

European crowdfunding service providers (ECSP) for business

2018/0048(COD) - 08/03/2018 - Legislative proposal

PURPOSE: to establish common rules at Union level on crowdfunding.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

BACKGROUND: crowdfunding has emerged as an **established practice of funding a project** or a venture, typically by a large number of people or organisations, through **online platforms** on which citizens, organisations and businesses, including business start-ups, raise relatively small amounts of money. Crowdfunding can thus provide **an alternative to unsecured bank lending**, which are currently the main sources of external finance for SMEs.

The provision of crowdfunding services generally relies on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments, and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform.

Several Member States have already introduced **domestic bespoke regimes** on crowdfunding.

Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the **national rules diverge** as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.

The differences between the existing national rules are such as to **obstruct the cross border provision of crowdfunding services**. It is therefore necessary to address the existing obstacles to the proper functioning of the internal market in crowdfunding services.

This initiative is part of the Commission's priority of establishing a [Capital Market Union](#) (CMU), which aims to broaden access to finance for innovative companies, start-ups and other unlisted firms.

IMPACT ASSESSMENT: the impact assessment concluded that EU crowdfunding markets for business finance are largely underdeveloped compared to other major economies but - and most importantly - unable to properly operate cross-border.

Amongst the options studied, the preferred option consists of introducing an **EU-label** for crowdfunding service providers, which would be authorised and supervised at EU level under an EU regime.

CONTENT: the Commission's proposal introduces an **optional EU scheme** that allows crowdfunding platforms to easily deliver their services across the EU single market. It establishes a **one-stop-shop** access to the EU market and therefore helps crowdfunding platforms in overcoming the barriers they face operating cross-border.

The proposal does not intend to interfere with national bespoke regimes or existing licenses, including those under the Markets in Financial Instruments Directive ([MiFID II](#)), the Payment Services Directive

([PSD](#)) and the Alternative Investment Fund Managers Directive ([AIFMD](#)), but rather to provide crowdfunding service providers with the possibility to apply for an EU label that empowers them to scale up their operations throughout the Union under certain conditions.

Scope: the proposal applies to crowdfunding services involving financial remuneration for investors. Donation and reward-based crowdfunding are excluded from the scope of this initiative, as they cannot be considered financial services. The proposal does not include in its scope consumers lending for consumption purposes.

Effective and prudent management: crowdfunding service providers must at all times comply with the organisational requirements, while natural persons having the power to manage a crowdfunding service provider should have **appropriate skills and professional experience**. A crowdfunding service provider must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of its clients.

Authorisation and monitoring: the proposal provides **uniform, proportionate and directly applicable requirements** for authorisation and a single point of supervision. Crowdfunding service providers will provide their services under the supervision of the European Securities and Markets Authority (ESMA).

Investor protection and transparency: the proposal also aims to provide investors with the necessary information on crowdfunding, including the underlying risks. Accordingly, all information, including marketing communications, from crowdfunding service providers to clients must be complete, clear and correct. The proposal sets out **an initial assessment of the appropriateness of a potential client** and provides that platforms shall offer investors the possibility to simulate their ability to bear losses.

The proposed regulation also provides for adequate safeguards to minimize the risk of money laundering and terrorist financing.

BUDGETARY IMPLICATIONS: the preferred option holds implications in terms of costs and administrative burden for ESMA.

Assuming that ESMA will be in charge of authorising and supervising 25 providers in the first full year of implementation (2020), there will be a cost impact (net of fees charged on the industry) of approximately **EUR 1 637 000** in that year. This estimate also includes half of EUR 500 000 in one-off costs to be split over the first two years, used to setup the necessary IT systems.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.