Localstake, is a web platform that can facilitate either interstate or intrastate raises.

JOBS Act of 2012

The regulatory framework governing investments by non-accredited investors is changing quickly. The Jumpstart Our Business Startups (JOBS) Act of 2012, ordered the Securities and Exchange Commission (SEC) to write rules governing crowdfunding and funding portals (such as Localstake.com or Fundrise.com), also known as intermediaries. For the first time in nearly a century non-accredited investors will be allowed to directly invest equity capital into a company. According to Chance Barnett, founder of Crowdfunder.com, the “opportunity and capital for entrepreneurship is being democratized.” He goes on to explain, “Title III will begin to disrupt the entrepreneurial capital market in a more fundamental way, bringing change to the previously elite world of investment fundraising and investing in early stage businesses, which used to be the exclusive domain of the wealthy (Barnett, 2013).”

Title III of the JOBS Act of 2012 will exempt intermediaries from having to register with the SEC as brokers, but will require them to register as a funding portal. “The funding portal also must become a member of a national securities association that is registered under Section 15A of the Exchange Act (SEC, 2012).”

A funding portal is defined as a crowdfunding intermediary that does not: (i) offer investment advice or recommendations; (ii) solicit

purchases, sales, or offers to buy securities offered or displayed on its website or portal; (iii) compensate employees, agents, or others persons for such solicitation or based on the sale of securities displayed or referenced on its website or portal; (iv) hold, manage, possess, or otherwise handle investor funds or securities; or (v) engage in such other activities as the SEC, by rule, determines appropriate (SEC, 2012).

As of the publishing date of this paper (June 2014), the SEC has not yet released the final rules governing Title III. Full implementation of the crowdfunding provisions in the act as pertains to interstate investment based public fundraising and solicitation cannot move forward until that time.

Michigan Public Act 264 – Michigan Invests Locally Exemption (MILE)

House Bill 4996, was introduced by State Representative Nancy Jenkins (R- Adrian), on September 18, 2013, and received bi-partisan co-sponsorship from 55 members of the House (Michigan, 2013). The purpose of the bill was to amend the Michigan Uniform Securities Act of 2002, to provide for an intrastate crowdfunding exemption under the federal Securities Act of 1933. The MILE Act made Michigan the fourth state to have implemented intrastate regulations.

Michigan's legislation is nationally viewed in many ways as model legislation, paving the way for several more states to have passed similar measures. There are now 9 states (Colorado, Georgia, Idaho, Kansas, Maine, Michigan, Wisconsin, Washington, and Indiana) that have intrastate exemptions and 13 states (Arkansas, Alabama, Connecticut, Maryland, Montana, North Carolina, South Carolina, New Jersey, Florida, Tennessee, Texas, Virginia, and Utah) with proposed legislation.

Kansas (August 2011) and Georgia (December 2011) were the first states to establish rules for an intrastate exemption to allow new investment crowdfunding systems. In Georgia, not only did they allow for intrastate investment crowdfunding, but they also created and funded the Invest Georgia Fund (IGF) and provided generous tax breaks for qualified investments in business and research. The IGF is a \$100 million tax-funded state investment pool, "that will allocate tax money to private venture capital and private equity firms that will invest in Georgia-based companies (Vass, 2013)." Very little has been published by regulators concerning the Invest Kansas Exemption, the Invest Georgia Exemption, or the Invest Georgia Fund.

Michigan's approach does not provide a state funded pool of investment funding directly to companies. Some could justifiably construe the Invest Georgia Fund as picking winners and losers among private businesses. Instead MILE provides a clean slate for organic market-driven development. MILE establishes a reasonably straightforward state oversight program, which is required to be in compliance with SEC regulations. Right now the chalkboard is clean, and waiting for those brave enough to introduce themselves and describe their plan for success.

The bill received not only bi-partisan support in the House, but also support from the Adrian Downtown Development Authority, the Tecumseh Brewing Company (now the first successful business to utilize MILE), the Michigan Bankers Association, state regulators, community activists, the Michigan Municipal League, the Michigan Chamber of Commerce, and the Michigan Manufacturers Association (Miller, 2013). On November 5, 2013, HB 4996 passed the House unanimously, 108-0, and was sent to the State Senate (Michigan, 2013).

The State Senate received the bill on November 5th, and passed it unanimously, 38-0, with minimal revision on December 12. On December 26, the Governor signed the legislation and it took immediate effect as Public Act 264 on December 31, 2013 (Michigan, 2013). It is not unheard of for legislation to be introduced and signed into law in less than 90 days. The rapid passage of this public act, however, speaks to the desire of the legislature and the people of the State of Michigan to advancing opportunities for small business development in the state.

The House Fiscal Agency summary of HB 4996 bill describes the Federal exemption, and the framework for the bill in detail. This document is easily found for reference on the Michigan Legislature website (House Fiscal Agency, 2013). The full text of Public Act 264 can be found in the appendix at the end of this paper.

A Practical Guide to PA 264 (MILE)

As stated at the beginning of this paper, the following information should not be construed as legal advice, nor should it be construed as investment advice. Anyone interested in launching an intrastate investment crowdfunding campaign should seek the advice of licensed professionals, including but not limited to: an attorney, a Certified Public Accountant, a Certified Financial Planner, or a licensed securities broker.

The general public, prospective crowdfunders, investors and the media can easily find the language of PA 264 by entering the name of the act in any search engine. It can also be found as an appendix to this paper. The first five pages of the act make for very dense reading. Starting with Section 202a, the act provides step by step instructions to meet the state requirements for launching an intrastate crowdfunding campaign. The following subsections contain excerpts taken from the act. Some of these excerpts have been paraphrased or edited for readability.

Qualifications

To be qualified for an exemption to SEC rules under the act an issuer, the business seeking investment crowdfunding, must:

1. Be incorporated or organized in the State of Michigan, and be authorized to do business in the state.
2. To meet the requirements for the federal exemption for intrastate offerings

- a. The issuer and purchaser must be a resident of the state and provide proof of residency.
 - b. The purchaser of the security cannot resell that security within 9 months of the purchase to a person out of state or face voiding the security and accruing penalties.
3. Security sales cannot exceed \$1 million without audited financial statements.
4. Security sales cannot exceed \$2 million with audited financial statements.
5. The issuer cannot accept more than \$10,000 from any single purchaser unless the purchaser is an accredited investor.
6. The term of the offering cannot exceed 12 months after the date of the first offer.
7. The issuer must meet the SEC 80% rule (see below).

Requirements of the Application

The issuer must file a notice and application with the Michigan Department of Licensing and Regulatory Affairs (LARA) at least 10 days before the public offer and it must contain all of the following: (1) Notice of claim of exemption from registration and a non-refundable filing fee of \$100. (2) A copy of the disclosure statement provided to prospective investors in connection with the offering. The application is available for download from the State of Michigan here: http://michigan.gov/documents/lara/aed-100_444258_7.pdf.

The disclosure required in the application must contain all of the items in the list below. This is where the attorney, CPA, and consultants will be of great service. The list of requirements for the application is rather lengthy, but the details are important for a successful first attempt at the application.

1. A description of the issuer, including its type of entity, address & telephone number of its principal office,
2. The company's formation history and business plan,
3. The intended use of the offering proceeds, including any amounts to be paid as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer,
4. The identity of each person who owns more than 10% of the ownership interests of any class of securities of the issuer,
5. The identity of the executive officers, directors, and managing members of the issuer, and any other individuals who occupy

similar status or perform similar functions in the name of and on behalf of the issuer, including their titles and their prior experience,

6. The terms and conditions of the securities being offered and of any outstanding securities of the issuer, the minimum and maximum amount of securities being offered, if any, and either the percentage ownership of the issuer represented by the offered securities or the valuation of the issuer implied by the price of the offered securities,
7. The identity of any person that the issuer has or intends to retain to assist the issuer in conducting the offering and sale of the securities, including the owner of any websites, if known, but excluding any person acting solely as an accountant or attorney and any employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this sub-subparagraph, a description of the consideration being paid to that person for that assistance,
8. A description of any litigation or legal proceedings involving the issuer or its management,
9. The name and address of any website that the issuer intends to use in connection with the offering, including its uniform resource locator or URL. If the issuer has not engaged a website at the time the issuer files the disclosure statement described in this subparagraph with the LARA under this subdivision but subsequently does engage a website for use in connection with the offering, the issuer shall file a supplemental notice,
10. An escrow agreement with a bank or other depository institution located in this state, in which the purchaser funds will be deposited, that provides that all offering proceeds will be released to the issuer only when 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 and that all purchasers will receive a return of their subscription funds if that target offering amount is not raised by the time stated in the disclosure statement. The bank or other depository institution may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the target offering amount is reached.
11. Confirmation that the issuer is not, either before or as a result of the offering, an investment company.

The issuer must inform each prospective purchaser that the securities are not registered under federal or state securities laws and that the securities are subject to limitations on transfer or resale and must display the following text conspicuously on the cover page of the disclosure statement:

“IN MAKING AN INVESTMENT DECISION, PURCHASERS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 CFR 230.147(E), AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.”

The issuer must require each purchaser to certify in writing, and to include as part of that certification his or her signature, and his or her initials next to each paragraph of the certification, as follows:

“I understand and acknowledge that:

I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.

