



Forming a social enterprise: Step 1 – Where should I register?



1. Financial Conduct Authority or Department of Enterprise, Trade and Investment NI

- Societies registered under the Co-operative & Community Benefit Societies Act (CCBS Act) or under the Industrial & Provident Societies (NI) Act.

The [FCA](#) must be satisfied that that you meet the requirements to be a 'co-operative', or a 'community benefit society' as set out in the [CCBS Act](#) In Northern Ireland, you are registered under [the Industrial and Provident Societies Act \(Northern Ireland\) 1969](#) by [the Registry of Credit Unions and Industrial & Provident Societies](#). Community Benefit Societies may also be charitable.

2. Community Interest Company Regulator

- Community Interest Companies limited by shares or guarantee.

Community Interest Companies may be private companies limited by shares or guarantee, or public companies. To qualify for registration, you must satisfy the [Community Interest Company Regulator](#) ('CICR') that your activities will be carried on for the benefit of the community (the 'community interest test'). You must also register with [Companies House](#).

3. Companies House

- Charitable companies.
- All public or private companies limited by shares or guarantee.

As a company, you can take one of three forms: a public company (which is limited by shares); a private company limited by shares and a private company limited by guarantee. You must register at [Companies House](#).

4. Charity Commission, Office of the Scottish Charity Regulator, or Charity Commission for Northern Ireland

- Charitable companies (dependent on jurisdiction).

A charity which proposes to be either a company or a community benefit society, a Charitable Incorporated Organisation ('CIO') or a Scottish Charitable Incorporated Organisation ('SCIO') must register with the appropriate authority to establish a corporate vehicle. Subject to the exceptions available in England & Wales, all charities must also register with their national charity regulator: the Charity Commission (England & Wales) (which also registers 'CIOs'), the Office of the Scottish Charity Regulator (which also registers 'SCIOs') or the Charity Commission for Northern Ireland.

In England & Wales, community benefit societies cannot also register with the Charity Commission.

Forming a social enterprise: Step 2 – How can I raise capital?

1. Shares and bonds

- Societies registered under the Co-operative & Community Benefit Societies Act.
- Public companies limited by shares.
- Public community interest companies limited by shares.

Co-operative and Community Benefit Societies can issue bonds and withdrawable shares. On acquiring a share, a person becomes a member who must apply to the society if they want to cash them in. Societies must specify how much notice of withdrawal they must receive, and under what condition they can withhold repayment or write down the value of shares. In some circumstances, societies can also issue transferable shares, which can be transferred between buyers and sellers with the society's consent.

All forms of public companies can issue shares and bonds but they are bound by the terms of their memorandum of association. In certain circumstances, and if the total offer is more than €5 million, they may need to abide by the [Prospectus Rules](#).

Public Community Interest Companies Limited by shares can issue shares and bonds but a minimum of 65% of any profit must be reinvested back into the company or used for the community which the company was set up to serve.

2. Bonds only

- Private companies limited by guarantee.
- Private community interest companies limited by guarantee.
- Charitable companies.

Private Companies and Community Interest Companies that are limited by guarantee have no share capital. They often raise funds through grants or donations because they are not allowed to market their securities to the public.

Charities are often funded by grants and donations. However, some charities have the power to issue debt instruments.

Forming a social enterprise: Step 3 – How can I reach retail investors?

1. Crowdfunding

- Sales to retail investors permitted if certification test is met.
- Promotion restrictions and disclosure rules apply.
- Investors may access Ombudsman and FSCS protection against the platform.

You can market your shares or bonds through a crowdfunding platform. In this case, the platform acts as the FCA-authorized firm that approves your invitation to people to invest (the financial promotion).

The platform must follow the rules in our [Conduct of Business Sourcebook](#). These rules include requirements for all communications to be fair, clear and not misleading and firms may only sell securities that are not readily realizable to retail investors if they certify that they:

- are high net worth, or
- are sophisticated, or
- have received advice from a firm authorised by the FCA, or
- will not invest more than 10% of their net investable assets in these types of security.

Where no advice is provided, the crowdfunding platform is also responsible for checking that the investor has the necessary knowledge or experience to understand the risks involved in investing in your securities, as set out in our [Conduct of Business Sourcebook Section 10](#).

These rules do not apply if the shares are withdrawable shares issued by a co-operative or community benefit society. The financial promotion rules also do not apply to debt securities bought directly from these enterprises.

Among the criteria such clients must meet are having an annual income of £100,000 or more or having net investable assets of £250,000 or more.

These are retail clients with extensive investment experience and knowledge, who are better able to understand the risks of complex and unusual investments.

2. Directly

- The financial promotion rules apply unless an exemption is available (an exemption is available to societies registered under the Co-operative and Community Benefit Societies Act that promote their own securities).
- Investors don't usually have access to Ombudsman or PSCS protection.

One way to attract retail investors is to market products by issuing a 'financial promotion'. This is an invitation to one or more people to invest. Unless exemptions apply to the promotion (if you are a co-operative or a community benefit society issuing withdrawable shares or debt securities), it must be approved by an authorised firm.

The promotion must meet the requirements of our [Conduct of Business Sourcebook Chapter 4](#); for example, it must be clear, fair, and not misleading. Once your financial promotion has been approved, you can issue your securities to investors without being subject to other FCA rules.

3. Financial adviser

- All sales to retail investors permitted.
- Adviser must follow FCA suitability rules.
- Investors may access Ombudsman and FSCS protection against the advising firm.

Before advising investors to invest in unregulated collective investment schemes that invest in social enterprises or in securities from social enterprises, financial advisers must meet European rules set out in the Markets in Financial Instruments Directive ('MIFID') and implemented in [FCA COBS 9](#), and perform a 'suitability test'.

This means they must assess the investor's financial position, their investment objectives (including how long the investor wishes to hold the investment and what they wish to achieve) and their appetite for risk.

4. EuSEF fund

- All investors must commit to a minimum of £100,000.
- Investors must provide written confirmation that they understand the risks.

European Social Entrepreneurship Fund ('EuSEF') are a type of investment fund created by European legislation. EuSEFs have to invest up to 70% of their capital in European social businesses.

The legislation allows asset managers to market their funds across Europe and makes it easy for investors to identify investment funds that have a social purpose.

5. Private companies

- Private companies are prohibited by S.755 of the Companies Act 2006 from issuing securities to the public.