ESMA_QA_2052

Submission Date
19/12/2023

Status: Answer Published

Additional Information

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

Topic
Appropriateness

Subject Matter
crowdfunding services

Question
How should placement without a firm commitment and reception and transmission of orders as referred to in point (ii) of point (a) of Article 2(1) of the ECSPR be understood in the context of the ECSPR?

ESMA Answer

19-12-2023

Original language

Article 2(1) of the ECSPR refers to placement without a firm commitment and reception and transmission of orders by explicit reference to Directive 2014/65 (MiFID II). Consequently, the interpretation of these services/activities shall be made in accordance with the legal framework and the supervisory practice issued in the context of MiFID II. However, placement without a firm commitment and reception and transmission of orders in the context of the ECSPR shall take into account that Article 2(1) is clear that both services/activities shall be considered “in relation to (…) transferable securities and admitted instruments for crowdfunding purposes” and this scope (i.e. transferable securities and admitted instruments for crowdfunding purposes) is slightly wider than the one of MiFID (i.e. MiFID typically does not cover admitted instruments for crowdfunding purposes as defined in the ECSPR). Furthermore, it can be noted that, according to the wording of point (ii)(a) of Article 2(1) of the ECSPR, in conjunction with Recital 10 of the ECSPR, the reception and transmission of client orders has to be provided jointly with the placement of transferable securities or admitted instruments for crowdfunding purposes without a firm commitment