



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Regulation (EU) 2020/1503 on European crowdfunding service providers for business

Questions and Answers

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Crowdfunding Regulations

Questions and Answers

These Questions and Answers are aimed at industry seeking information and guidance in relation to the implementation of Regulation (EU) 2020/1503 on European crowdfunding service providers for business.

This will be posted on the Central Bank of Ireland website and will be updated as required. Check the Central Bank website from time to time in relation to any matter of importance to you to see if the position on a query may have altered. The Central Bank reserves the right to alter its approach to any matter covered in this Question & Answers at any time.

In this document:

'The Regulation' refers to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937.

This Questions and Answers document has no legal status. Interested parties should consult their legal advisers concerning any matter of legal interpretation of the Crowdfunding Regulations and/or the Regulation. In addition, the European Securities and Markets Authority (ESMA) publishes Q&As from time to time on the Regulation which are available on the ESMA website at www.esma.europa.eu.

1. Who is the National Competent Authority in Ireland in respect of the Regulation?

The Central Bank of Ireland is appointed the competent authority in Ireland for the authorisation and supervision of crowdfunding service providers under Regulation 3 of the European Union (Crowdfunding) Regulations 2021 (S.I. No. 702 of 2021).

2. What are ‘admitted instruments for Crowdfunding Purposes’, and are they permissible under Irish law?

Article 2(1)(n) of the Regulation defines ‘Admitted instruments for crowdfunding purposes’ as meaning “in respect of each Member State, shares of a private limited liability company that are not subject to restrictions that would effectively prevent them from being transferred, including restrictions to the way in which those shares are offered or advertised to the public”.

Whether a share in a legal person established under Irish company law could qualify as an ‘admitted instrument for crowdfunding purposes’ is a question to be determined on a case by case basis, and is a matter on which the proposed project owner should take its own legal advice.

In this context, a project owner refers to any natural or legal person who seeks funding through a crowdfunding platform.

3. Are crowdfunding service providers required to notify the Central Bank of key investment information sheets at least seven working days before making it available to prospective investors?

Article 23(14) of the Regulation states that “competent authorities of the Member State where the authorisation was granted to the crowdfunding service provider may require an *ex ante* notification of a key investment information sheet (KIIS) at least seven working days before making it available to prospective investors.”

The Central Bank will not require *ex ante* notification of all KIIS at this time. However, the Central Bank reserves the right to require notifications of the KIIS at its absolute discretion.

4. Are crowdfunding service providers required to provide a regulatory disclosure statement and, if so, what should it include?

A crowdfunding service provider must include a regulatory disclosure statement in all advertisements and it must meet the requirements as set out in (a) or (b) below, depending on the Member State where it has been authorised:

- a) "[Full legal name of the **crowdfunding service provider**, trading as *(insert all trading names used by the crowdfunding service provider)*] is regulated by the Central Bank of Ireland"; or
- b) "[Full legal name of the **crowdfunding service provider**, trading as *(insert all trading names used by that crowdfunding service provider)*], is regulated by [*insert name of the competent authority from which it received its authorisation*] in [*insert name of the Member State where that competent authority resides*] under the Crowdfunding Regulation, and is subject to regulation by the Central Bank Ireland in respect of [*conduct of business rules*] relating to advertising."

This is a binding legal requirement imposed on crowdfunding service providers pursuant to provision 9.1a of the Consumer Protection Code.

5. Are crowdfunding service providers required to comply with the Addendum to the Consumer Protection Code 2012 published on 13 January 2022 (which applies a number of provisions of the Consumer Protection Code 2012) (the Code) to advertising by crowdfunding service providers? (Updated February 2024)

The Code applies to the “*regulated activities of regulated entities*” operating in the State. Regulated entities are defined in the Code as “*a financial services provider authorised, registered or licensed by the Central Bank or other EU or EEA Member State that is providing regulated activities in the State*”.

Specifically, the Clarification of Scope section in Chapter 9 notes that:

- “ c) Where regulated entities are providing crowdfunding services which fall within the scope of Regulation 2020/1503/EU, only Provisions 9.1a, 9.2 to 9.11, 9.13, 9.14, 9.16 to 9.18, 9.36, 9.39, 9.41, 9.46 and 9.53 apply”.

