ESMA_QA_801

Submission Date
19/05/2022

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Additional Information

Level 1 Regulation
Regulation 2020/1503 - European crowdfunding service providers for business

Topic
Control functions (Compliance, Risk and Audit)

Additional Legal Reference
Article 10(3) ECSPR

Subject Matter
General provisions

Question
Does a CSP need a separate authorisation in order to hold transferable securities or admitted instruments for crowdfunding purposes offered on a crowdfunding platform, which

can be registered in a financial instruments account opened in the name of an investor or which can be physically delivered to a custodian?

ESMA Answer

19-05-2022

Original language

(Published as Crowdfunding Q&A 3.3)

Yes, according to article 10(3) the holding of these instruments in custody requires a CSP to hold an authorisation in accordance with either Directive 2013/36/EU or 2014/65/EU. Alternatively, these instruments can be held in custody by a third party holding such authorisation.

As indicated in Recital 28 of the ECSPR, the safekeeping of transferable securities or admitted instruments for crowdfunding purposes that, in accordance with national law, are only registered with the project owner or its agent or are held on an individually segregated account that a client could open directly with a central securities depository shall be considered equivalent to asset safekeeping by qualified custodians. In such case, in accordance with Article 10(1) CSP shall clearly inform their clients about the safekeeping services according to national law.