

## ***Response Kapitaal op Maat (KoM) ECSPR***

**Q1: Do you consider that the requirements should be made more granular, notably to set a fixed deadline for CSP to handle a complaint and reply to complainants, in order to ensure a better and more harmonised investor protection?**

Answer KoM;  
No comments on Annex III

**Q2: Do you agree that the list set out in Article 1(5) of the draft RTS sets out a sufficiently harmonised minimal level of requirements for the internal rules to prevent conflicts of interest?**

Answer KoM;  
KoM agrees.

**Q3: Do you agree that the requirements set out in Article 4 of the draft RTS provide for arrangements that balance adequately the need to protect investors with the objective to limit unnecessary burden for CSP?**

Answer KoM;  
KoM agrees.

**Q4: Do you agree with the details of the business continuity plan suggested in the draft RTS?**

Answer KoM;  
As far as KoM can currently oversee the implications, KoM agrees with these details.

Additional Q-KoM;  
To which extent does ESMA take into account the primarily on-line nature of the CSP's business and administration and even block-chain type of contractual agreements between the CSP and its clients?

**Q5: Do you have any comment on the authorisation procedure proposed in the draft RTS?**

Answer KoM;  
KoM has no comments on this procedure.

**Q6: Do you agree with the list of information set out in the draft RTS to be provided to the Competent Authority of the Member State where the applicant is established? If not, what other information should ESMA further specify?**

Answer KoM;

This list is extensive and should cover all relevant aspects for the application.

**Q7: Do you think that the methodologies provided in the draft RTS are sufficiently clear?**

Answer KoM;

Yes, they are sufficiently clear.

**Q8: Do you agree with the list of information set out in Article 4(1) of the draft RTS?**

Answer KoM;

KoM agrees.

**Q9: Do you agree that requiring CSPs to make available to prospective non-sophisticated investors an online calculation tool will improve investor protection by simplifying the process of simulation of the ability to bear losses?**

Answer KoM;

KoM is not convinced that such a tool will improve investor protection. Similar to paper trading, providing a simulation will not significantly change investor behavior.

**Q10: Do you agree with the suggested method to calculate the non-sophisticated investor's net worth?**

Answer KoM;

KoM agrees.

**Q11: Do you agree with the extent of the provisions that ESMA proposes to specify the ECSPR's requirements for the KIIS model? Please also state the reasons for your answer.**

Answer KoM;

Overall KoM agrees, mainly because of the clear format of the model and the obvious elements containing it. As stated, the model can be over-extensive in the case of start-up type of offerings. For relatively low target amounts the cost-benefit relation can result in relatively high fees for the project owner.

**Q12: How could the KIIS be alternatively structured to foster its provision by project owners, while ensuring investor protection? Please provide specific examples, if possible.**

No input from KoM.

**Q13: Based on your experience with investor information documents required under your national regulatory framework on crowdfunding: Have you seen good practices of information disclosure which could help investors to better understand risks, benefits and other key features related to crowdfunding offers under the ECSPR? Please provide specific examples, if possible.**

Answer KoM;

Naturally we are comfortable with our own information disclosure. Other parties like One Planet Crowd also provide extensive and high level information.

**Q14: What, if any, additional costs and/or benefits do you envisage arising from the proposed approach taken for the KIIS? Please quantify and provide details.**

KoM has not yet been able to make such an analysis.

**Q15: Do you agree with the proposals with respect to standards, formats, templates and procedures for the provision of data by crowdfunding service providers to competent authorities?**

Answer KoM;

The format of Annex I looks very acceptable and is similar to the current reporting to the Dutch CA.

**Q16: Do you consider that the format for the submission of the information to competent authorities should be further specified in the final draft ITS? Which technical format (e.g. CSV, others) should be considered by ESMA?**

Answer KoM;

According to KoM no further specification is necessary. The preferred format is CSV.

**Q17: Do you envisage any impacts of the proposals with respect to provision of data by competent authorities to ESMA, and in particular on the anonymisation methods that should be used when transmitting information by competent authorities to ESMA? Which specific anonymization methods would be appropriate to fulfil the reporting requirements?**

Answer KoM;

Other than possible discrepancies in national privacy legislation, KoM does not see any impact with respect to data provision by CA's to ESMA.

**Q18: Do you agree with the information on the national laws, regulations and administrative provisions applicable to marketing communications of CSPs that is being requested from CAs in the two templates? If not, which items should be added or deleted and for which reasons? Please provide a detailed answer.**

No comments from KoM at this point.

**Q19: Do you agree with the cost benefit analysis as it has been described in Annex II?**

Answer KoM;

**Q20: Are there any additional comments that you would like to raise and/or information that you would like to provide?**

***Additional questions KoM;***

1. Does a Dutch CSP have the duty to report to the local fiscal authorities under the ECSPR with regards to the positions held by investors? (so called 'meldingsplicht' in Dutch?)
2. Does KoM need to be affiliated to institutions like Kifid and/or BKR or local equivalents?
3. Regarding the type of instruments offered by a CSP, what is the difference between a Loan and Debt? And what are "admitted instruments for Crowdfunding purposes"?
4. When and under which circumstances can a CSP determine the price of a crowdfunding offer?
5. How should a CSP obtain evidence that a project owner does not have a criminal record?