

Accounting and Legal Aspects regarding the Online Romanian Crowdfunding Platforms` Operations

C. Nicolaescu, D. Tăgăduan, D. David

Cristina Nicolaescu, Diana Tăgăduan

Faculty of Economics

“Aurel Vlaicu” University of Arad, Romania

Delia David

Faculty of Economics

”Vasile Goldiș” Western University of Arad, Romania

Abstract: The present paper aims to detail the law and the accounting aspects related to the platforms of participative funding running. Even if, the crowdfunding, as a funding method, is internationally used more and more often and for a certain period of time, it represents a new concept in Romania. In principle, the crowd funding or the participative funding, as the term has been assumed in Romania, represents the funding of a project elaborated by an individual or by a legal entity, by any interested person. The operations unfold using online platforms, which connect the investors and the projects` developers, requesting a commission in exchange for this service.

Keywords: crowdfunding, online platform, accounting aspects.

Introduction

In the present article, we propose to present some case studies on crowdfunding operations. We have to note that the case studies are

hypothetical and the accounting and tax approaches of the case – studies represent the opinion of the authors of the article, given that now, in Romania, the functioning of crowdfunding is not regulated.

Research issue

The studies will analyze the impact of operations both at the level of the companies that own online crowdfunding platforms, as well as at the level of the companies that benefit from the amounts raised through this way of financing. As a result, we will not consider the situations in which the projects are of social, humanitarian nature and regard foundations, associations and other non-profit organizations.

Results and discussions

Because in Romania, in 2016 there is no legislation which specifically regulates the activity of crowdfunding, we will use below the definitions, notions and legal basis proposed by the draft law regarding the development of crowdfunding from September 2015.

After trying to specify the object of the Law (which is not very clear if it is about crowdfunding, as the title of the law says or about the functioning of the online platforms of crowdfunding) and the definition of the main terms, the project presents the features of crowdfunding. From this presentation, it follows that we are talking about direct investments made on request of project developers. In order to be treated as crowdfunding, these investments must meet certain features:

- the investors expect to make a profit from the investment of capital;
- the projects are initiated by the project developer who is a legal person;
- the funding is meant to a specific, clearly defined and limited project;
- the funding is made by one of the forms specified by the law.

The draft law further does some other clarifications regarding the conditions that must be met by a legal person to be able to obtain an online crowdfunding platform and the registration requirements of these platforms by the Authority for Financial Supervision. These requirements refer both to the company that has to prove that it is capable from the logistic and financial point of view (the minimum

capital is of 25.000 Euros) to ensure the operation of the platform, as well as the moral probity of its owners.

The draft law presents the forms by which the crowdfunding of projects can be implemented, namely:

- issue of securities (shares) or bonds (in case of joint stock companies);
- issue of debt securities, which give the investors the right to charge interest.

As a consequence, those who invest in projects financed through an online platform can either become associates/shareholders of the company that proposed the project, or creditors who apart from the sum they invested; they can also receive an interest.

It can be seen, that the draft law refers only to two of the four forms of crowdfunding which appear on international level, namely crowdlending (ie Loan-based crowdfunding) and crowdinvesting (or Equity – based crowdinvesting), without including crowddonating (namely Donation-based crowdfunding) or reward-based crowdfunding.

The draft law also limits the maximum amount collected for a project through the crowdfunding platforms at the equivalent in lei, at the exchange BNR rate of the day of posting the project, to 1 million euros.

Case study

We take into consideration the Company Platform S.A. which registers as crowdfunding platform, receiving the consent from the Authority for Financial Surveillance to operate online operations. The main services offered by the platform are:

- receiving and publishing on the platform the financing projects;
- ensuring the link between the potential investors and project proponents;
- collecting the amounts from the investors and transferring them to the final project developer, if the projected amount is raised or returning the amounts to the investors if the desired amount is not raised (the platform applies a policy of “all or nothing”, which means that only those projects for which the full amount is raised will be financed).

For these services, the platform charges a commission from the amount collected, which differs depending on the complexity of the

services it offers, being higher when funding with issue of equity securities.

In addition to these services, other services are offered against payment, such as assistance and support for making publicity to the projects etc.

S.C. Mobila S.A. is a profitable company, with a strong economic growth in recent years, which has expanded into new markets and wants to open new factories in another location. Because besides the desire to invest on a large scale, the company also intends a restructuring of the capital by coping new shareholders, one has chosen as a way of funding the crowdinvesting or Equity-based crowdinvesting. Another reason, for which the two shareholders of the company have decided to seek crowdinvesting and not to seek a small number of persons to purchase the newly issued shares, is that by co-opting a large number of shareholders, each with a small financial contribution, they will keep the control over the business.

