ESMA_QA_814

Submission Date
10/11/2021

Status: Answer Published

Additional Information

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

Topic
Information to clients on topics other than costs and charges

Additional Legal Reference
21(6) ECSPR

Subject Matter
Investor protection and marketing communication

Question
Article 21(6), second subparagraph of Regulation (EU) 2020/1503 (hereinafter, 'ECSPR') provides that "prospective non-sophisticated investors and non-sophisticated investors shall

not be prevented from investing in crowdfunding projects [...]".
We would appreciate if the European Commission could clarify its interpretation regarding the perimeter of this prohibition set out in Article 21(6), second subparagraph, and notably confirm that this prohibition does not apply to the situation referred to in Article 21(7), notably when a prospective non-sophisticated investor fails to prove to the crowdfunding service provider that she/he understands the investment and its risks.

ESMA Answer

10-11-2021

Original language

Answer from the European Commission - (Published as Crowdfunding Q&A 5.1)

Article 21(6) of the ECSPR, second subparagraph, refers to the general outcome of tests under Articles 21(1) and 21(5) of the ECSPR. On the contrary, Article 21(7) of the ECSPR refers to a specific situation that requires additional restriction, i.e., the investment above the higher of either 1,000 EUR or 5% of net worth in an individual project. As a result, Article 21(6) ECSPR, second subparagraph, shall not apply to article 21(7) of the ECSPR.