

## Feature Story

## SEC Proposes Long-Awaited Crowdfunding Rule for Small Business, Startups

The Securities and Exchange Commission published a much-anticipated [proposed rule](#) establishing the legal framework for crowdfunding of small enterprises via the Internet. “In the United States, crowdfunding in its current form generally has not involved the offer of a share in any financial returns or profits that the fundraiser may expect to generate from business activities financed through crowdfunding. Such a profit or revenue-sharing model—sometimes referred to as the “equity model” of crowdfunding—could trigger the application of the federal securities laws because it likely would involve the offer and sale of a security.” Such an offering would require registration with the SEC, which is untenable for smaller enterprises seeking only to raise a small amount of capital through crowdfunding. “Limitations under existing regulations, including restrictions on general solicitation and general advertising and purchaser qualification requirements, have made private placement exemptions generally unavailable for crowdfunding transactions, which are intended to be made to a large number of potential investors and not limited to investors that meet specific qualifications.” Pursuant to the Jumpstart Our Business Startups Act (the “JOBS Act”), SEC is proposing to exempt from registration requirements entities seeking to raise less than \$1 million in a 12-month span. Additionally, crowdfunding transactions must take place through a registered intermediary. [Comments](#) are due on February 3<sup>rd</sup>, 2014.



## Opinion

- Why is the FAA usually so slow to change airline safety rules?
- Regulatory rush job deprives many of health insurance plans they liked
- Healthcare Is Turning Into An Industry Focused On Compliance, Regulation Rather Than Patient Care
- If It Looks Like a Bank, Regulate It Like a Bank

## Marketplace of Ideas

## American Action Forum

- Proposed Furnace Fan Efficiency Standards, *Dan Goldbeck*
- Regulation Review: FDA Safety Standards for Animal Food, *Dan Goldbeck*
- Week in Regulation, *Sam Batkins*

## Center for American Progress

- Despite Ample Opportunity, Conservatives Say They Haven't Had Time To Complain About New EPA Rules, *Jeff Spross*

## Center for Effective Government

- OSHA Provides New Tools For Worker

## In the News

## Congress &amp; Regulatory Reform

- [Regulator: More funding needed to enforce rules](#), *The Hill*
- [Regulation horror stories for Halloween](#), *The Hill*
- [House Dems: Delay of e-cigarette regulation hurts kids](#), *The Hill*
- [U.S. Senate Republicans Block Nomination of Mel Watt to Head FHFA](#), *Bloomberg*
- [Report predicts regulatory overlap to cost \\$474 million](#), *The Hill*

## Financial Markets &amp; Housing

- [Citi becomes latest bank to say gov'ts are looking into trading on foreign exchange markets](#), *Washington Post*
- [Jumbo home loans may grow more common if Fannie and Freddie trim their mortgage limits](#), *Washington Post*
- [Big banks undergoing greater scrutiny by government agencies](#), *Washington Post*
- [Bank regulators float liquid assets rules](#), *The Hill*
- [Senators question consumer protection bureau on auto loan regulations](#), *The Hill*
- [Banks Face Tougher Basel Capital Rules for Trading Books](#), *Bloomberg*
- [CFTC to Offer New Take on Speculation-Limits Rule Judge Rejected](#), *Bloomberg*
- [Fed Gives Banks New Dire Scenarios for 2014 Stress Tests](#), *Bloomberg*
- [Wells Fargo Said to Settle FHFA Claims for Less Than \\$1 Billion](#), *Bloomberg*
- [U.S. FSO Panel Discusses Interest-Rate Risk, Asset Management](#), *Bloomberg*



Chemical Protections, *Ronald White*

- E-Gov Spotlight: EPA's Enforcement Database Gets Updated, *Leeann Sinpatanasakul*
- Congress Continues Efforts to Thwart Climate Change Emissions Limits, *Katie Weatherford*

### Center for Progressive Reform

- Initial Comments on ACUS Project on Improving the Timeliness, Transparency, and Effectiveness of OIRA Regulatory Review, *McGarity, Shapiro, Sinden, Steinzor, Wagner & Goodwin*
- CPR Scholars: ACUS' recommendations to OIRA fall short, *Amy Sinden*

### Competitive Enterprise Institute

- Mel Watt Fails Taxpayer, Privacy, and Transparency Tests, *John Berlau*
- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*

### CropLife America

- Analysis of Cost Estimates and Additional Resources Required for Timely FIFRA/ESA Pesticide Registration Review

### Federal Regulations Advisor

- Monday Morning Regulatory Review – 11/4/13, *Leland E. Beck*

### Free State Foundation

- Why the FCC Needs to Get With the Times, Finally, *Randolph May*

### The George Washington University Regulatory Studies Center

- DOE Relies on Private Benefits to Justify \$3 Billion Energy Efficiency Rule, *Sofie E. Miller*
- EPA's Retrospective Review of Regulations: Will It Reduce Manufacturing Burdens?, *Sofie E. Miller in Engage, Vol. 14 Issue 2*