The representatives of S.C. Mobila S.A. made the necessary analysis and concluded that a capital increase by 500,000 lei would ensure the necessary resources for expansion without the old shareholders to cede the control over their business.

The next step was to prepare the necessary documentation, which involved both accounting documents, especially financial reports from the last years, but also other information about the company that might be relevant to the potential investors. In order for these data to attract as many investors as possible for the project, they were elaborated in a more accessible and attractive form.

The representatives of the platform have checked the veracity of the data submitted by S.C. Mobila S.A. and decided to place the application for funding on the platform. Finally, the platform made the information available, regarding: general description of the business, presentation of the shareholders, managers and other decision makers within the company, presentation of the financial situation, the structure of the capital and debts etc. Considering that, the form of funding was the one of Equity – based crowdfunding, an important component of information was the description of type, class and way of registering the offered equities, as well as of the essential features and risks associated to the issuer of shares and of its guarantors, and the situation of the possible disputes. Another important category of information for this type of funding refers to the description of rights related to the issued

equities, the way of exercising them, the convertibility of the equities, as well as any limitations of these features, including the right of sale and redemption. The period of the funding campaign was set at 30 days.

Due to the prior advertising campaign made by S.C. Mobila S.A. in the real and virtual business environment, when launching the project on the platform, the potential investors already knew it, so the raise of the amount was completed within 20 days.

The general procedures for issuing the new shares and allotting them to the investors will be made by the funding platform. The commission charged by the platform for its services is of 10% from the accessed amount.

Being equity – based crowdfunding, the general operations are:

- a) At S.C. Mobila S.A.: guarantee deposit of 5%; issue of new shares; receiving the amounts; receiving the invoice issued by the platform for its services; paying the invoice;
- b) At the funding platform: receiving the guarantee; raising the amounts from the investors; transferring the amount to the developer; invoicing the services; cashing the equivalent value for the services.

Registration of the operations in the developer’s accounting

Since the amount required to finance is of 500,000 lei, the deposited guarantee will be of 25,000 lei and supposes the transfer of the amount of 25,000 lei from the account of S.C. Mobila S.A. into the account of the funding platform. Being a guarantee, it will be recognized in the accounting of S.C. Mobila S.A. as a short-term debt and will be registered in a distinct analytical of 461 account. “Various debtors”. Under these conditions, the accounting formula of the operation will be:

$$25,000 \quad 461.0x \quad = \quad 5121 \quad 25,000$$

The chosen form of funding being that of equity – based crowdfunding, it will be registered the issue of new shares in the amount of 500,000 lei:

$$500,000 \quad 456 \quad = \quad 1011 \quad 500,000$$

When cashing the amounts in the bank account, the debt towards the new shareholders will be redeemed:

500,000 5121 = 456 500,000

And at the same time, the transformation of the subscribed unpaid capital into subscribed paid-up capital:

500,000 1011 = 1012 500,000

The repayment of the guarantee deposited at the beginning of the project in sum of 25,000 lei is going to be registered:

25,000 5121 = 461.0x 25,000

For its services, the platform issues an invoice. Since the amount collected within the project was of 500,000 lei and the commission charged by the platform is of 10% of this amount, the invoice will be of 60,000 lei from which 50,000 lei the value of the services and 10,000 the VAT:

50,000 628 = 401 60,000
10,000 4426

Paying the invoice is registered in accounting like below:

60,000 401 = 5121 60,000

The registration of the operations in the accounting of the funding platform

The first operation made by P.F.P. will be cashing the guarantee of 5,000 lei deposited by the developer. As the amount does not belong to it, the platform will register the amount as a short – term debt, in a distinct analytical of 462 account “Various creditors”.

5,000 5121 = 462.0x 5,000

For conducting the operations regarding the funding project of the developer S.C. Cuptorul de Aur S.R.L., the funding platform opens a collecting account (C.C.) in a bank in Romania, where the amounts

raised from the investors within the 20 days of the funding campaign will be registered as follows:

100,000 5121C.C = 462.0x 100,000

After the whole amount is raised, it will be transferred in the account of the project developer S.C. Cuptorul de Aur S.R.L., refunding the guarantee deposited by it:

100,000 462.0x = 5121 C.C 100,000
5,000 462.0x = 5121 5,000

The funding platform invoices the services carried out towards S.C. Cuptorul de Aur S.R.L. (namely the commission of 6% applied to the drawn amounts):

7,200 4111 = 704 6,000
4427 1,200

and cashes this amount in its running account:

7,200 5121 = 4111 7,200

Cashing the amounts from the project developer representing the credit rates and the interests and their transfer towards investors depending on the deposited amounts, will generate the same type of accounting operations as cashing, namely transferring the initial amounts, when financing the project (through accounts 462.0x “various creditors” and 5121 C.C. “Bank accounts in lei”).