This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

The securities I am acquiring in this offering are illiquid, that the securities are subject to possible dilution, that there is no ready market for the sale of those securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.

I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.

By entering into this transaction with the issuer, I am affirmatively representing myself as being a Michigan resident at the time that this contract is formed, and if this representation is subsequently shown to be false, the contract is void.

If I resell any of the securities I am acquiring in this offering to a person that is not a Michigan resident, within 9 months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.”

Offering through a Website

MILE does not require that an investment crowdfunding campaign be facilitated via an online website portal. Efficiencies with standardized forms, data collection and marketing potential make utilizing a web platform very appealing. If, however, a company wanted to use paper forms, and the US Postal Service to distribute materials, contracts and other communications, they are not excluded from doing so.

Companies seeking to raise funds via a web portal, like Localstake, should confirm with the State of Michigan that the portal has registered with the state. Web sites offering the facilitation of MILE offerings must not only be registered with the state, but must also collect specific data from investors. To list an offer, they must verify that the company is Michigan based. Further they should verify that the company meets the “80% rule”.

The 80% rule, as indicated by SEC Rule 147, states that to qualify for the exemption, a company must have at least 80% of its assets, revenues and expenditures solely in the State of Michigan. Rule 147 and all of its components can be read in its entirety here: <http://www.sec.gov/divisions/corpfin/ecfrlinks.shtml>.

The issuer must verify that the purchaser of the investment is a Michigan resident. Proof of residency could include a driver’s license, an affidavit, or other reasonable and necessary means. Finally, the issuer and the website portal must keep and maintain records of all of the offers and sales made through the site. Each must be able to provide ready access to any records requested by LARA. LARA may access, inspect, review and audit any website and its records at any time.

At this time, there are two funding portals registered and operational in the State of Michigan: Localstake (based in Indianapolis) and FundRise (based in Washington D.C.). Our team is, however, aware of several platforms that are in various stages of development across the State of Michigan.

Reporting Requirements

The act contains ongoing reporting requirements for the business issuing investment based crowdfunding offerings. These reports must be made quarterly. Each report should be free of charge to the investors and can be posted on a website, providing the issuer posts the report within 45 days of the end of a fiscal quarter.

The report must be available at minimum until the next quarterly report is issued. The issuer must, upon the request of an investor, provide a copy by mail free of charge. Each report must also be filed with LARA. The report must include all of the following:

1. The compensation received by each director and executive officer of the issuer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received.
2. An analysis by management of the issuer of the business operations and financial condition of the issuer.

Penalties

Penalties for violation of the act by the issuer include repurchasing the security for cash payable on delivery, plus interest of 6% per year from the date of purchase, less the amount of any income received on the security. If the purchaser is found to have misrepresented their residency status at the time of purchase, the security is void and the issuer may collect damages not greater than the value of the security. If and when there are abuses of the system, LARA is authorized to investigate any reported complaints. If criminal activities were discovered, LARA would communicate with the proper state and federal agencies.

ENTREPRENEUR IMPLEMENTATION

While Michigan businesses now have the ability to raise capital from the community at large there are still steps that need to be taken to ensure that these relaxed restrictions are rolled out responsibly across the state. The support ecosystem – including incubators, accelerator programs, business consultants and coaches, economic development agencies, and financial professionals – will need to serve both businesses and investors by sharing information, best practices, and guidance.

Organizations who regularly find themselves in an education and facilitation role can identify partners in their region who can speak on these topics, including website platforms, consultants, attorneys, and financial professionals. There are a number of individuals and companies who are leading the way to educate interested persons around the state. Specifically, these educators include State Representative Nancy Jenkins, Adrian DDA Director Chris Miller, Tom Coke at *VerifyValid* (a payment gateway based in Grand Rapids), the Michigan Municipal League, and *Reconsider*. These early adopters have conducted nearly 50 public panels and discussions on the specifics of the MILE Act since its passing.

In addition to presentations and events hosted around the state, the Michigan Municipal League took a public sector lead by launching a resource website, www.crowdfundingMI.com, in June 2014 to provide a central reference point for those in the economic development sector as they determine how to integrate this new information.

Implementation for Ecosystem Stakeholders

As investment crowdfunding continues to be added to the matrix of seminars and educational offerings promoted by these organizations, Downtown Development Authorities and collegiate entrepreneurship programs across the state, we have compiled a short list of recommended workshop or panel discussion topics that can be developed:

- Different forms and sources of capital
- Specifics of the MILE Act
- Types of crowdfunding
- Campaign best practices
- For entrepreneurs: Preparing to raise capital from the community
- For investors: Investing in community businesses

In an effort to clearly articulate the MILE Act to the entrepreneurial community, it is important that stakeholders and instructors use a standardized list of attributes about MILE to reduce confusion. Here is a recommended list of attributes for consideration:

- MILE is the state articulation of SEC Rule 147
- Rule 147 is an exemption from federal registration requirements
- Company eligibility: \$1 mil (not audited)/\$2 mil (audited)/80% rule
- The 3 pronged 80% rule (assets, use of capital, revenues)
- Investor eligibility: for Michigan residents only/\$10,000 per year per company for non-accredited investors, no limit for accredited
- Online and offline options
- MILE is not the only way to raise local capital, it's a new tool in the tool belt
- Can be equity, debt, convertible note, revenue sharing, etc.
- SEC recent ruling disallowing the use of social media for solicitation (SEC, 2014)
- URL for getting the notice filing and state rules (see *References*)

Reconsider and other early stakeholders have received inquiries from companies representing a variety of industries who are interested in utilizing investment crowdfunding. These companies are excited to gather investors that are passionate about the values and goals of their enterprise. For example, a new company in the Michigan clean energy sector is currently in the process of integrating investment crowdfunding into their efforts to build solar energy farms. *Reconsider* has also fielded requests for information from inventors associations, the micro brewing industry, the advanced manufacturing sector, and the transportation sector.

Case Study: Tecumseh Brewing Company

Tecumseh Brewing Company (TBC) is the first company in Michigan to utilize the new investment crowdfunding opportunities authorized under MILE. Their campaign was organized and conducted on Localstake.com. TBC raised \$175,000 in less than 45 days from 21 local investors (Lenewee Economic Development Corporation, 2014).

The Localstake campaign was part of a total \$500,000 raised by TBC as part of their overall capital plan. The remaining \$325,000 was sourced from friends and family to purchase their building in downtown Tecumseh and a traditional loan with a local community bank. The community bank agreed to provide a conventional loan for equipment if TBC could successfully raise the remaining portion of their capital from the community through the Localstake campaign.

The collaboration between friends, family, a community bank, the economic development partners, and the community at large to help this new company launch and raise their capital shows a prime model for other communities to replicate. Each investor class feels more secure about their capital allocation when they see others in the community stepping up for funding as well, thereby strengthening the support system and confidence surrounding the company. This widespread engagement in the capital raise has the added benefit of contributing to a marketing strategy that drives community business to the establishment.

Helping Entrepreneurs Become Investment-Ready

While the MILE Act can be used by mature companies as a part of a succession plan or expansion plan, it is being looked to primarily as a way for early-stage companies to raise capital. The existing support system is doing a great job of helping businesses improve their plans, their financial projections, and helping them acquire technical assistance. Many entrepreneurs however, especially first time entrepreneurs, are struggling to understand the various forms and sources of capital that exist, including new mechanisms such as investment crowdfunding.

Ecosystem stakeholders have the opportunity to introduce new programming that helps remove the confusion, mystery, and fear around raising capital. To that end, in 2013 Reconsider began piloting investment readiness curriculum for entrepreneurs who were finding the task of understanding their options daunting. The program introduces concepts and information organized by the three stages in the capital raising journey: before the raise, during the raise, and after the raise. Below is a summary of what is covered in each stage:

Before the Raise

- Business Review: analysis, critique, and suggestions for improvement in the business model, financial projections, and supporting documents
- Pitch Deck Review: introduction of best practices for the pitch deck including sequencing, presentation style, and amount of information shared (we find it helpful to organize a mock pitch with community volunteers for the team to practice as well)
- Capital Forms & Sources: a basic introduction to various forms (debt, equity, etc.) and sources (bank, CDFI, crowdfunding, VC, etc.) of capital with a discussion about the difference in culture, approach, and objectives between them all (see appendix for handouts)

During the Raise

- Logistics: a review of platforms that can be used and the pros and cons of using them, awareness about SEC rulings on the use of social media
- Relationship Management: Setting expectations and a realistic timeline, answering investor questions
- What if: what if your raise is not successful, what do you do next

After the Raise

- Investor Relations: establishing best practices for communication and reporting

We share this layout to encourage those organizations who are already facilitating entrepreneurial programming to take this, improve upon it, and include it in their programming going forward. Our team has found an alarming number of entrepreneurs who are confused by the difference between debt and equity or who are talking to inappropriate capital sources, for example, trying to connect with a venture capital fund to start a bakery. Improving the flow of capital depends on raising the education level of entrepreneurs so they find the right capital source at the right time for their type of business and needs.

INVESTOR IMPLEMENTATION

Those individuals who have invested the time and energy in passing MILE are building a new investment ecosystem in Michigan. Their goal is to open avenues for locally based investing in our state. In an effort to understand the barriers, opportunities, and viability of a new investment ecosystem *Reconsider*, in partnership with *Corp Magazine*, distributed a local investment sentiment survey between February and April 2014. 151 individuals from Michigan responded, representing 20 counties across the state, and about \$42 million in investable assets. It must be stated that the survey was sent by email and distributed by numerous private and public entities. The survey was not controlled in accordance with standards that would provide for a random sample of respondents and statistically valid results.