### Heritage Foundation

- EPA Increasingly Neglects States' Concerns with Regulations, *Nicolas Loris*

### The Mercatus Center

- The Perils of Excessive Discretion: The Elusive Meaning of Unfairness in Section 5 of the FTC Act, *James C. Cooper*
- Commentary: CFPB Study of Overdraft Program, *G. Michael Flores, Todd Zywicki*
- Office of Financial Research Study Titled "Asset Management and Financial Stability", *Hester Peirce, Robert Greene*

### Office of Management and Budget

- Refining Estimates of the Social Cost of Carbon, *Howard Shelanski*

[Traders Face Curbs on Speculation With CFTC Vote on New Limits](#), *Bloomberg*

[Debt collectors face new rules under proposal from Consumer Financial Protection Bureau](#), *Washington Post*

[FDIC bars bad actors from buying back assets of failed firms](#), *The Hill*  
[CFTC moves to rein in market speculation](#), *The Hill*

### Energy & Environment

[Obama asks federal agencies to 'prepare' for climate change. Here's what that means.](#), *Washington Post*

[White House revises, agrees to seek comment on 'social cost of carbon'](#), *The Hill*

[U.S. agency proposes rules to protect bluefin tuna](#), *Washington Post*

[EPA defends outreach on carbon rules amid GOP attacks](#), *The Hill*

[Obama Agrees to Open Carbon-Cost Estimate to Outside Comment](#), *Bloomberg*

[Vitter presses EPA on 'black box' carbon cost estimate](#), *The Hill*

### Health & Safety

[HealthCare.gov: How political fear was pitted against technical needs](#), *Washington Post*

[A timeline of the Affordable Care Act](#), *Washington Post*

[Sticker shock often follows cancellation notice for those with individual health care policies](#), *Washington Post*

[Obama claims 'full responsibility' for health care website fixes as security concerns surface](#), *Washington Post*

[FDA says imported spices are twice as likely to contain salmonella](#), *Washington Post*

[FDA rules would require drugmakers to notify government of potential drug shortages](#), *Washington Post*

[E-cigarette makers worry new regulations will snuff out emerging business](#), *The Hill*

[USDA adjusts mad cow rules](#), *The Hill*

[Treasury eases 'use it or lose it' healthcare rule](#), *The Hill*

[FDA pushes rules to combat drug shortages](#), *The Hill*

[FAA issues most significant overhaul of airline pilot training requirements in decades](#), *Washington Post*

[Filth taints 12 percent of imported food spices, FDA reports](#), *Washington Post*

[FDA not sold on pharmacy compounding bill](#), *The Hill*

[FDA chief: Calorie labeling rules more difficult than expected](#), *The Hill*

### Business

[Manufacturers warn regulations are piling up](#), *The Hill*

[New Transportation Department rules aim to make flying easier for disabled passengers](#), *Washington Post*

### Technology

[Amid NSA spying revelations, tech leaders call for new restraints on agency](#), *Washington Post*

[FAA to relax rules on personal electronic devices while in flight](#), *Washington Post*

[In-flight phones: International airline regulators likely to follow FAA lead on electronics](#), *Washington Post*

[Want to use an e-reader in flight? Not so fast.](#), *The Hill*

[Interim FCC chief Clyburn put focus on consumers and the poor](#), *Washington Post*

[FAA changes safety rules so airline passengers can use electronic gadgets from gate-to-gate](#), *Washington Post*



[The FCC's new chairman better be a good juggler](#), *Washington Post*  
[More Device Use on U.S. Flights to Be Allowed by End of Year](#), *Bloomberg*  
[New FCC Chairman Tom Wheeler promises to stress competition over regulation](#), *Washington Post*

## Rulemaking

### Occupational Safety and Health Administration

#### OSHA Extends Comment Deadline for Long-Delayed Rule Limiting Worker Exposure to Silica

The Occupational Safety and Health Administration is [extending](#) the comment period for its long-delayed [proposed rule](#), *Occupational Exposure to Crystalline Silica*, which would limit occupational exposure to respirable crystalline silica. Previous to publication, the proposal had been under review at the Office of Information and Regulatory Affairs (OIRA) for 922 days (since February 14, 2011). Crystalline silica has a wide variety of uses in industry (for example, the sand and gravel used in road building and concrete construction). At current exposure levels, “employees exposed to respirable crystalline silica face a significant risk to their health” which will be reduced by the proposed standards. “As shown, the proposed rule is estimated to prevent 688 fatalities and 1,585 silica-related illnesses annually once it is fully effective, and the estimated cost of the rule is \$637 million annually. Also as shown in Table SI-1, the discounted monetized benefits of the proposed rule are estimated to be \$5.3 billion annually, and the proposed rule is estimated to generate net benefits of \$4.6 billion annually. These estimates are for informational purposes only and have not been used by OSHA as the basis for its decision concerning the choice of a PEL or of other ancillary requirements for this proposed silica rule. The courts have ruled that OSHA may not use benefit-cost analysis or a criterion of maximizing net benefits as a basis for setting OSHA health standards.” Comments are now due on January 27<sup>th</sup>, 2014.

