ESMA_QA_2501

Submission Date
03/04/2025

Status: Answer Published

Additional Information

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

Topic
Best Execution

Additional Legal Reference
Article 25(3) of ECSPR

Subject Matter
Bulletin Board - Disclosure obligations (point (b) of Article 25(3) of the ECSPR)

Question
How should the disclosure obligation established in point (b) of Article 25(3) of the ECSPR be applied?

ESMA Answer

03-04-2025

Original language

According to Article 25(1) of the ECSPR, crowdfunding service providers may operate a bulletin board on which they allow their clients to advertise interest in buying and selling loans, transferable securities or admitted instruments for crowdfunding purposes that were originally offered on their crowdfunding platforms.

Article 25(2) and Recital (55) of the ECSPR help to understand what activity can be or cannot be included in the scope of a bulletin board operated by a crowdfunding service provider. In particular, according to the recalled provisions, the bulletin board cannot be used to bring together buying and selling interests by means of the crowdfunding service provider's protocols or internal operating procedures in a way that results in a contract. The bulletin board shall therefore not consist of an internal matching system that executes client orders on a multilateral basis.

However, - and only in relation to transferable securities -, a crowdfunding service provider that is also authorised as an investment firm in accordance with Article 5 of MiFID II, or as a regulated market in accordance with Article 44 of that Directive (*) may decide to operate a trading venue to bring together buying and selling interests concerning the transferable securities that were originally offered on its crowdfunding platform.

Article 25(3) of the ECSPR also provides some disclosure requirements concerning the users of the bulletin board. Among those, in particular, it is established that crowdfunding service providers (which operate a bulletin board) have to require their clients which advertise a sale of a loan, transferable security or admitted instrument for crowdfunding purposes "to make available the key investment information sheet" (point (b) of Article 25(3) of ECSPR). This document is prepared under the responsibility of the project owner when a crowdfunding offer is presented on a crowdfunding platform, and its contents are updated until the relevant crowdfunding offer is closed (**).

ESMA acknowledges that the information reported in the KIIS might become outdated by the time the advertisement is made on the bulletin board. Consequently, ESMA believes that, whenever a client of a crowdfunding service provider advertises the sale of a loan, security or instrument on the bulletin board of that provider after the closing of the offer, the relevant crowdfunding service provider should ensure that the selling client indicates the date (month and year only) on which the KIIS was provided to that client.

Endnotes

(*) Recital 55 of the ECSPR.

See also Recital 8 of MiFIR (Regulation 600/2014) according to which bulletin boards are facilities where there is no genuine trade execution or arranging taking place in the system and are used for advertising buying and selling interests. For a more exhaustive understanding of the scope of activity allowed to bulletin boards, please refer to the Final Report on ESMA Opinion on Trading Venue Perimeter (2 February 2023, ESMA70-156-6360), available on the ESMA website.

(**) According to Article 23(8) of the ECSPR, the crowdfunding service provider shall request the project owner to notify it of any change of information in order to keep the key investment information sheet updated at all times and for the duration of the crowdfunding offer. The crowdfunding service provider shall immediately inform investors who have made an offer to invest or expressed an interest in the crowdfunding offer about any material change to the information in the key investment information sheet that was notified to it.