Respondents ranged from the age of 18 to 65+. Their self-declared investable household income ranged from “no savings” (4.6%) to greater than \$1 million (9.9%). Almost 1/3 of respondents had investment savings of less than \$100,000. Nearly half of the respondents had investment savings of \$100,000 to \$1 million. Investable assets were defined in the survey as “all liquid financial assets that are, or could be invested (e.g. bank account balances, retirement accounts, trusts, etc.)” and did not include businesses, real estate or other property. The group includes investors who currently use an advisor and some who handle their own investments. The questions were designed to learn about their interest level in local investing and the needs of interested participants.

More than 90% of respondents have never had a conversation with a financial advisor about investing in Michigan companies. Over 88% of the respondents, however, stated that they would commit to investing in Michigan businesses if they had the requisite information to make an informed decision. *Figure 3* shows interest levels in various investor tools:

Figure 3. Percentage of survey respondents requesting each specific tool, *Reconsider*, 2014.



When asked what tools would help the investors to feel comfortable investing in Michigan companies, respondents noted that they want education on how to evaluate the investments and advisors who could help them evaluate opportunities. Other tools that respondents requested were non-partial industry or academic experts who could comment on local investment opportunities. They want access to good quality audited financial statements and local mutual fund options for self-directed IRAs. One respondent even noted a desire for a local stock exchange.

Helping Investors Become Investment-Ready

Education will also be critical for investors. An increasing number of investors are interested in transitioning additional capital from the global financial system into the local capital markets. Investors will need to feel confident about their ability to evaluate a company. They will need to find local businesses to be compelling as an alternative investment, and they will need to see this as a relevant and worthwhile endeavor for their investment portfolio. Additional key findings identified in the investor survey include the following (see appendix for May 2014 Press Release):

- 74% of respondents indicated that if they felt confident about the opportunity, they would consider investing between \$10,000 and \$50,000 of their overall portfolio allocation in a locally owned business
- 47% of respondents reported feeling mostly or very confident about investing in Michigan's economy
- 69% of respondents reported they are either not confident at all or are somewhat confident about their ability to analyze investments
- Respondents indicated several tools that would help them feel more comfortable with investing in Michigan-based private businesses, including peer groups, websites listing available offerings, help from financial advisors or banks, and education on how to evaluate a business
- Only 7% of respondents with financial advising relationships reporting having a conversation with their advisor about local investment opportunities, indicating that advisors are generally not addressing this specific asset class

The results show that investors are intrigued and excited, but cautious and looking for additional guidance and tools. Reaching investors may mean raising the awareness of the independent advisor market through continuing education offerings. The lack of knowledge about the MILE Act and local investing in general among financial professionals creates a strong disconnect between investors who are interested and their advisors who are unable to help them navigate these new offerings.

To help address this concern *Reconsider*'s sister company *Revalue*, a registered investment advisory firm formed in 2013 to serve community investors and fill this gap in the market, is launching Local Investor Education events with partner host organizations in Fall 2014. The first event is scheduled to take place on September 26, 2014 in partnership with Northwestern Michigan College in Traverse City. Additional events are being organized for other cities as hosts rooted in those communities step forward for partnership.

Crowdsourced Knowledge

A barrier highlighted in the survey results is the lack of knowledge investors have around doing due diligence, with 69% of respondents saying that they are not confident about their ability to analyze an investment opportunity. This follows a multi-decade trend of investors increasingly relying on the financial services industry for research and recommendations, effectively removing that skill set among average investors. Additionally, over the last 30 years an increased number of processed solutions (mutual funds, index funds, etc.) have emerged in the marketplace, now numbering 7,707 products as of the end of 2013. This trend of outsourcing knowledge has led to a critical knowledge gap among investors that must be addressed in order to responsibly shift capital into our local markets. (Investment Company Institute, 2014)

One approach to filling this gap, one that *Revalue* is taking with its Local Investor curriculum, is to bring investors together to source a due diligence model that the community can use at large. *Revalue*'s foundational curriculum covers the personal factors that investors need to consider before deciding to invest in a local business, including technical considerations, their own financial needs, and asset allocation considerations. The curriculum then moves on to a facilitated experience where would-be investors determine together what questions they want to ask a mock management team, simulating how a community might come together to discuss a local investment offering. It is through these types of hands-on learning experiences that community investors will increase their business knowledge and they'll connect with others in the community who have more experience than they, creating a mentorship dynamic among community investors.

CONCLUSION

Reconsider has defined a fully functioning local market as requiring the following five points (*Figure 4*). Without standards, a medium of exchange, ownership rights, investable businesses and knowledgeable investors this new investment ecosystem's full potential may not be fully realized. The *Reconsider* and *Corp Magazine* local investing survey provides at least anecdotal evidence that if given the opportunity and understanding, those with investible assets would consider adding Michigan companies to their portfolio. This research topic deserves more study, and a proper statistically valid sample analysis of Michigan investors.

MILE sets a baseline for standards, reporting and liquidity. Only Michigan companies can sell investment/equity stakes in their companies to Michigan residents. Buyers must hold the security for at least 9 months before selling it. Companies must report on the health and viability of their company to investors at least quarterly. Already, there is collaborative discussion among various organizations and legal firms to draft standard deal terms and legal documents that will then be open-sourced for the community to use. Lowering the legal barriers to entry will help to further democratize access to capital.

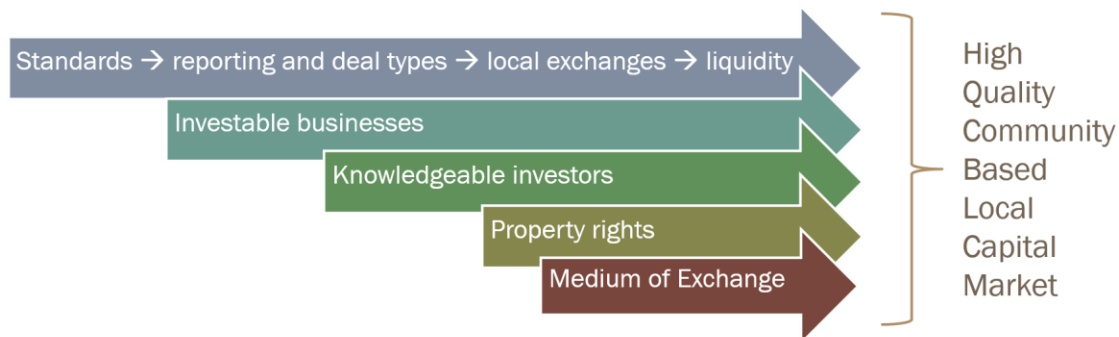


Figure 4. Elements of a high quality community based local capital market, *Reconsider*, 2014.

The next step in developing this market is to improve on the investment liquidity. If you have ever taken a ride on the People Mover in Detroit, you may have asked yourself why one of the stops is called the Financial District. From 1907 to 1976, the Detroit Stock Exchange operated in various locations along Griswold Street between Jefferson and Fort. Hundreds of companies from Michigan and around the United States were traded on the exchange before it closed due to changes in regulatory and market conditions (Renaldi, 2005). Representative Nancy Jenkins has introduced Michigan House Bill 5273, commonly called the *Michigan Investment Markets* bill. This legislation would allow the formation of Michigan based stock exchanges that would facilitate the sale of

intrastate securities. In other words, Michigan companies could act as intermediaries for the purchase and sale of Michigan based stocks and investment securities.

While the concept has merit, everyone involved agrees that it is a complex element of the ecosystem that could take years to achieve. Similar efforts have been tried and failed in other regions across the U.S. (Pennsylvania and Hawaii to name two). Interestingly, however, the Toronto Social Ventures Exchange (www.svx.ca) launched to serve this need and appears to have so far found success. A team converged on the idea in 2007, research was done over the next several years, and the exchange launched in 2012 as a pilot.

Creating a local capital market ecosystem that is accessible and collaborative from scratch will inevitably take time, energy, faith and hard work. Just as we have witnessed the development of crowdfunding as a means to support donation and reward based raises, we are poised to see a proliferation of investment based raises. This would appear to be a natural evolution of the free market that compliments buy local campaigns, the dramatic growth of relocalization of labor and production, and a desire for consumers to take control of their assets away from large multi-national interests.

It is our hope that this co-learning plan provides a framework of understanding for individuals and organizations who are in a position to influence programming, thought leadership, and community education. It is through the collaborative work across the ecosystem that the entrepreneurial renaissance and local capital market developments can continue to strengthen and grow in a way that is accessible to people of all socioeconomic statuses on both the entrepreneurial and investor side of the local capital market equation.

To contact the authors, for information about educational events in your area, and to continue to track developments, please visit **www.timetoreconsider.com**.

