

Submission Date

23/09/2022

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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)

Subject Matter

General provisions

Question

Can a CSP operate or manage a non-internet based crowdfunding platform?

ESMA Answer

23-09-2022

Original language

(Published as Crowdfunding Q&A 3.10)

The operation of a crowdfunding platform not based on the internet does not constitute a crowdfunding service as defined in point (a) of Article 2(1) of the ECSPR. Indeed, point (a) of Article 2(1) refers to the use of a crowdfunding platform, which, according to point (d) of the same article, is defined as a “publicly accessible internet-based information system”.

However, pursuant to Article 12(13) of the ECSPR, a CSP may engage into other activities. A CSP can therefore operate a platform which is not based on the internet provided that it complies for that activity with other applicable Union or national law, including, when relevant, MIFID II. In such case, the CSP would not be able to benefit of the provision set out in Article 18 of the ECSPR in relation to such activity.

ESMA is also of the view that whenever a CSP intends to offer crowdfunding projects to non-sophisticated investors on both an internet-based crowdfunding platform under the ECSPR and on a platform not based on the internet under other applicable Union or national law, it is good practice for such CSP to liaise with its authorising competent authority to verify that the dual offer does not trigger investor protection concerns for non-sophisticated investors.