



Crowdfunding FAQs

What is crowdfunding?

Crowdfunding is one way in which businesses or individuals can try to raise money from the public in order to fund a business, project or purchase.

It typically takes place on a website platform, where businesses or individuals looking to raise money 'pitch' their project or idea to potential investors.

The Jersey Financial Services Commission (JFSC) is aware that individuals and businesses may wish to participate in crowdfunding activity both within Jersey and overseas.

There are a number of different types of crowdfunding:

- › **Loan-based crowdfunding** – otherwise known as 'peer-to-peer' or 'P2P' lending. This is where the public lends money in return for capital and interest repayments over time. The money may be loaned to either a business or an individual.
- › **Securities-based crowdfunding** – This is where members of the public invest directly in a business by purchasing investments such as shares or debentures.
- › **Donation-based crowdfunding** – This type of crowdfunding involves the public donating money to charitable causes or projects via a website platform. Just like any other donation, the donor does not expect to receive any direct benefit from the donation and they do not expect to receive their money back.
- › **Reward-based crowdfunding** – This is where members of the public give money to a person or business advertising on a crowdfunding platform in the expectation that they will receive a good or service at some point in the future.

Is crowdfunding regulated by the JFSC?

In most cases, the activity of **crowdfunding would not be regulated by JFSC**.

It is possible that there may be some instances where the activity of securities-based crowdfunding would be regulated by the JFSC. If you are unsure whether a crowdfunding platform is (or needs to be) regulated, you can contact the JFSC here: http://www.jerseyfsc.org/the_commission/about_us/contact_us.asp

Should I consider lending money to a person or business through a crowdfunding platform?

Lending money to a person or business through a crowdfunding platform is very different to depositing money in a bank.

Lending money directly to an individual (for example, via a crowdfunding platform), not through a bank, increases both the potential rewards and the level of risk involved. Lending money directly to one or more individuals is likely to attract higher interest rates than depositing the money in a bank, however **if the**

person who borrows the money is unable to make their repayments, this will put at risk the repayment of the original loan amount and the interest payable. Investors may lose some or all of the money they invest.

Money deposited in a bank will benefit from some safeguards. Banks in Jersey are subject to prudential requirements and regulatory oversight designed to reduce the risk and impact of a bank failure. Deposits made in registered banks in Jersey are also backed up to some extent by the Depositors Compensation Scheme (see this link for more information:

<http://www.gov.je/Industry/Finance/DepositProtection/Pages/index.aspx>).

Unlike banking, the activity of crowdfunding is not likely to be regulated by the JFSC and will not be covered by the Depositors Compensation Scheme.

Peer-to-peer lending platforms may conduct some assessment of the capacity of the borrowers to make repayments, and may take action to recover unpaid debts from borrowers. However this will not always be the case and will differ from platform to platform. Prospective lenders should therefore ensure that they fully understand what services the platform provides, and what safeguards are in place should the platform cease its operations. Peer-to-peer lending platforms located in other countries may be subject to some form of regulatory oversight, however prospective lenders will still need to carefully consider the risks arising from any loan that they make.

Prospective lenders should also be aware that there have **been some instances of investors being defrauded by crowdfunding platforms in other countries.**

Should I consider investing in a business through a crowdfunding platform?

Investing directly in any business carries risk. Investing in a business via a crowdfunding platform often carries greater risk because the investment opportunities tend to be offered by small businesses with a limited track record and where there is no market on which the shares can be traded. Although there is the potential to generate significant returns, **it is very likely that some or all of the investment will be lost.** Research suggests that 50-70% of UK business start-ups fail completely¹, and the success of those businesses that do survive will differ significantly.

Investors in a small / new company that does not have its shares listed on a stock exchange have limited information on which to make investment decisions (for example, the company may not have even started to sell its products or services yet) and may not be able to sell their shares to other people.

Can I use crowdfunding to raise money for my business?

A Jersey company can seek to raise money from the public in Jersey or elsewhere on a crowdfunding platform. Doing so would generally represent an invitation to the public to apply for securities, which would require a company to issue a prospectus that complies with the obligations in the Companies (General Provisions) (Jersey) Order 2002 ('CGPO') and mean that the company would be treated as a public company under the Companies (Jersey) Law 1991 ('Companies Law'). A public company is subject to more stringent requirements under the Companies Law, particularly in terms of reporting, accounting and governance.

Making such an offer would also require a company to obtain a COBO (Control of Borrowing (Jersey) Order 1958) consent from the JFSC and a consent under the CGPO.

Jersey companies may be able to raise money on an overseas crowdfunding platform, however they may still be subject to the relevant prospectus and Companies Law requirements noted above. They would also need to take into account any legal or regulatory obligations applying in the relevant overseas territory.

¹ <https://www.fca.org.uk/static/documents/consultation-papers/cp13-13.pdf>

This is a potentially complex area, and the JFSC would recommend that firms consider taking appropriate legal advice.

Can I borrow money via a crowdfunding platform?

A loan-based (or peer-to-peer) crowdfunding platform provides individuals with an alternative to borrowing from traditional sources such as banks. Just like borrowing money from a bank, a crowdfunding platform will typically require the borrower to enter into a formal agreement to repay the borrowed money, and may require some security to back the loan. A failure to repay the money may result in action to collect the debt and may put at risk security posted against the debt.

Borrowers should ensure that they carefully read and fully understand any loan agreement that they enter into. Lending activity is not regulated by the JFSC, although some institutions do voluntarily subscribe to a Code of Practice for Consumer Lending. The details of this Code, and the institutions that currently subscribe to the Code can be found here: [A Code of Practice for Consumer Lending](#).