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Additional Information

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

Topic
Safeguarding of client assets

Subject Matter
Authorisation and supervision of CSPs

Question
When applying for the authorisation as a CSP, what are the proofs of own funds that existing undertakings can provide to the relevant authorising authority for the purpose of point (i) of Article 12(2) of the ECSPR and Field 10 of the Annex to the Delegated Regulation 2022/2112?

ESMA Answer

26-03-2023

Original language

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Article 12(2)(i) of ECSOPR establishes that the application for the authorisation as a CSP shall contain, inter alia, the proof that the prospective CSP meets the prudential safeguards in accordance with Article 11 of the same regulation.

Field 10, point 1, letter (a) of the Annex to the Delegated Regulation 2022/2122 complementing the ECSPR with regard to the authorisation requirements, requires applicants to provide the relevant authorising authority with the documentation of how the applicant calculated the amount of the prudential safeguards in accordance with Article 11 of the ECSPR. In addition, Field 10, point 1 establishes the proof of own funds that existing undertakings or newly incorporated entities shall provide to the authorising authority (respectively in letter (b) and (c)).

In accordance with Field 10, point 1, letter (b) of the Annex to the Delegated Regulation 2022/2122, existing undertakings shall provide the authorising authority with “an audited account statement or public register certifying the amount of own funds of the applicant”.

ESMA is of the view that, for the purpose of the authorisation as CSP of an existing entity, when a public register is not available and when full annual financial statements of the existing entity are not audited, the relevant authorising authority may accept a certification made by an independent auditor, of the existence and full availability of the own funds based on the accounts provided by the applicant.

For the purpose of Field 10, point 1 of the Annex to the Delegated Regulation 2022/2122, ESMA is also of the view that undertakings which have been incorporated after 10 November 2021 but have not yet been authorised by the relevant authorising authority and therefore have not provided any activity should not be considered existing undertakings.