

Executive summary of legal issues facilitating and inhibiting the application of local crowdfunding of mitigation measure in agriculture



Source: Colourbox

Objectives

- Explore legal issues that may facilitate or inhibit the application of a crowdfunding approach to Norway.
- Relevant legal aspects for the design of a locally successful crowdfunded climate program in Norway.

This will be based on the design specificities of the COOCROWD project. Therefore, not all aspects of crowdfunding will be covered.

The main objective of the full report is to identify what is legally possible to achieve through the four crowdfunding models, as well as in terms of emission reductions accounting involving agriculture and transport. The following summary addresses a short review of the legal regulations.

Review of the four models for crowdfunding

Donation-based crowdfunding model

- Donation-based crowdfunding is already taken place in Norway.
- The legal basis is clear and it can be easily implemented, based on donation and gift aid.
- Several platforms already existing.
- According to the type of actors involved, it may give right to tax exemption for the investors.

Reward-based crowdfunding

- The legal basis is the same than for donation.
- However the nature of the reward is extremely important and can limit the operations. For example, would the farmers offer food as reward, food health, product liability and customer protection legislation will apply.
- It is recommended to clarify which products could be offered as rewards.
- Similarly, several platforms already exist.

Lending-based crowdfunding

- Still subject to traditional framework (banking-like services).
- Legal basis: finansforetaksloven
- Not necessary subject to licensing requirement, but notification to the Financial Authority (Finanstilsynet) (finansforetaksloven §2-18).

- The type of investors has to be clearly identified as they may also be subject to concession requirements. However, it is not expected that the investors in COOLCROWD will fall under the highest category of professional actors, but will remain individuals. Therefore, empatiens can be applied («i enkeltstående tilfeller», jf. finansforetaksloven § 2-1 annet ledd tredje ledd bokstav f).
- Depending on the nature of the operations of the platform, the platform may be qualified as «betalingsforetak», with associated requirements.

Equity-based crowdfunding

- Still subject to traditional framework (financial instruments).
- Legal basis: Verdipapirhandelloven. Will require a concession under this act (verdipapirforetakskonsesjon), since the platform will offer and receive products similar to financial instruments.
- However, it is possible to get an exemption. See Finanstilsynet, Rundskriv 10/2017, Lånebasert folkefinansiering (crowdfunding) – en veiledning om låneformidling, 04.12.2017

Review of the legislation applicable to emission accounting for agriculture and transport

- There is per today no legal obligation for the reporting of personal emissions for investors.
- Emissions from agriculture and transport (aviation) can be accounted and reported, but there is no legally binding obligation to reduce them under Norwegian law. Voluntary approach.
- Under the Climate Act, the government is responsible for taking the appropriate measures.
- Municipalities could be an interesting actor for farmers, where innovative municipalities could develop dedicated schemes for farmers and emissions within their territory.
- It is important for the rest of the project to identify the type of measures that farmers would be eager to get financed (list of favoured measures).