FIGURES AND TABLES

Company	Year founded	Platform	Country
JustGiving	2001	crowdfunding	UK
Kiva	2005	peer-to-peer	USA
Prosper	2005	peer-to-peer	USA
LendingClub	2006	peer-to-peer	USA
IndieGoGo	2007	crowdfunding	USA
GiveForward	2008	crowdfunding	USA
Kickstarter	2009	crowdfunding	USA
GrowVC	2009	crowdfunding	USA
GoFundMe	2010	crowdfunding	USA
RocktHub	2010	crowdfunding	USA
CrowdCube	2011	crowdfunding	UK
CrowdFunder	2011	equity crowdfunding	USA
Fundable	2012	equity crowdfunding	USA
LocalStake	2013	equity crowdfunding	USA

Figure 1. List of popular online crowdfunding sites, Reconsider, 2014. Chart shows launch dates, platform type, and country origin. Chart lists three peer-to-peer lending sites, eight donation-based crowdfunding sites, and three equity crowdfunding sites.

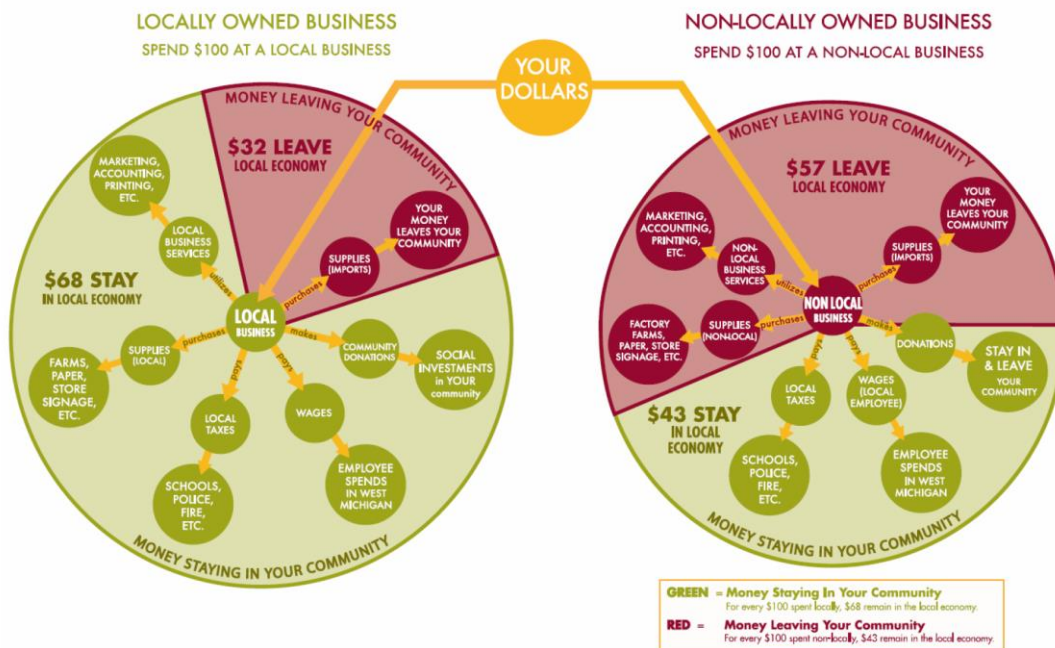


Figure 2. Effect of consumer spending at locally owned businesses versus non-locally owned businesses, Grand Rapids, MI, 2008. Graphic shows that \$68 dollars of every \$100 spent at a locally owned business stays within the community, compared to only \$43 of every \$100 spent at a non-locally owned business. Visual details showing spending categories are shown as well.

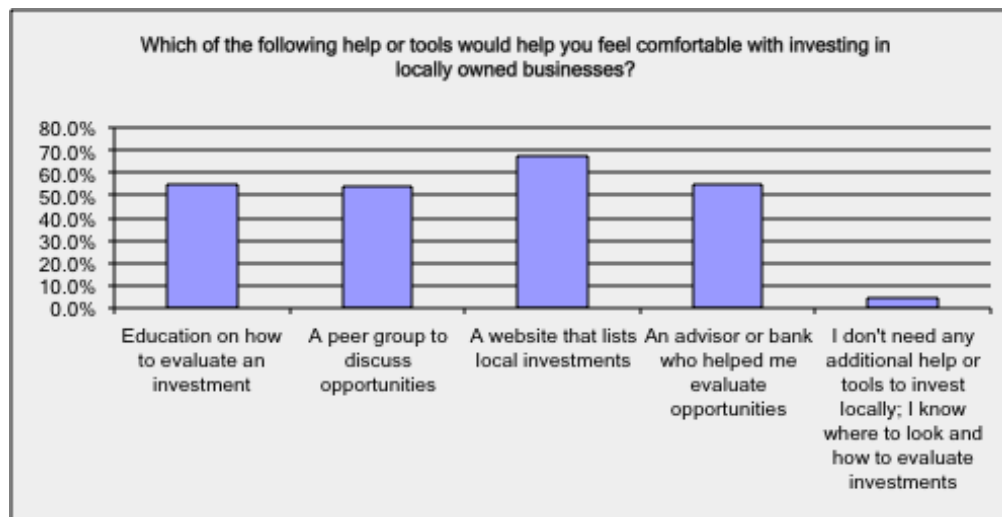


Figure 3. Percentage of survey respondents requesting each specific tool, Reconsider, 2014. Figure shows four types of tools or help that could be provided to investors. Approximately 50%-70% of survey respondents indicated that one or more of these tools would be of help to them. Tools include: due diligence education, peer groups, website listing local investments, and assistance from advisors.

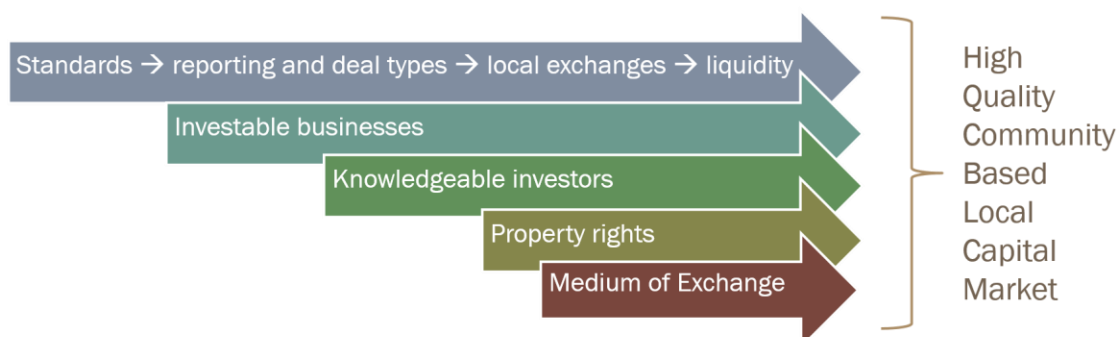


Figure 4. Elements of a high quality community based local capital market, Reconsider, 2014. Elements include reporting and deal type standards, investable businesses, knowledgeable investors, property rights, and a medium of exchange.

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ABOUT THE AUTHORS

Angela Barbash, Founder, *Reconsider*

Angela studied Cultural Anthropology and History at Eastern Michigan University, developing an appreciation for entrepreneurship while working at the Michigan Small Business Development Center (MI-SBDC) before entering the financial services industry. Angela went on to become a licensed Financial Advisor in 2004, serving in the field as a branch manager and in the home office of a large firm before settling at a local independent firm in Metro Detroit.

Following the 2008 market correction she began to notice client and market trends that were pointing to a significant shift in the industry toward local investing, social entrepreneurship, and putting meaning back into money making. With this she saw a market opportunity and need to develop the Michigan ecosystem, launching *Reconsider* in April 2012 to do just that. Angela now primarily serves as a Principal and Investment Advisor at *Reconsider's* sister company *Revalue*, a registered investment advisory firm.

Angela currently serves as the Treasurer for the Social Enterprise Alliance (SEA) Detroit chapter. Additionally, she has most recently served as the President of the New West Willow Neighborhood Association (NWWNA) in Ypsilanti and the Growing Hope Board of Directors.

David Palmer, Realtor, ABR, CNP, REO

David is a contract a Research Analyst for *Reconsider*. He is employed full-time at the Workforce Intelligence Network, where he is the Director of Business Partnerships. He is also a Realtor, and works with clients in Ann Arbor, Detroit and the surrounding areas. He has earned a BS in Political Science with a minor in Business, a Graduate Certificate in Nonprofit Management, and expects to earn a Masters Degree in Public Administration before the end of 2014. In 2012, he earned the Certified Nonprofit Professional (CNP) designation from the Nonprofit Leadership Alliance. In 2013, he was a MSU Michigan Political Leadership Program Fellow. He is passionate about development in its many forms: community, economic, nonprofit fundraising, real estate and workforce.

GLOSSARY

Benefit Corporations: A corporate form available in certain US States, designed for for-profit entities that wish to consider society and the environment in addition to profit in their decision making process. Benefit corporations differ from traditional corporations in regards to their purpose, accountability and transparency. The purpose of a benefit corporation includes creating general public benefit, which is defined as a material positive impact on society and the environment. Note that *B Corp Certification*, offered by B Labs (www.blabs.com), is a market designation and not a legal entity type.

Conscious Capitalism: An economic model where businesses seek awareness of the effects of their actions and who implement practices that benefit both human beings and the environment. The conscious business movement in the US, which emerged from the theory of corporate social responsibility, pushes for "values-based" economic values where values represent social and environmental concerns at both global and local scales. This effort is related to not-just-for-profit business models, conscious consumerism, and socially responsible investing.

