



LEGAL ISSUES IN CROWDFUNDING AROUND THE WORLD AND IN VIETNAM

1. What is Crowdfunding?

According to the definition from the Wikipedia website, Crowdfunding is a collective fundraising method in which individuals contribute their money, typically through the Internet, to support projects or initiatives initiated by others or different organizations. In short, Crowdfunding is a form of mobilizing resources from the crowd and providing financial support. The entire amount of funds contributed will be transferred to the owner of the crowdfunding project. When the fundraising is successful, the funds will be used to complete the project and develop the company. In the case of an unsuccessful fundraising, the contributed funds will be refunded to each individual investor.

Around the world, countries often implement regulations on crowdfunding to protect investors from potential risks. However, the scope and application of these regulations may vary between countries. The regulations usually focus on:

Registration requirements: Different financial systems have various requirements for project registration and the founders on crowdfunding platforms. These registration requirements aim to ensure that projects are closely monitored and comply with legal regulations.

Financial reporting: Some countries require founders to provide detailed financial information and a plan for fund usage to give investors a clear understanding of the project.

Limitations on the number of investors and investment amount: Some countries impose restrictions on the number of investors allowed to participate and the maximum amount each investor can invest in a crowdfunding project. This helps limit risks for individual investors and reduces the risk of significant losses for each person.

Currently, businesses often raise funds on crowdfunding platforms or community fundraising websites. Notable examples include Kickstarter and Indiegogo.

2. The crowdfunding via indiegogo for the Superstrata project

As mentioned, the crowdfunding campaign by Ms. Le Diep Kieu Trang and her husband took place in the United States through the platform Indiegogo. So, how does Indiegogo operate? Based on the information compiled by ATA from this website, Indiegogo is a US-based crowdfunding platform founded in 2008 by Danae Ringelmann, Slava Rubin, and Eric Schell. The company's headquarters is located in San Francisco, California. Indiegogo was one of the first websites to provide a crowdfunding platform. It allows people to fundraise for an idea, charitable cause, or newly established business¹. Indiegogo charges a 5% fee on contributions.

The typical method of contribution and receiving rewards (rewards-based model, where investors receive corresponding rewards based on their contributions) is a widely applied approach on Indiegogo, and it is the same method used by Mr. Sonny Vu and Ms. Kieu Trang to raise funds for the Superstrata bike project. Specifically, for the Superstrata project, with each contribution, the sponsor's reward was a Superstrata E bike with full accessories, including a 2-year warranty, and the expected delivery date was July 2021.

However, this project faced considerable criticism on the Indiegogo website regarding the failure of sponsors to receive bikes and the lack of response from the project founders when contacted by sponsors². Many people wonder whether they have the right to get their money back if the project fails to deliver the bikes on time or if it is not successful.

Regarding Indiegogo's responsibility, the website's policy posted on their website clearly states that users need to understand

that funding a project and receiving "perks" is different from online shopping³, and Indiegogo does not guarantee that these perks will be delivered to sponsors. This responsibility entirely lies with the project founders and fundraisers⁴. Indiegogo also cannot refund the funded amount to sponsors once it has been transferred to the project owner. At this point, the issue of refunds solely rests with the project owner. This is a common model for projects on the Indiegogo platform and some other similar websites.

Regarding the responsibility of the Superstrata project and Mr. Sonny Vu as the project owner, Ms. Le Diep Kieu Trang as the related person, and project manager, we have found on the Indiegogo website and the project's websites that apart from updating information about the project, delivery issues, and product quality, there were no official statements from individuals or legal entities related to the project about refunding the money in case of project failure or compensating sponsors who did not receive the expected rewards. The only response from Averro was an email acknowledging that sponsors had placed an "Order" and the "Order" had been accepted, and the contribution amount on Indiegogo would be counted towards payment for this order.

In response to Bao Thanh Nien⁵, Ms. Le Diep Kieu Trang affirmed that the contributions made by individuals on Indiegogo were purely sponsorship with the benefit of receiving the bike as a product of the project. She also stated that the Averro team was working hard to complete the delivery of the final bikes to the sponsors. Ms. Trang further explained that the project was subject to

¹ [Learn About Indiegogo | Indiegogo](#)

² Information about the Superstrata Bike project on the Indiegogo website:
<https://www.indiegogo.com/projects/superstrata-bike/>

³ Quoting Indiegogo's Refund Policy: "It is important to understand that backing a campaign and claiming a perk are not the same as buying an item online".