From the fiscal point of view, the operations carried out by the funding platform will generate taxable incomes from services, registered when invoicing, as well as VAT collected on the income.

As for the other forms of crowdfunding, namely reward-based crowdfunding and crowddonation, we suggest the following registrations.

In the case of reward-based crowdfunding, the advantage is that the developer has the market ensured for some of its products, while the financiers build an initial market with an expansion opportunity. Under

these conditions, the amounts received from the financiers (through the means of the platform) will be registered as advance from the clients:

**5121 "Bank accounts in lei" = 419 "Creditor clients"
4427 "Collected VAT"**

From this registration we can see that a disadvantage of the method is VAT collection, when cashing the amount of money, as the Tax Code provides (art. 282, paragraph 2, letter b), but VAT being a temporary debt to the state budget, meaning either a reduction of the amounts which remain available for the project developer or requesting a higher amount, including also VAT, encumbering the funding process.

After carrying on the production flow, final products are obtained and these are delivered and financed to the financiers, who are beneficiaries of the products:

**4111 "Clients" = 701 "Income from selling final products "
4427 "collected VAT"**

Simultaneously, the advance and the VAT are regularized.

**419 "Creditor clients" = 4111 "Clients"
4427 "Collected VAT"** due to the
advance in red (with minus)

When funding through crowd donation, when the amounts collected are transferred by the platform in the account of the project proponent, the income from donations are recognized.

**5121 "Bank accounts in lei" = 7582 "Income from the
received donations "**

From the taxation point of view, the income from donations will be chargeable if the recipient is a company, so it has a profit-making activity.

Conclusions

From the presentation of the features of crowdfunding, which is intended to be the equivalent of the crowdfunding operations in Romania, it follows that the online funding platforms existing nowadays in Romania (Crestemidei.ro, Kazuu.ro, Multifinantare.ro, PotSiEu.ro, We-are-here.ro, etc.), the majority of which are non-profit organizations and mainly support social and/or humanitarian projects, and the beneficiaries of the mounts are natural persons, do not fall into this category.

Another conclusion is that the actual draft law regarding the crowdfunding is far too restrictive, as imposing drastic conditions both to the companies that will fund the online funding platforms, as well as to the possible developers, project proponents. Taking into consideration that this form of funding is worldwide seen as an easier and cheaper funding method, the way in which the legislation of this activity will not be incentive at all for the companies interested in it.

Bibliography

- Agrawal, A., Catalini, C., Goldfarb, A. (2010). The geography of crowdfunding, *SSRN Electronic Journal*
- Belleflamme, P., Lambert, Th., Schwienbacher, A. (2013). Crowdfunding: Tapping the Right Crowd, *Journal of Business Venturing*, vol. 29, Issues 5, July, p. 585-609
- Burtch, Ghose, A., Wattal, S. (2011). An empirical examination of the antecedents and consequences of investment patterns in crowd-funded markets, *SSRN Electronic Journal*
- Dietrich, A., Amrein, S. (2016). *Crowdfunding Monitoring Switzerland*
- Howe, J. (2006). The Rise of Crowdsourcing, *Wired Magazine*, Issue 14.06 retrived from <https://www.wired.com/2006/06/crowds/>
- Kaltenbeck, J. (2011). *Crowdfunding und Social Payments*, Berlin: Verlag epubli GMBH, ISBN: 9783844204384
- Mollick, E. R. (2014). The Dynamics of Crowdfunding: An Exploratory Study, *Journal of Business Venturing*, vol. 29, Issues 1, January 2014, p. 1-14
- Mollick, E. R (2013). *Swept Away by the Crowd? Crowdfunding, Venture Capital, and the Selection of Entrepreneurs*, <https://ssrn.com/abstract=2239204>
- Schwienbacher, A., Larralde, B. (2010). Crowdfunding of small antrepreneurial ventures, *SSRN Electronic Journal*

Uniunea Europeană (2015). *Ghid privind finanțarea participativă*

***** Proiect privind *Legea pentru dezvoltarea finanțărilor participativă (crowdfunding)* (2015)

***** OMFP 1802 / 2014 *pentru aprobarea Reglementărilor contabile privind situațiile financiare anuale individuale și situațiile financiare anuale consolidate*

***** *Legea nr. 227/2015 privind Codul fiscal actualizată*