Interstate: Existing or carried on between states.

Intrastate: Existing or occurring within the boundaries of a state.

Millennials: Generally speaking, Millennials are the children of Baby Boomers or Gen Xers. Older Millennials may have parents that are members of the Silent Generation. The Pew Research Center, an American think tank organization, defined "adult Millennials" as those who are 18 to 34 years old, born 1980–1996.

Triple bottom line: An accounting method that expands the traditional reporting framework to take into account social and environmental performance in addition to financial performance; often referred to as measuring “people, place, and profits, or the 3 Ps”

Values-based investing: An investment philosophy that considers criteria based on social and environmental values alongside financial returns when selecting an investment opportunity. This philosophy aims to incorporate your personal values, the factors which you consider are imperative for a better world.

APPENDIX

Capital Forms and Sources Handouts

Venture Capital (VC)

- High growth; looking for an exit in 5-7yrs (depends on the fund)
- \$250k-\$1mil; expecting 10x ROI
- Funds are funded with accredited investor and institutional money

Angel Investor

- Open to 'lifestyle' and impact businesses
- Some consider themselves to be 'patient'; not looking for a fast exit
- \$50k-\$250k; expecting a 3x-10x ROI
- Accredited investors

Financial Institutions (Banks, CDFIs)

- Have to be in business at least 3yrs
- 5 C's of credit apply: character, collateral, cash flow, capacity, and conditions
- Debt; 8-12%

Factoring/Leasing

- Borrow against receivables and equipment
- Debt; 10-25%

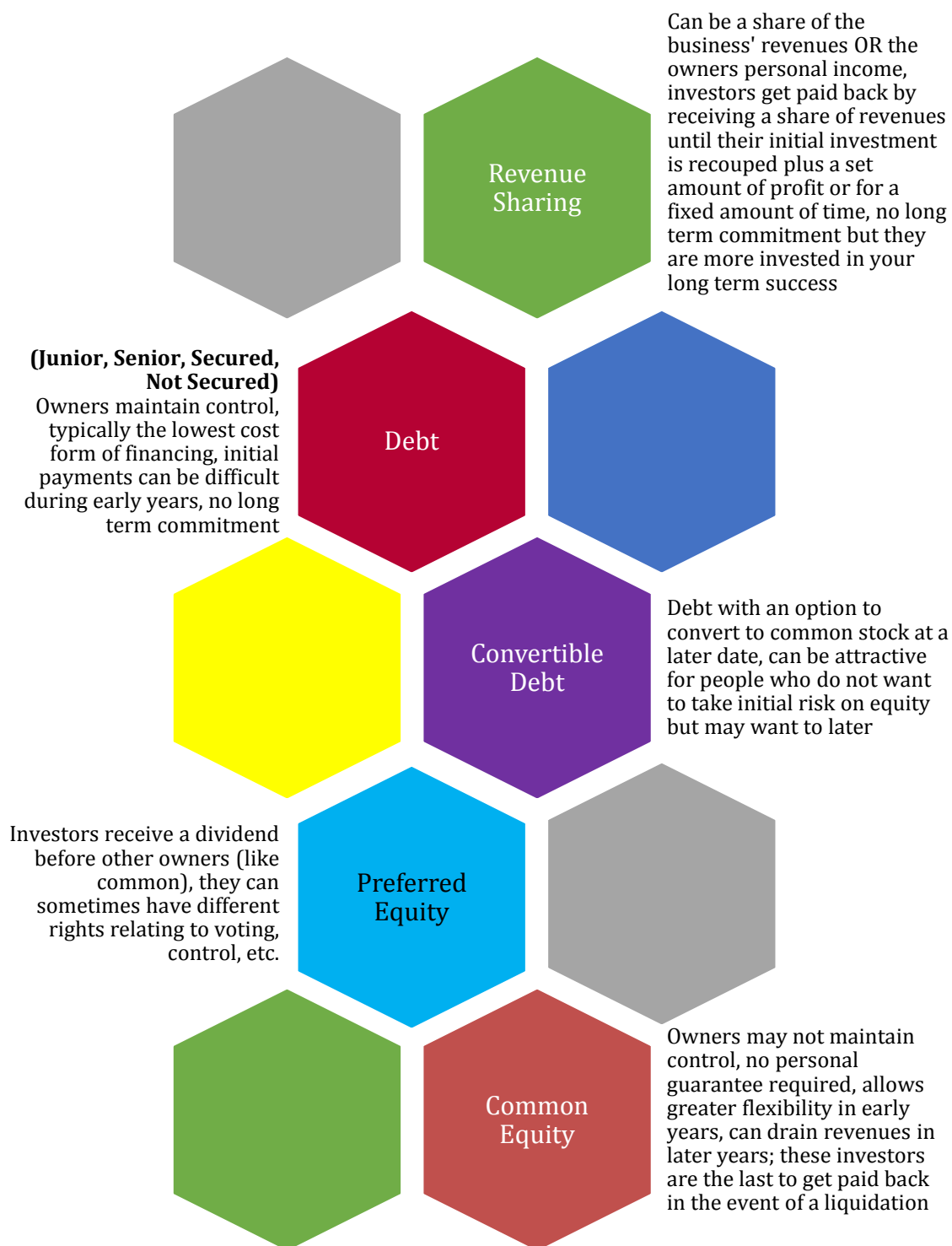
Local impact investors

- Long term view
- Can be accredited or unaccredited
- \$5k-\$50k; 0-10% target annual ROI
- Equity or debt

Friends and Family

- Investing because they care about you personally
- \$5k-\$25k
- Equity or debt; they typically do not expect any money back (very important that you do not take money from people who can not afford to lose it)

Consult your attorney for guidance.



May 2014 MILE Survey Press Release

Michigan statewide local investor survey results show cautious interest

Ypsilanti, MI

May 6, 2014

Investors show strong interest in investing locally, but are not confident in their ability to evaluate companies

Reconsider, a research, education and consulting firm based in Ypsilanti, partnered with Corp! Magazine to conduct the first statewide local investor sentiment survey of its kind in order to gauge interest among investors following the passing the Michigan Invests Locally Exemption (MILE) Act on December 30, 2013.

The MILE Act provides a state-managed regulatory framework for qualified Michigan companies to raise capital from Michigan investors by using an intrastate exemption in the federal securities rules. Under the exemption, companies can pay a \$100 fee and file a notice with the state securities office instead of filing a federal securities offering notice, thus lowering the barrier for many small businesses interested in raising capital within their communities.

The survey was conducted on www.surveymonkey.com from February to April 2014 and was circulated through community networks across the state. 151 people responded to the survey, representing 20 Michigan counties, and approximately \$42 million of total investable assets. Key findings include:

- 74% of respondents indicated that if they felt confident about the opportunity, they would consider investing between \$10,000 and \$50,000 of their overall portfolio allocation in a locally owned business
- 47% of respondents reported feeling mostly or very confident about investing in Michigan's economy
- 69% of respondents reported they are either not confident at all or are somewhat confident about their ability to analyze investments
- Respondents indicated several tools that would help them feel more comfortable with investing in Michigan-based private businesses, including peer groups, websites listing available offerings, help from financial advisors or banks, and education on how to evaluate a business
- Only 7% of respondents with financial advising relationships reporting having a conversation with their advisor about local investment opportunities, indicating that advisors are generally not addressing this specific asset class

“While this is a small sample size, it is a first step toward understanding the interest and challenges for Michigan investors as they consider diversifying into their own communities,” said Reconsider Founder Angela Barbash. Ms. Barbash added, “What

they're telling the ecosystem is that they're interested, they're willing, but they need help and education. Overall, this is great news. We would rather hear that investors are cautiously interested than overly optimistic and jumping in head first."

Reconsider is interested in partnering with other organizations to conduct a wider-circulated survey later this year as information about the MILE Act and local investing in general continues to spread across the state. Additionally, in response to the survey, Reconsider's sister company Revalue (a registered investment advisory firm) is launching a Local Investor Education series that will be hosted in communities across Michigan this Fall and Winter to help address investors' appeal for educational and peer group opportunities. For more information on Revalue's Local Investor Education series email inquire@revalueinvesting.com.

"The legislation is in place and the entrepreneurial ecosystem is diligently rolling out education and information creating a demand for local capital as we rebuild our economy", Ms. Barbash said. "This survey is showing us that it is now time to provide community investors with the tools they need to understand the risks involved with investing locally, allowing them to responsibly incorporate this asset class into their portfolios."

About Reconsider

Reconsider provides research, education, and consulting to ecosystem stakeholders and entrepreneurs interested in community capital, local investing, and social entrepreneurship. Reconsider's core purpose is to nurture a generative and collaborative social impact economy. Both Reconsider and Revalue are located in the Spark East Incubator in Ypsilanti, Michigan.

