



# GUIDELINES TO INVESTMENT - BASED CROWDFUNDING

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## **GUIDELINES ON INVESTMENT CROWDFUNDING: REGULATION OF CVM IN THE PRACTICE.**

On July 13, 2007, the Brazilian Securities and Exchange Commission (CVM) published CVM Instruction 588 (“Instruction 588” or “IN588”), which regulates investment-based crowdfunding through digital platforms (also known as investment crowdfunding)[1]. This is great news for small and medium-sized businesses, as they have started to have an innovative financing alternative.

In order to promote business in this new important sector, Baptista Luz Advogados has set out to produce summarized guidelines for entrepreneurs wishing to create an investment crowdfunding platform, as well as for those wishing to capture or invest through it. In the links below, we briefly outline the requirements, obligations and rights of each of these participants. Click here for more information:

- [“I wish to be a crowdfunding platform”](#);
- [“I wish to capture funds via crowdfunding”](#); or
- [“I wish to invest via crowdfunding”](#).

### **Baptista Luz’s Contributions**

During the public consultation that the CVM conducted in order to reach the final wording of Instruction 588, Baptista Luz Advogados suggested a number of modifications and improvements, many of which were incorporated into the final version of Instruction 588. Some of these innovations which favor the entrepreneurial environment will also be pointed out as



we go on with the script. Among our various suggestions incorporated by the CVM, we underline the following:

- Changes in the provision defining the calculation of the gross annual revenue of the collecting company considering the legal entity that controls it. With the changes Baptista Luz suggested there is a lot more legal certainty concerning which small-sized companies may or may not use investment crowdfunding, excluding the mention of affiliates and the delimitation of the fiscal year for purposes of calculation, for instance;
- The possibility of offering shares of limited companies without exerting pressure on the company to become a stock company in order to receive investors, which helps prevent the company from disqualifying as Simples-regime taxed besides the high ordinary costs in a joint stock company; and
- If the company is not successful in attracting resources (the campaign does not reach the target value of funding), it will not be prohibited from initiating a new campaign soon thereafter. As previously stated, such companies would be prevented from making a new offer for 120 days, which would affect them unnecessarily and negatively, especially due to the exposure of their ideas and projects to third parties.

### **Stay tuned**

In the coming months, Baptista Luz Advogados will produce events looking to clarify all the points of the regulations in force as well as their impact on the market.

We remain at your disposal to clarify any doubts regarding the matter.

[1] In investment crowdfunding, investors expect some type of partnership, compensation or participation in the company, as in its corporate structure or profits, issuing a security to instrumentalize the offer. Thus, Instruction 588 does not apply to other types of alternative financing (crowdfunding of donations or in exchange of gifts, rewards, goods or services) or “pure” peer-to-peer loans (not involving partnership, compensation or participation, that is, without issuing securities) via Fintechs already existing today (according to articles 1º, § 2º and 2º, § 1º of IN588).