⁴ <https://www.indiegogo.com/about/terms#/indiegogosrole>

⁵ <https://thanhnien.vn/chien-dich-goi-von-xe-dap-superstrata-nhap-nhang-tai-tro-hay-mua-ban-185230705121401987.htm>

constraints from other investors, so they could not disclose specific information to sponsors and the community. The responsibility of Ms. Trang, Mr. Sonny Vu, and the project towards individual investors on Indiegogo is limited to the words "regret" and "apology."

As far as we know, apart from continuing to voice complaints and grievances regarding the Superstrata project and Mr. Sonny Vu as the project owner, individual contributors through Indiegogo do not have any other means of resolution to protect their rights.

3. Reevaluating the risks of crowdfunding: The case of Superstrata project

As legal experts, we have noticed that crowdfunding, such as the Superstrata project by Mr. Sonny Vu and Ms. Le Diep Kieu Trang, inherently carries several risks, as follows:

3.1. Lack of investor protection mechanisms when projects fail or owners fail to fulfill commitments

Indeed, except for Indiegogo and other crowdfunding platforms with their terms, conditions, and statements for investors participating in projects on their websites, information about the projects and project owners mainly flows in a one-way direction, actively controlled by the project owners. Between investors and project owners or businesses formed from the projects, there are rarely any formal commitments or agreements regarding the rights and obligations of the parties concerning the use of funds, the owner's responsibility when misusing funds or in cases of project non-completion or failure not due to force majeure. Investors only have access to project blueprints created by the project owners and bear complete responsibility for their funding decisions without any guarantees from any source about whether the funds have been used for the intended purposes or any mechanism to secure their rights concerning the owner's commitments. Indiegogo or other intermediary platforms also lack mechanisms to assist investors in communicating and working with project owners beyond reviewing the qualifications of these organizations or individuals in continuing to raise funds on their websites.

In the case of Superstrata, investors could only wait to receive the promised rewards, which were the research and production objects of the project—bicycles. However, we have learned that many investors have not received the bicycles and are dissatisfied with the bikes they received even after the project

had declared its termination. Currently, there are no mechanisms to protect their rights.

3.2. Lack of assurance in providing sufficient and accurate project information from the project owners

Monitoring the Superstrata project, we have found that there was almost no information provided concerning the financial status and management activities of Averro - the entity responsible for implementing and managing the project.

After the project was suspended, Ms. Kieu Trang responded to interviews with <https://thanhnien.vn> stating that she and Mr. Sonny Vu were bound by other investors, preventing them from disclosing information to the public. Clearly, there are no mechanisms to protect the right to request or access information from investors on Indiegogo.

3.3. Insufficient evaluation or warning of project failure possibilities

The possibility of project failure is a matter that investors need to be aware of to plan their cash flow and activities. Similar to Superstrata, many startup projects fail, such as The Kafe and Wefit in Vietnam, or Pets.com and Theranos in the world. The reasons for these failures often include unforeseen difficulties arising during project implementation, such as competition, market changes, or legal risks. Moreover, most crowdfunding projects are startups, and project owners may be skilled in their profession, energetic, and good communicators, but not necessarily experienced or capable enough in project management and operational activities. In reality, most failed projects are due to project owners' inability to fulfill their role in project management and cash flow.

Certainly, investors must evaluate and take responsibility for their funding decisions. However, the issue lies in whether they

genuinely have the means or ability to evaluate, and whether project owners or intermediary platforms emphasize or highlight these possibilities to investors before officially transferring their funds.

3.4. Lack of oversight from regulatory authorities

Almost all community-funded projects are carried out through intermediary websites or the websites of the project founders themselves. Information transmitted through these websites is mostly one-sided, provided

and managed solely by the project owners without supervision, monitoring, or inspection by any regulatory authorities.

Additionally, according to our understanding at ATA Legal Services, there are currently no effective mechanisms or clear protections in place worldwide to safeguard the rights and interests of contributors under crowdfunding schemes, as well as other related parties. Any arising issues are resolved through voluntary, self-established, and self-accountable mechanisms.

4. Warning about some "alleged" crowdfunding models in Vietnam

In Vietnam, there are currently many organizations and individuals who raise funds with models similar or nearly similar to Arevo's approach, under the guise of crowdfunding, to implement projects and promise to establish companies, issue shares, list shares, and make investors shareholders who benefit from trading shares on the stock exchange. These projects attract a large number of investors, mostly individuals, sometimes reaching thousands of people, and raise funds up to hundreds of billions of Vietnamese dong. Investors are invited to participate in workshops introducing product visions, projects, wealth-building possibilities, and the prospect of becoming owners of companies with shares listed on the stock exchange. However, most funding is done as a form of sponsorship, transferring money to individuals' accounts, and beyond receiving a receipt specifying the "sponsored" amount, there are no agreements or commitments regarding the project owner's responsibilities in using the funds for the project or recognizing investors' rights to purchase shares of the project's company, as well as the responsibilities in case of project failure.