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Public Act 264

Act No. 264

Public Acts of 2013

Approved by the Governor

December 26, 2013

Filed with the Secretary of State

December 30, 2013

EFFECTIVE DATE: December 30, 2013

STATE OF MICHIGAN

97TH LEGISLATURE

REGULAR SESSION OF 2013

Introduced by Reps. Jenkins, Graves, Zorn, Somerville, Kelly, Pscholka, Rendon, Schmidt, Johnson, Kurtz, Schor, Nesbitt, Brown, Bumstead, Cavanagh, Cotter, Daley, Darany, Dianda, Driskell, Durhal, Faris, Farrington, Forlini, Geiss, Goike, Greimel, Haines, Haugh, Heise, Irwin, Kesto, Kivela, Kosowski, Kowall, Lauwers, LaVoy, Lipton, Lori, Lyons, MacGregor, McCann, McMillin, O'Brien, Pagel, Pettalia, Poleski, Potvin, Price, Rutledge, Shirkey, Singh, Slavens, Smiley, Victory and Zemke

ENROLLED HOUSE BILL No. 4996

AN ACT to amend 2008 PA 551, entitled "An act to enact the uniform securities act (2002) relating to the issuance, offer, sale, or purchase of securities; to prohibit fraudulent practices in relation to securities; to establish civil and criminal sanctions for violations of the act and civil sanctions for violation of the rules promulgated pursuant to the act; to require the registration of broker-dealers, agents, investment advisers, and securities; to make uniform the law with reference to securities; and to repeal acts and parts of acts," by amending sections 102a, 202, 504, and 510 (MCL 451.2102a, 451.2202, 451.2504, and 451.2510) and by adding section 202a.

The People of the State of Michigan enact:

Sec. 102a. As used in this act, unless the context otherwise requires:

(a) “Institutional investor” means any of the following, whether acting for itself or for others in a fiduciary capacity:

(i) A depository institution or international banking institution.

(ii) An insurance company.

(iii) A separate account of an insurance company.

(iv) An investment company as defined in the investment company act of 1940.

(v) A broker-dealer registered under the securities exchange act of 1934.

(vi) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$2,500,000.00 or its investment decisions are made by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under this act, a depository institution, or an insurance company.

(vii) A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$2,500,000.00 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under this act, a depository institution, or an insurance company.

(viii) A trust, if it has total assets in excess of \$2,500,000.00, its trustee is a depository institution, and its participants are exclusively plans of the types identified in subparagraph (vi) or (vii), regardless of size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans.

(ix) An organization described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, a corporation, Massachusetts or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$2,500,000.00.

(x) A small business investment company licensed by the small business administration under section 301(c) of the small business investment act of 1958, 15 USC 681, with total assets in excess of \$2,500,000.00.

(xi) A business development company as defined in section 202(a)(22) of the investment advisers act of 1940, 15 USC 80b-2, with total assets in excess of \$2,500,000.00.

(xii) A federal covered investment adviser acting for its own account.

(xiii) A “qualified institutional buyer” as defined in rule 144A(a)(1), other than rule 144A(a)(1)(i)(H), adopted under the securities act of 1933, 17 CFR 230.144A.

(xiv) A “major U.S. institutional investor” as defined in rule 15a-6(b)(4)(i) adopted under the securities exchange act of 1934, 17 CFR 240.15a-6(b)(4)(i).

(xv) Any other person, other than an individual, of institutional character with total assets in excess of \$2,500,000.00 not organized for the specific purpose of evading this act.

(xvi) Any other person specified by rule or order under this act.

(b) “Insurance company” means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

(c) “Insured” means insured as to payment of all principal and all interest.

(d) “International banking institution” means an international financial institution of which the United States is a member and whose securities are exempt from registration under the securities act of 1933.

(e) “Investment adviser” means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include any of the following:

(i) An investment adviser representative.

(ii) A lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person’s profession.

(iii) A broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice.

(iv) A publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation.

(v) A federal covered investment adviser.

(vi) A depository institution.

(vii) Any other person that is excluded by the investment advisers act of 1940 from the definition of investment adviser.

(viii) Any other person excluded by rule or order under this act.

(ix) A finder registered as a broker-dealer under this act.

(f) “Investment adviser representative” means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds himself or herself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who meets any of the following:

(i) Performs only clerical or ministerial acts.

(ii) Is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and does not receive special compensation for investment advisory services.

(iii) Is employed by or associated with a federal covered investment adviser, unless the individual meets any of the following:

(A) Has a “place of business” in this state as that term is defined in rule 203A-3 adopted under section 203A of the investment advisers act of 1940, 17 CFR 275.203A-3, and is an “investment adviser representative” as that term is defined in rule 203A-3 adopted under section 203A of the investment advisers act of 1940, 17 CFR 275.203A-3.

(B) Has a “place of business” in this state as that term is defined in rule 203A-3 adopted under section 203A of the investment advisers act of 1940, 17 CFR 275.203A-3, and is not a “supervised person” as that term is defined in section 202(a)(25) of the investment advisers act of 1940, 15 USC 80b-2.

(iv) Is excluded by rule or order under this act.

(g) “Issuer” means a person that issues or proposes to issue a security, subject to the following:

(i) The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions, is the person performing the acts and assuming the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued.

(ii) The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used, or to which the property or equipment is or will be leased or conditionally sold, or that is otherwise contractually responsible for assuring payment of the certificate.

(iii) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

Sec. 202. (1) The following transactions are exempt from the requirements of sections 301 to 306 and 504:

(a) An isolated nonissuer transaction, whether effected by or through a broker-dealer or not.

(b) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act, and a resale transaction by a sponsor of a unit investment trust registered under the investment company act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, if all of the following are met at the date of the transaction:

(i) The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(ii) The security is sold at a price reasonably related to its current market price.

(iii) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution.

(iv) A nationally recognized securities manual or its electronic equivalent designated by rule or order under this act or a record filed with the securities and exchange commission that is publicly available contains all of the following:

(A) A description of the business and operations of the issuer.

(B) The names of the issuer's executive officers and the names of the issuer's directors, if any.

(C) An audited balance sheet of the issuer as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger, and when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined entity.

(D) An audited income statement for each of the issuer's 2 immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement.

(v) Any of the following requirements are met:

(A) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the securities exchange act of 1934, 15 USC 78f, or designated for trading on the national association of securities dealers automated quotation system.

(B) The issuer of the security is a unit investment trust registered under the investment company act of 1940.

(C) The issuer of the security, including its predecessors, has been engaged in continuous business for at least 3 years.

(D) The issuer of the security has total assets of at least \$2,000,000.00 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet as of a date within 18 months before the date of the transaction, a pro forma balance sheet for the combined entity.

(c) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the board of governors of the federal reserve system.

(d) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in an outstanding security if the guarantor

of the security files reports with the securities and exchange commission under the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934, 15 USC 78m or 78o.

(e) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security that meets 1 or more of the following:

(i) Is rated at the time of the transaction by a nationally recognized statistical rating organization in 1 of its 4 highest rating categories.

(ii) Has a fixed maturity or a fixed interest or dividend, if both of the following are met:

(A) A default has not occurred during the current fiscal year or within the 3 previous fiscal years or during the existence of the issuer and any predecessor if less than 3 fiscal years, in the payment of principal, interest, or dividends on the security.

(B) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous 12 months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(f) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act effecting an unsolicited order or offer to purchase.

(g) A nonissuer transaction executed by a bona fide pledgee without any purpose of evading this act.

(h) A nonissuer transaction by a federal covered investment adviser with investments under management in excess of \$100,000,000.00 acting in the exercise of discretionary authority in a signed record for the account of others.

(i) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for 1 or more bona fide outstanding securities, claims, or property interests, or partly in exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator at a hearing.

(j) A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(k) A transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if all of the following are met:

(i) The note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit.

(ii) A general solicitation or general advertisement of the transaction is not made.

(iii) A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this act as a broker-dealer or as an agent.

(l) A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(m) A sale or offer to sell to any of the following:

(i) An institutional investor.

(ii) A federal covered investment adviser.

(iii) Any other person exempted by rule or order under this act.

(n) A sale or an offer to sell securities by or on behalf of an issuer, if the transaction is part of a single issue in which all of the following are met:

(i) There are not more than 50 purchasers in this state during any 12 consecutive months, other than those designated in subdivision (m).

(ii) There is no general solicitation or general advertising used in connection with the offer to sell or sale of the securities.

(iii) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this act or an agent registered under this act for soliciting a prospective purchaser in this state.

(iv) The issuer reasonably believes that all the purchasers in this state other than those designated in subdivision (m) are purchasing for investment.

(o) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state.

(p) An offer to sell, but not a sale, of a security not exempt from registration under the securities act of 1933 if both of the following are met:

(i) A registration or offering statement or similar record as required under the securities act of 1933 has been filed, but is not effective, or the offer is made in compliance with rule 165 adopted under the securities act of 1933, 17 CFR 230.165.

(ii) A stop order of which the offeror is aware has not been issued against the offeror by the administrator or the securities and exchange commission, and an audit, inspection, or proceeding that is public and may culminate in a stop order is not known by the offeror to be pending.

(q) An offer to sell, but not a sale, of a security exempt from registration under the securities act of 1933 if all of the following are met:

(i) A registration statement has been filed under this act, but is not effective.

(ii) A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this act.

(iii) A stop order of which the offeror is aware has not been issued by the administrator under this act, and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending.

(r) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary, and the other person, or its parent or subsidiary, are parties.

(s) A rescission offer, sale, or purchase under section 510.

(t) An offer or sale of a security to a person not resident in this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this act.

(u) An offer or sale of a security pursuant to an employee's stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including any of the following:

(i) Offers or sales of those securities to directors; general partners; trustees, if the issuer is a business trust; officers; or consultants and advisors.