As a result, the applicable provisions of the Code apply to crowdfunding service providers, once authorised under the Regulation.

Crowdfunding service providers should also note the following:

1. A crowdfunding service provider **cannot** operate within this jurisdiction until it is authorised by the Central Bank in accordance with the Regulation. Accordingly, the Code will apply once crowdfunding service providers are granted an authorisation.
2. Those crowdfunding service providers who provide crowdfunding services on a cross-border basis into Ireland as permitted under Article 18 of the Regulation (i.e. where a financial firm uses an authorisation obtained in another EEA Member State to sell its products or services to consumers in Ireland), will be required to comply with the Code with immediate effect from the time they commence the provision of crowdfunding services in line with the timelines set out in the Regulation.

6. When submitting an application for authorisation, are crowdfunding service providers required to provide supporting evidence when they propose to meet the prudential requirements under Article 11 of the Regulation through an insurance policy?(Added July 2023)

The Central Bank will require the following documentation to be provided when a crowdfunding service provider proposes to meet the prudential requirements through an insurance policy:

- A letter of confirmation should be provided from the insurance company which confirms its authorisation status, the name of its home national competent authority and that the insurance policy is in line with the requirements set out under Article 11(1), 11(2), 11(6) and 11 (7) of the Regulation (and Article 11(8), 11(9) where applicable); and
- A copy of the insurance policy should be provided and there should be a clear reference to the requirements set out under Article 11(1), 11 (2), 11(6) and 11(7) (and Article 11(8), 11(9) where applicable) therein.

7. What supporting evidence will the Central Bank consider in respect of Section 5 (reputational questions) of an Individual Questionnaire (IQ) in relation to the Pre-Controlled Function (PCF) application? (Added July 2023)

A crowdfunding service provider may provide an official certificate or an objectively reliable source of information where supporting evidence is required to answer questions under Section 5 of the IQ with respect to a PCF application.

In the case of an official certificate, this must be issued by a Public Service body such as An Garda Síochána, the Companies Office, the Revenue Commissioners and/or its equivalent in another Member State or relevant jurisdiction.

In the case of an objectively reliable source of information, this may include:

- testimony made by a lawyer (in any jurisdiction in which the applicant has resided). Such testimony must declare that to the best of the lawyer's knowledge, the applicant has not been subject to criminal convictions, investigations, or proceedings;
- testimony made by a notary public, peace commissioner, or commissioner for oaths established in the European Union. Such a testimony must declare that to the best of their knowledge the applicant has not been subject to criminal convictions, investigations, or proceedings; and
- third party investigation from a reputable firm that performs third party due diligence checks, for example Experian or Stubbs Gazette.

Furthermore, the evidence provided to answer the relevant questions under Section 5 must:

- **Be clearly labelled to correspond to the relevant IQ question**, for example, *Section 5.7_Disciplinary Proceedings_Evidence*.
- **Explicitly cover all questions**. One document or source of evidence may not cover all questions. In this case, multiple documents or sources may be required.
- **Cover the applicant's current residency**, provided the applicant has been resident in the jurisdiction for at least 12 months. Where the applicant has not been resident in the jurisdiction for at least 12 months, evidence must include the two most recent residencies – i.e. current residency and the

jurisdiction where the applicant resided prior to moving to current residency.

8. What regulatory reporting requirements are placed on crowdfunding service providers once authorised by the Central Bank? (Added July 2023)

It is important to note that a crowdfunding service provider may be required to provide any information needed by the Central Bank to perform its functions. This includes the monitoring of a crowdfunding service provider's compliance with its obligations under financial services legislation.

In this context and as outlined under Article 16 (1) of the Regulation, a crowdfunding service provider shall annually and on a confidential basis provide a list of projects funded through its crowdfunding platform.

Further information on the regulatory reporting requirements will be provided by the Central Bank supervision team once a crowdfunding service provider has been authorised pursuant to Article 12 of the Regulation.

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