This model carries even greater risks compared to funding through Indiegogo. At

least, when using Indiegogo or reputable intermediary platforms, projects have undergone initial assessments and must meet criteria regarding credibility, experience, and capacity set by the intermediary platforms. Meanwhile, with the Vietnam model, no entity is involved in evaluating or ensuring the initial steps of the project or the information provided by the project.

Moreover, there are currently no direct legal regulations in Vietnam governing the issue of "crowdfunding." Therefore, the mentioned projects are evidently not registered, recognized, or managed by any competent authority or intermediary unit. If the projects run smoothly, and the project owners keep their commitments, it is good for the investors (ATA Legal Services will provide a separate evaluation on the ability to fulfill commitments of such projects in a future specialized article). However, if the opposite situation occurs, Vietnamese law has not established any mechanisms to protect the investors. Only when the project owner shows signs of committing crimes and relevant authorities intervene will the investors and funders know and partially understand the risks they may encounter.

5. Recommendations for considerations and precautions before investing in crowdfunding or its variants

As analyzed above, crowdfunding, despite being a promising funding method, still carries significant risks. Therefore, investors should exercise utmost caution and careful consideration before engaging in this investment model.

ATA recommends that investors planning to participate in such crowdfunding projects should take the following measures before making any financial commitment or entering into related transactions:

5.1. Research and understand rights and risks involved in the investment

a. Conduct thorough research on the project owner and the specific project through reliable sources, such as:

+ Project owner: Gather information on their background, qualifications, experience, and relevant achievements. Have they worked in similar projects before, and does their expertise align with the current project? What evaluations or assessments have experts made about the project owner?

+ Project: Investigate the project's name, objectives, form, scale, funding sources, sponsorship, and financial projections. What are the anticipated products or outcomes? How have experts assessed its likelihood of success?

b. Gain a clear understanding of the rights and risks associated with participating in the project:

What are the benefits investors will receive upon participation? What are the conditions and procedures for obtaining these benefits? In case the promised benefits are not fulfilled, what rights and obligations do investors have?

5.2. Request written commitments from the project owner regarding project responsibilities and investor rights

If investing through intermediary crowdfunding platforms, request these platforms to compel project owners to provide additional written commitments as mandatory project information.

In some cases, if the project highlights significant investments or sponsorships from reputable banks, it may be possible to seek guarantees or confirmations from these investors or banks regarding the information provided.

5.3. Ensure clarity and authentication of information sources


Information from reliable sources usually includes data publicly disclosed by regulatory agencies, reputable media outlets, or certifications and confirmations with signatures and seals from authorized state agencies.

However, this does not exclude the possibility of counterfeiting documents or data. It is advisable to cross-check and verify information from the mentioned trustworthy sources.

5.4. Recognize and balance the risks with personal risk appetite to avoid impact on life and work

As funding for a start-up project always involves risks, investors must acknowledge and be fully aware of the potential risks, including the highest risk of losing the entire invested capital without receiving any committed benefits or expected returns. Consequently, investors should carefully assess their financial capabilities and allocate funds so that, in any scenario, even in the event of the highest risk realization, it will not adversely affect their daily life and occupation.

5.5. Seek legal or financial consultation from experienced professionals to minimize legal and financial risks



While legal experts or financial advisors cannot guarantee wealth accumulation or eliminate all investment risks, they can provide valuable analysis, assessments, advice, and recommendations. This enables investors to proactively face and manage

risks to the best extent possible and can prevent them from falling into a state of bankruptcy, which could affect every aspect of their lives (financially, mentally, and physically).

ABOUT US

ATA Global Legal Limited Company (**ATA Legal Services**) is established and operated by acknowledged and experienced lawyers. Our operational goal is to become a law firm providing flexible and comprehensive legal services to both organizations and individuals, and both local and international clients. Of which, one of our core service is in-depth corporate consultancy.

All partners, lawyers, advisors, consultants, and even paralegals of ATA Legal Services are well-trained and have years of experience in the areas they are in charge of. In particular, the partners of ATA Legal Services have all consulted for and worked with renowned economic groups, banks or securities companies such as Vingroup, FLC, DNP, Tasco, Techcombank, SHB, SHS, VPS, etc.

With a serious and professional working attitude along with the dedication of the team always trying to put ourselves in the position of clients to understand their needs and aspirations, we are committed to bringing the most effective and appropriate services for Valued Clients.

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