(ii) Family members who acquire those securities from those persons through gifts or domestic relations orders.

(iii) Former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered.

(iv) Insurance agents who are exclusive insurance agents of the issuer, its subsidiaries or parents, or who derive more than 50% of their annual income from those organizations.

(v) A transaction involving any of the following:

(i) A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock.

(ii) An act incident to a judicially approved reorganization in which a security is issued in exchange for 1 or more outstanding securities, claims, or property interests, or partly in exchange and partly for cash.

(iii) The solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the securities act of 1933, 17 CFR 230.162.

(w) Subject to subsection (2), a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this act, if both of the following are met:

(i) The issuer is a reporting issuer in a foreign jurisdiction designated in subsection (2)(a), or by rule or order of the administrator, and has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction.

(ii) The security is listed on the foreign jurisdiction's securities exchange that has been designated in subsection (2)(a), or by rule or order under this act, or is a security of the same issuer that is of senior or

substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

(x) Any offer or sale of a security by an issuer under section 202a.

(y) Any offer or sale of a security that meets the requirements for the federal exemption for a regulation A offering under section 3(b) of the securities act of 1933, 15 USC 77c(b), and SEC rule 251, 17 CFR 230.251, if the offer or sale meets all of the following requirements:

(i) The issuer has filed SEC form 1A with the securities and exchange commission with respect to the regulation A offering, in a manner acceptable to the securities and exchange commission, and in that filing the issuer has satisfied all of the requirements of 17 CFR 230.251 to 230.263 inclusively, including the filing of the regulation A offering circular required under 17 CFR 230.253.

(ii) At least 10 days before commencing an offering of securities in reliance on this exemption or the use of any publicly available website in connection with an offering of securities in reliance on this exemption, the issuer files a notice with the administrator, in writing or in electronic form as specified by the administrator, that contains all of the following:

(A) A notice of claim of exemption from registration, specifying that the issuer intends to conduct an offering in reliance on a regulation A exemption, accompanied by a nonrefundable filing fee of \$100.00 for filing the exemption notice. The fees paid to the administrator under this sub-subparagraph shall be used to pay the costs incurred in administering and enforcing this act.

(B) A copy of the completed SEC form 1A and all of the accompanying documents filed with the securities and exchange commission, including the final regulation A offering circular to be provided to prospective purchasers in connection with the offering. Before filing SEC form 1A with the administrator, the issuer may advertise its intent to make a regulation A offering within the state and to solicit interest from prospective purchasers under 17 CFR 230.254.

(iii) The sum of all cash and other consideration to be received for all sales of the security in reliance on this exemption does not exceed the amount set forth in subsection (b) of 17 CFR 230.251, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption.

(iv) The issuer does not accept more than \$10,000.00 from any single purchaser unless the purchaser is an accredited investor as defined

by rule 501 of SEC regulation D, 17 CFR 230.501. The issuer may rely on confirmation that the purchaser is an accredited investor from a licensed broker-dealer or another third party in making a determination that the purchaser is an accredited investor. Every fifth year, the administrator shall cumulatively adjust the \$10,000.00 limitation amount described in this subparagraph to reflect the change in the consumer price index for all urban consumers published by the federal bureau of labor statistics, rounding the dollar limitation to the nearest \$100.00.

(2) For purposes of subsection (1)(w), both of the following apply:

(a) Canada, together with its provinces and territories, is a designated foreign jurisdiction and the Toronto stock exchange, inc., is a designated securities exchange.

(b) After an administrative hearing in compliance with applicable state law, the administrator, by rule or order under this act, may revoke the designation of a securities exchange under subsection (1)(w) or this subsection if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

(3) An issuer that sells securities in this state in reliance on this exemption described in subsection (1)(y) may advertise the offering in any manner, including advertising on website platforms that may be owned and controlled by nonissuer third parties, if no commissions are paid to either employees of the issuer for the sale of the securities or to third parties that facilitate the sale of the securities, unless those third parties are licensed broker-dealers authorized to conduct transactions described in subsection (1)(y).

Sec. 202a.

(1) Except as otherwise provided in this act, an offer or sale of a security by an issuer is exempt from the requirements of sections 301 to 306 and 504 if the offer or sale meets all of the following requirements:

(a) The issuer of the security is an entity that is incorporated or organized under the laws of this state and is authorized to do business in this state.

(b) The transaction meets the requirements for the federal exemption for intrastate offerings under section 3(a)(11) of the securities act of 1933, 15 USC 77c(a)(11), and SEC rule 147, 17 CFR 230.147, including, but not limited to, the requirements for determining whether an offeree or purchaser is a resident of this state. All of the following apply concerning these requirements:

(i) Each of the following is prima facie evidence that an individual is a resident of this state:

(A) A valid operator's license, chauffeur's license, or official personal identification card issued by this state.

(B) A current Michigan voter registration.

(C) A signed affidavit as described in section 7cc(2) of the general property tax act, 1893 PA 206, MCL 211.7cc, that indicates that the purchaser owns and occupies property in this state as his or her principal residence.

(D) Any other record or documents issued by this state that establishes that the purchaser's principal residence is in this state.

(ii) The provisions of SEC rule 147, 17 CFR 230.147, apply in determining the residency of an offeree or purchaser that is a corporation, partnership, trust, or other form of business organization.

(iii) If a purchaser of a security that is exempt under this section resells that security within 9 months after the closing of the particular offering in which the purchaser obtained that security to a person that is not a resident of this state, the original investment agreement between the issuer and the purchaser is void. If an agreement to purchase, or the purchase of, a security is void under this subparagraph, the issuer may recover damages from the misrepresenting offeree or purchaser. These damages include, but are not limited to, the issuer's expenses in resolving the misrepresentation. However, damages described in this subparagraph shall not exceed the amount of the person's investment in the security.

(c) The sum of all cash and other consideration to be received for all sales of the security in reliance on this exemption does not exceed the following amounts:

(i) One million dollars, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption, if the issuer has not made available to each prospective purchaser and the administrator audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public accountant, as defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, in accordance with the statements on auditing standards of the American institute of certified public accountants or the statements on standards for accounting and review services of the American institute of certified public accountants, as applicable.

(ii) Two million dollars, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption, if the issuer has made available

to each prospective purchaser and the administrator audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public accountant, as defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, in accordance with the statements on auditing standards of the American institute of certified public accountants or the statements on standards for accounting and review services of the American institute of certified public accountants, as applicable.

(d) The issuer has not accepted more than \$10,000.00 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 CFR 230.501. The issuer may rely on confirmation that the purchaser is an accredited investor from a licensed broker-dealer or another third party in making a determination that the purchaser is an accredited investor.

(e) At least 10 days before an offer of securities is made in reliance on this exemption or the use of any publicly available website in connection with an offering of securities in reliance on this exemption, the issuer files a notice with the administrator, in writing or in electronic form as specified by the administrator, that contains all of the following:

(i) A notice of claim of exemption from registration, specifying that the issuer intends to conduct an offering in reliance on this exemption, accompanied by the filing fee specified in this section.

(ii) A copy of the disclosure statement to be provided to prospective investors in connection with the offering. The disclosure statement must contain all of the following:

(A) A description of the issuer, including its type of entity, the address and telephone number of its principal office, its formation history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer.

(B) The identity of each person that owns more than 10% of the ownership interests of any class of securities of the issuer.

(C) The identity of the executive officers, directors, and managing members of the issuer, and any other individuals who occupy similar status or perform similar functions in the name of and on behalf of the issuer, including their titles and their prior experience.

(D) The terms and conditions of the securities being offered and of any outstanding securities of the issuer, the minimum and maximum amount of securities being offered, if any, and either the percentage ownership of the issuer represented by the offered securities or the valuation of the issuer implied by the price of the offered securities.

(E) The identity of any person that the issuer has or intends to retain to assist the issuer in conducting the offering and sale of the securities, including the owner of any websites, if known, but excluding any person acting solely as an accountant or attorney and any employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this sub-subparagraph, a description of the consideration being paid to that person for that assistance.

(F) A description of any litigation or legal proceedings involving the issuer or its management.

(G) The name and address of any website that the issuer intends to use in connection with the offering, including its uniform resource locator or URL. If the issuer has not engaged a website described in this sub-subparagraph at the time the issuer files the disclosure statement described in this subparagraph with the administrator under this subdivision but subsequently does engage a website for use in connection with the offering, the issuer shall provide the information described in this sub-subparagraph to the administrator by filing a supplemental notice.

(iii) An escrow agreement with a bank or other depository institution located in this state, in which the purchaser funds will be deposited, that provides that all offering proceeds will be released to the issuer only when 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 and that all purchasers will receive a return of their subscription funds if that target offering amount is not raised by the time stated in the disclosure statement. The bank or other depository institution may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the target offering amount is reached.

(f) The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the investment company act of 1940, 15 USC 80a-3, or an entity that would be an investment company but for the exclusions provided in subsection (c) of that section, or subject to the

reporting requirements of section 13 or 15(d) of the securities exchange act of 1934, 15 USC 78m and 78o(d).

(g) The issuer informs each prospective purchaser that the securities are not registered under federal or state securities laws and that the securities are subject to limitations on transfer or resale and displays the following legend conspicuously on the cover page of the disclosure statement:

“IN MAKING AN INVESTMENT DECISION, PURCHASERS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 CFR 230.147(E), AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.”.