### National Credit Union Administration

#### NCUA Proposes to Conduct Stress Testing for Federally-Insured Credit Unions Bigger than \$10 Billion

The National Credit Union Administration published a [proposed rule](#) requiring federally-insured credit unions (FICUs) to prepare and submit capital plans to the NCUA annually, and proposing that NCUA conduct annual stress tests of FICUs larger than \$10 billion. “The NCUA Board (Board) has determined, to protect the National Credit Union Share Insurance Fund (NCUSIF) and the credit union system, that the largest FICUs should have systems and processes to monitor and maintain their capital adequacy. This notice of proposed rulemaking (NPRM) requires FICUs with assets of \$10 billion or more (covered credit unions) to submit capital plans annually to NCUA. The Board has also determined that stress testing of these larger FICUs would provide useful information for both NCUA and the FICUs.” Comments are due on December 31<sup>st</sup>.

### Commodity Futures Trading Commission

#### CFTC Finalizes Collateral Requirements for Swap Dealers and Major Swap Participants

The Commodity Futures Trading Commission published a [final rule](#) implementing Title VII of the Dodd-Frank Act, with requirements for the treatment of collateral by swap dealers and major swap participants. “Specifically, the final rule contained herein imposes requirements on swap dealers (“SDs”) and major swap participants (“MSPs”) with respect to the treatment of collateral posted by their counterparties to margin, guarantee, or secure uncleared swaps. Additionally, the final rule includes revisions to ensure that, for purposes of subchapter IV of chapter 7 of the Bankruptcy Code, securities held in a portfolio margining account that is a futures account or a Cleared Swaps Customer Account constitute ‘customer property’; and owners of such account constitute ‘customers.’” The Commission estimates that the final rule “will require a total of approximately 162,500 disclosures per year, generating an estimated total annual information collection burden of approximately 325,000 hours and cost of \$16,250,000.”

### Food and Drug Administration

#### FDA Proposes Rule Requiring Certain Drug Manufacturers to Notify FDA of Drug Shortages

The Food and Drug Administration is [proposing](#) to amend its regulations to implement certain drug shortage provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA). The proposed rule requires all manufacturers of certain drugs—including certain applicants of blood or blood components for transfusion—and all manufacturers of covered drugs marketed without an approved application to notify FDA of a permanent discontinuance or an



interruption in manufacturing of these drugs 6 months in advance of the permanent discontinuance or interruption in manufacturing, or as soon practicable. FDASIA also requires FDA to maintain a current list of drugs that are determined by FDA to be in shortage in the United States, and to include on that public list certain information about those shortages.

Estimated total annual costs of the interactions between industry and FDA range between \$14.9 million and \$47.6 million. Discounting over 20 years, annual quantified benefits from avoiding the purchase of alternative products, managing product shortages, and life-years gained, would range from \$27.5 million to \$86.7 million using a 3 percent discount rate. The public health benefits, mostly nonquantified, include the value of information that would assist FDA, manufacturers, health care providers, and patients in evaluating, mitigating, and preventing shortages of drugs and biological products that could otherwise result in delayed patient treatment or interruption in clinical trial development. Comments are due January 3<sup>rd</sup>, 2014.

## Agencies

### Food and Drug Administration

#### FDA Releases Risk Profile for Pathogens in Imported Spices

The Food and Drug Administration [released](#) a draft risk profile entitled “FDA Draft Risk Profile: Pathogens and Filth in Spices” to respond to recent outbreaks in the United States of human illness associated with consumption of certain spices in addition to other reports in the literature and within FDA suggesting that current pathogen control measures in spices may not adequately protect public health. “The objectives of the draft risk profile are to: (1) Describe the nature and extent of the public health risk posed by consumption of spices in the United States by identifying the most commonly occurring microbial hazards and filth in spice; (2) describe and evaluate current mitigation and control options designed to reduce the public health risk posed by consumption of contaminated spices in the United States; (3) identify potential additional mitigation and control options; and (4) identify data gaps and research needs.” The draft risk profile is intended to provide information for FDA risk managers to use in regulatory decision making related to the safety of spices in the U.S. food supply. The information may also be useful to stakeholders and interested parties such as spice producers and importers, spice and food manufacturers, retail food establishments, and consumers. Interested parties may submit comments by January 3<sup>rd</sup>, 2014.

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