(h) The issuer requires each purchaser to certify in writing, and to include as part of that certification his or her signature, and his or her initials next to each paragraph of the certification, as follows:

“I understand and acknowledge that:

I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.

This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

The securities I am acquiring in this offering are illiquid, that the securities are subject to possible dilution, that there is no ready market for the sale of those securities, that it may be difficult or impossible for me to sell or

otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.

I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.

By entering into this transaction with the issuer, I am affirmatively representing myself as being a Michigan resident at the time that this contract is formed, and if this representation is subsequently shown to be false, the contract is void.

If I resell any of the securities I am acquiring in this offering to a person that is not a Michigan resident, within 9 months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.”.

(i) If the offer and sale of securities under this section is made through an internet website, all of the following requirements are met:

(i) Before any offer of an investment opportunity to residents of this state through the use of a website, the issuer provides to the website and to the administrator evidence that the issuer is organized under the laws of this state and that it is authorized to do business in this state.

(ii) The issuer obtains from each purchaser of a security under this section evidence that the purchaser is a resident of this state and, if applicable, an accredited investor.

(iii) The website operator files a written notice with the administrator that includes the website operator’s name, business address, and contact information and states that it is authorized to do business in this state and is being utilized to offer and sell securities under this exemption. Beginning 12 months after the date of the written notice, a website operator that has filed a written notice under this subparagraph shall annually notify the administrator in writing of any changes in the information provided to the administrator under this subparagraph.

(iv) The issuer and the website keep and maintain records of the offers and sales of securities made through the website and provide ready access to the records to the administrator on request. The administrator may access, inspect, and review any website described in this subdivision and its records.

(j) All payments for the purchase of securities are directed to and held by the bank or depository institution subject to the provisions of subdivision (e)(iii).

(k) Offers or sales of a security are not made through an internet website unless the website has filed the written notice required under subdivision (i)(iii) with the administrator.

(l) The issuer does not pay, directly or indirectly, any commission or remuneration to an executive officer, director, managing member, or other individual who has a similar status or performs similar functions in the name of and on behalf of the issuer for offering or selling the securities unless he or she is registered as a broker-dealer, investment adviser, or investment adviser representative under article 4. An executive officer, director, managing member, or other individual who has a similar status or performs similar functions in the name of and on behalf of the issuer is exempt from the registration requirements under article 4 if he or she does not receive, directly or indirectly, any commission or remuneration for offering or selling securities of the issuer that are exempt from registration under this section.

(m) The issuer provides a copy of the disclosure statement provided to the administrator under subdivision (e)(ii) to each prospective purchaser at the time the offer of securities is made to the prospective purchaser. In addition to the information described in subdivision (e)(ii), the disclosure statement provided to the administrator and to prospective purchasers shall include additional information material to the offering, including, where appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion must be concise and organized logically and should not present risks that could apply to any issuer or any offering.

(n) The term of the offering does not exceed 12 months after the date of the first offer.

(2) Every fifth year, the administrator shall cumulatively adjust each of the following dollar amounts to reflect the change in the consumer price index for all urban consumers published by the federal bureau of labor statistics:

(a) The dollar limitations provided in subsection (1)(c), rounding each dollar limitation to the nearest \$50,000.00.

(b) The dollar limitation provided in subsection (1)(d) and section 201(1)(y)(iv), rounding that dollar limitation to the nearest \$100.00.

(3) If the offer and sale of a security of an issuer is exempt under this section, the issuer shall provide a quarterly report to the issuer's purchasers until none of the securities issued under this section are outstanding. All of the following apply to the quarterly report described in this subsection:

(a) The issuer shall provide the report free of charge to the purchasers.

(b) An issuer may satisfy the report requirement under this subsection by making the information available on an internet website if the information is made available within 45 days after the end of each fiscal quarter and remains available until the next quarterly report is issued.

(c) The issuer shall file each report with the administrator and must provide a written copy of the report to any purchaser on request.

(d) The report must include all of the following:

(i) The compensation received by each director and executive officer of the issuer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received.

(ii) An analysis by management of the issuer of the business operations and financial condition of the issuer.

(4) The exemption provided in this section shall not be used in conjunction with any other exemption under this article, except offers and sales to controlling persons shall not count toward the limitation in subsection (1)(c).

(5) The exemption described in this section does not apply if an issuer or person that is affiliated with the issuer or offering is subject to any disqualification established by the administrator by rule or contained in rule 262 as promulgated under the securities act of 1933, 17 CFR 230.262. However, this subsection does not apply if both of the following are met:

(a) On a showing of good cause and without prejudice to any other action by the administrator, the administrator determines that it is not necessary under the circumstances that an exemption be denied.

(b) The issuer establishes that it made factual inquiry into whether any disqualification existed under this subsection but did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under this subsection. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(6) The administrator may adopt rules to implement the provisions of this section and to protect purchasers that purchase securities that are exempt from registration under this section.

(7) The administrator shall charge a nonrefundable filing fee of \$100.00 for filing an exemption notice required under subsection (1). The fees paid to the administrator under this subsection shall be used to pay the costs incurred in administering and enforcing this act.

(8) A website through which an offer or sale of securities under this section is made is not subject to the broker-dealer, investment adviser, or investment adviser representative registration requirements under article 4 if the website meets all of the following conditions:

(a) It does not offer investment advice or recommendations.

(b) It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the website.

(c) It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the website.

(d) It does not hold, manage, possess, or otherwise handle purchaser funds or securities.

(e) It does not engage in any other activities that the administrator by rule determines are inappropriate for an exemption from the registration requirements under article 4.

(9) Except for section 504, article 5 applies to a violation of this section, including a violation concerning website operation.

(10) As used in this section, “controlling person” means an officer, director, partner, or trustee, or another individual who has similar status or performs similar functions, of or for the issuer or to a person that owns 10% or more of the outstanding shares of any class or classes of securities of the issuer.

(11) The exemption described in this section may be referred to as the “Michigan invests locally exemption”.

Sec. 504.

(1) Subject to subsection (2), a rule or order under this act may require the filing of a prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising record relating to a security or investment advice addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered or required to be registered as an investment adviser under this act.

(2) This section does not apply to sales and advertising literature specified in subsection (1) relating to a federal covered security, a federal covered investment adviser, or a security or transaction exempted by section 201, 202, or 203 except as required under section 201(g) or 202(1)(x).

Sec. 510.

(1) A purchaser, seller, or recipient of investment advice may not maintain an action under section 509 if all of the following are met:

(a) The purchaser, seller, or recipient of investment advice receives in a record, before the action is commenced, an offer that does all of the following:

(i) States the respect in which liability under section 509 may have arisen and fairly advises the purchaser, seller, or recipient of investment advice of that person's rights in connection with the offer, including financial or other information necessary to correct all material misstatements or omissions in the information that was required by this act to be furnished to that person at the time of the purchase, sale, or investment advice.

(ii) If the basis for relief under this section may have been a violation of section 509(2), offers to repurchase the security for cash, payable on delivery of the security, equal to the consideration paid, and interest at 6% per year from the date of purchase, less the amount of any income received on the security, or, if the purchaser no longer owns the security, offers to pay the purchaser upon acceptance of the offer damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at 6% from the date of purchase in cash equal to the damages computed in the manner provided in this subsection.

(iii) If the basis for relief under this section may have been a violation of section 509(3), offers to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at 6% from the date of the sale, or if the purchaser no longer owns the security, offers to pay the seller upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused liability and interest at 6% from the date of the sale.

(iv) If the basis for relief under this section may have been a violation of section 509(4), and if the customer is a purchaser, offers to pay as specified in subdivision (a)(ii) or, if the customer is a seller, offers to tender or to pay as specified in subdivision (a)(iii).

(v) If the basis for relief under this section may have been a violation of section 509(5), offers to reimburse in cash the consideration paid for the advice and interest at 6% from the date of payment.

(vi) If the basis for relief under this section may have been a violation of section 509(6), offers to reimburse in cash the consideration paid for the advice and the amount of any actual damages that may have been caused by the conduct, and interest at 6% from the date of the violation causing the loss.

(vii) States that the offer must be accepted by the purchaser, seller, or recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or within a shorter period of not less than 3 days that the administrator, by order, specifies.

(b) The offeror has the present ability to pay the amount offered or to tender the security under subdivision (a).

(c) The offer under subdivision (a) is delivered to the purchaser, seller, or recipient of investment advice or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice.

(d) The purchaser, seller, or recipient of investment advice that accepts the offer under subdivision (a) in a record within the period specified under subdivision (a)(vii) is paid in accordance with the terms of the offer.

(2) If the legality or exempt status of a sale of a security made in accordance with this act is contingent on the intrastate nature of that transaction, a person's agreement to purchase, or the purchase of, that security is considered a representation that the person is a resident of this state at the time that agreement is made, and if this representation is subsequently shown to be false, the agreement for the sale of the security is void.

(3) If an agreement to purchase, or the purchase of, a security is void under subsection (2), the issuer of the security may recover damages from the misrepresenting offeree or purchaser. These damages include, but are not limited to, the issuer's expenses in resolving the misrepresentation. However, damages described in this subsection shall not exceed the amount of the person's investment in the security.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor