



European Securities and  
Markets Authority

# Investment-based crowdfunding

Insights from regulators in the EU



## Background

In December 2014, ESMA carried out a short survey of National Competent Authorities (NCAs) to gather up to date information on regulated investment-based crowdfunding platforms in the EU.

This note presents the key findings of this survey. It first analyses the regulatory status of those platforms, including the rules under which they are regulated, the type of services that they offer and the capital requirements that are imposed on them. It then analyses the investment instruments, structures and remuneration models that those platforms are using.

### Scope of analysis

Responses have been received from 28 NCAs. Not all NCAs have been able to provide responses to all questions for all platforms however, meaning that representativeness of results may vary depending on the questions considered. This is something that we have highlighted whenever relevant. It is also worth noting that the results shown are based on data as of December 2014 and may be subject to change, as the crowdfunding market develops. Finally, there may be a number of platforms operating outside the scope of regulation at the moment, which would not be captured by the survey.

### Overview of results

#### *Which NCAs are dealing with 'regulated' platforms?*

- Seven NCAs have reported that regulated platforms are operating in their territory (although not necessarily based there). These are Austria, France, Germany, Italy, Netherlands, Spain and UK. By 'regulated platform' we mean platforms that are directly authorised/registered under Union or national law, or are tied agents of authorised/registered firms.
- In addition, two NCAs indicated that they had received applications for authorisation (Finland, Greece). As we did not directly ask this question, there could be other NCAs in this situation, or who have previously considered and rejected requests for authorisation.

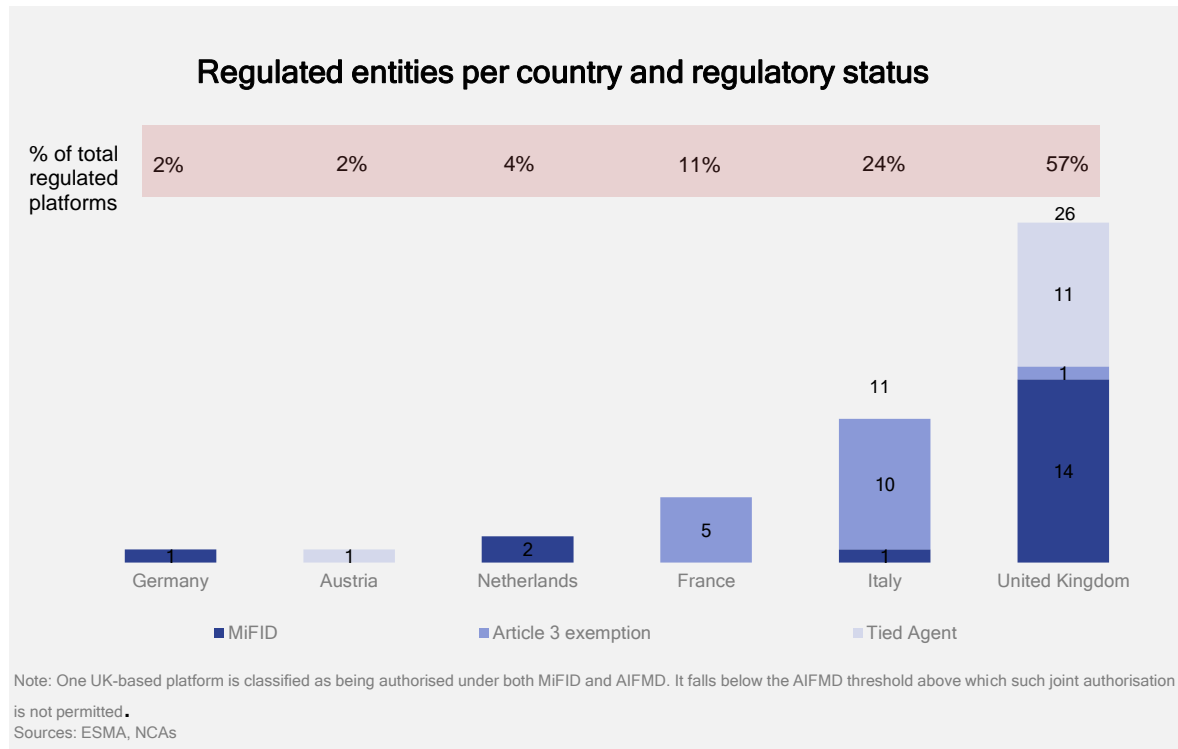
#### *How many regulated platforms and where are they?*

- NCAs reported a total of 46 regulated entities (see list in appendix).<sup>1</sup> However, it is possible that this is an underestimate given that where firms are operating under e.g., a general MiFID licence, their crowdfunding activity may not be separately defined or identified.

---

<sup>1</sup> We have not included in this figure the platforms for which authorisation requests were still pending.

- It is important to note that although 46 regulated entities were reported, this does not mean there are necessarily 46 platforms: the UK reported certain platforms having more than one regulated entity (e.g., a MiFID firm and also a MiFID tied agent); taking this into account could reduce the number of ‘platforms’ to 41 or 42. For the purposes of this analysis we have analysed each regulated entity separately.
- The origin of the regulated entities is as follows:



- Spain indicated that one UK-authorized platform was operating in its territory (and the UK indicated that the relevant platform had indeed notified use of the passport). Two other UK platforms have notified use of the passport. No other NCAs indicated that they had received notifications of use of the passport.
- The data also suggests that at least one platform is operating in multiple Member States as an authorised entity in at least one of those Member States and an unauthorised entity in others. This underlines that use of the passport is likely to be an underestimate of cross-border or pan-EU activity.

### ***Under what rules are the platforms regulated?***

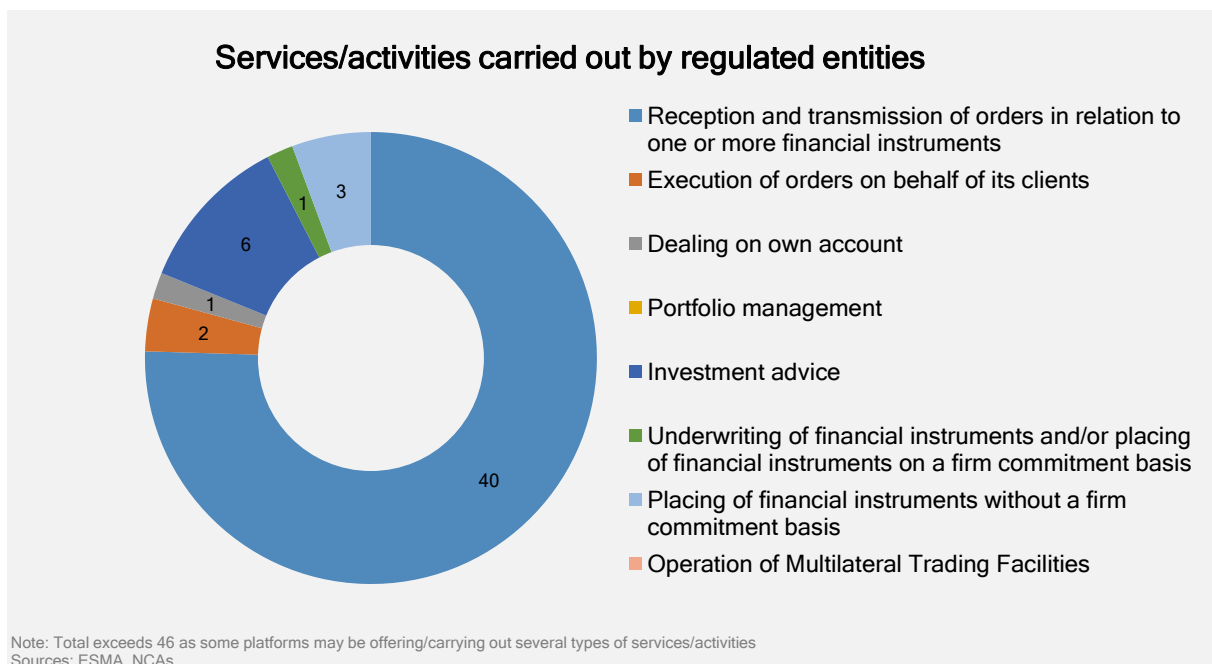
- Of these 46 entities:
  - 18 are authorised under MiFID. One of these firms is also reported as being authorised under AIFMD and being below the size threshold above which such joint authorisation is not permitted. One of these firms was also reported as being

authorised under national law. The majority of these entities are in the UK, with others in Italy and Germany.

- 15 operate under the MiFID Article 3 exemption. The majority of these entities are in Italy, followed by France.
- 12 operate as MiFID tied agents of an investment firm, and hence are not directly authorised but operating under the responsibility of an authorised firm. The majority of these entities are in the UK, with one in Austria.
- 1 was reported as being excluded from MiFID scope by virtue of Article 2, but authorised under national law. This entity is in the UK.

**What services/activities do NCAs consider these entities are providing?**

The breakdown of the MiFID services/activities all NCAs reported that regulated entities were carrying out is as follows:



The most common MiFID service/activity offered/undertaken by these entities is by far ‘Reception and Transmission of Orders’ (RTO). ‘Investment Advice’ comes second but only because of France, where the 5 entities are regulated under a national exemption regime developed under Article 3 of MiFID which requires entities to provide investment advice.

A handful of entities operating within the EU legislation provide ‘Placing of financial instruments without a firm commitment basis’ or ‘Execution of orders’ in addition to RTO. No entities were reported as carrying out the service of placing but not the service of RTO. One entity in Italy is reported to be ‘Dealing on own account’ and ‘Underwriting financial

instruments and/or placing financial instruments on a firm commitment basis' in addition to providing 'RTO' and 'Investment Advice'.

The services/activities NCAs reported regulated entities as carrying out varied greatly between NCAs, and much less within the sample provided by each NCA. For example, all French entities were reported to be only providing advice, while all Italian entities apart from one were reported as carrying out only RTO. In the UK all were reported to be only carrying out RTO, with one also reported to be carrying out execution of orders. By contrast, all entities authorised under MiFID in Germany, Italy and the Netherlands (4 in total) were reported to be carrying out both RTO and placing. The three platforms that had requested authorisation in Finland were also reported to be carrying out both RTO and placing. While not demonstrated conclusively, this pattern suggests that the difference may be more as a result of NCA decisions about preferred regulatory treatment than about substantive differences between the entities' activities/business models.

### ***Are these entities holding client money?***

Consistent with the restrictions imposed by MiFID on such firms, none of the entities operating within the Article 3 exemption were reported as holding client money. Member States may allow tied agents to hold client money, but NCAs reported that only one does so. Of the other regulated firms, 7 were reported as having permission to hold client money and 13 as not having such permission.

### ***What initial capital requirements have NCAs imposed?***

Of the regulated entities:

- Those regulated under the Art 3 exemption regime in FR and IT do not have any initial capital requirements (15 entities)
- Those which are tied agents do not themselves have any initial capital requirements (12 entities). While the firm of which they are a tied agent would probably have some initial capital requirements, those requirements may not be specific to the crowdfunding activity.
- Data on initial capital requirements was provided for the 19 remaining entities, which are authorised under MiFID or under national law. Of those 19 entities:
  - 14 were subject to base capital requirements of €50,000, of which one had chosen instead to hold capital of €5,000 plus professional indemnity insurance, reflecting the limited activities it carried out. One of these firms has permission to hold client money and is regulated under national law rather than MiFID.
  - 3 were subject to base capital requirements of €125,000, reflecting the fact that they have permission under MiFID to hold client money.

- 2 were subject to base capital requirements of €730,000 or more, reflecting the fact that they were reported to be carrying out a wider range of activities (including dealing on own account).

### ***Investment instruments and structures used***

The great **majority** of regulated entities provide **direct investment in equities** (30). Of these, at least seven also provide one or more other forms of crowdfunding, ranging from bonds or debentures, through loans to rewards. In Italy all the registered platforms provided equities only, whereas in other Member States with two or more regulated platforms there was a mix of instruments.

In the UK, investment in equities is typically direct, in the sense that there is no intermediary vehicle issuing securities which are then owned by the investor. However, several platforms use a structure which is common in the UK whereby the platform is the legal owner of the equity in the project and the investor is the **beneficial owner** (i.e., has a legal right to the benefits that arise from owning the security). This enables project owners to deal with only one counterparty and investors to act as a single block, in much the same way as through the holding company structure used by French platforms (see below).

Five regulated platforms provide **indirect investment**. There seem to be two broad models:

- an intermediary vehicle invests in the equity of the project and then investors own a share of or other instrument offered by the intermediary vehicle;
- an intermediary vehicle invests in property (real estate) and then investors own a share of the intermediary vehicle and potentially rights to an additional income stream (e.g., from rental).

Three French platforms do this through what they call a 'holding company', which is a company specially established to own the shares in one specific project. Investors hold shares in the holding company, which may be chaired by the platform or an experienced investor. This has the same benefits for project owners as the beneficial ownership structures used in the UK, but may involve additional costs for the platform/investor. One UK platform uses a similar approach but based around a special purpose vehicle which invests in property. The investors own shares in the SPV, which in turn owns the property. As with the French platforms, there is a separate SPV for each crowdfunded project. One UK platform, which also offers direct investment, enables investment through a venture capital fund managed by a third party which invests in a selection of the projects which make successful fundraising campaigns through direct investment on the platform.

In some countries alternatives to equity shares are used. For example, in Germany and Austria it is common for investors to receive 'profit participation rights' which bring the right to a share of profits without ownership rights in the company. However, these instruments are currently regarded as outside the scope of the regulatory regime.

Eight platforms offer direct investment in some form of debt instrument, typically bonds or debentures. One UK platform is offering investment in convertible loan notes. However, in

practice a number of these platforms seem to have few or no projects seeking finance in this way. It may be that project owners are deterred by the necessity of committing to regular payments, or that it is more expensive and complex to set up and administer securitised debt than to seek funding through loan agreements on lending-based sites. Of those sites primarily using debt instruments, several are focused on investment in sustainable development projects, particularly in relation to solar or wind energy. Presumably securitised debt is a more attractive proposition in such cases than equity because the project is more likely to be able to provide an income from revenue than a capital gain on sale, which would typically be the route to profit for equity-based fund-raising.

### ***Fee structures***

The great majority of regulated platforms, including all from Italy, are remunerated by the project owner only. However, we identified at least nine that are remunerated by both the project owner and investor, and this was the dominant model in France. Only one or two regulated platforms appear to be remunerated only by the investor. Of these, one invests in property and so there may be no identifiable 'project' which could remunerate the platform. There does not appear to be any obvious correlation between the structure and level of charges and the investment instruments or investment structure used. However, there may be insufficient numbers of platforms using bonds to draw firm conclusions on this point at this stage.

#### *Platforms remunerated by project owners only*

By far the most common structure among the regulated platforms was to charge a percentage of the amount raised, where the fundraising campaign was successful. The majority of these platforms charged between 4-6%, with a couple charging only 3% and several platforms charging significantly more (some had upper ceilings on charges of 8-10 or in one case even 25%). A couple of platforms also charged a small listing fee (e.g., €300), while a larger number, particularly in the UK, also charged other fixed administrative fees (in the range €1500-3000) to cover e.g., legal costs. None of the regulated platforms seems to be remunerated by taking a share in profits from the project owner.

#### *Platforms remunerated by both project owners and investors*

The part of the fees charged to project owners followed a similar pattern to that observed where platforms were remunerated only by project owners: almost all platforms charged a percentage of the amount raised, where the fundraising campaign was successful in meeting its target. The percentage charged to platform owners was most often in the range of 4-6%, but again with a couple charging significantly more (8-10%).

Some platforms charged other administrative fees in addition, and these were in a slightly higher range than observed in the other group (€1750-€5000).

For the part charged to investors, some charged a percentage of the amount invested, where the campaign was successful (ranging between 2.5%-5%), some charged a share of any profits (5% to 20%), and some platforms charged both.

Charging fees to investors as well as project owners does not seem to reduce the fees paid by project owners: even before adding on the potential income from the investor's share of profits, the total size of fees received by these platforms on successful completion of a fundraising campaign is typically higher than for those remunerated by project owners only. Four of these platforms are receiving total success fees of 8% or more. Of those remunerated by project owners only, only one always charged 8%, with a further six having a variable fee structure which would sometimes exceed 8%. This could be regarded as justified, if effectively these platforms are providing distinct services for the two parties paying fees (project owners and investors).

#### *Platforms remunerated by investors only*

As noted, this seems to be a very unusual business model, even if it may be theoretically required in the Netherlands because of the scope of its ban on the payment of commission (the prohibition on commission payments in the UK is of a narrower scope and so does not apply to the activities currently carried out by most platforms).

The one confirmed case so far is a platform where investments are pooled to buy property, with the investor receiving any capital gains as well as rental income. There is thus less obviously a 'project owner' on the other side who could contribute to remunerating the platform. Fees in this case are a one-off fee of 2% of the amount invested, plus 12.5% + VAT monthly of gross rental income.

#### ***Implications of investment structures and fee structures for platforms***

Because of the predominance of 'success' fees linked to successful achievement of a fundraising campaign, coupled with administrative or other charges collected at the same stage, much of the platforms' revenue is linked to the initial raising of funds, rather than the ongoing performance of the investment. This means that platforms may have an incentive to market projects aggressively and be less selective on the projects that they advertise, at least up to a point where they may face reputational risk. Because most of the fees are charged up-front once and for all, platforms also need to maintain a pipeline of new projects on an ongoing basis. This also means that they have little visibility on their future profitability and could face viability issues over time.

Some platforms do have some mechanisms for generating revenue through the life of the investment, including one or two which provide monitoring of the investments. Typically, those who take a share of the investor's profits do so on redemption rather than at intervals before then. So far, we have only found one regulated platform which offers, and charges for, a full secondary market (rather than, for example bulletin boards which enable potential sellers to find potential buyers without facilitating the transaction).



### ***Implications of investment structures and fee structures for clients***

As regards fee structures, from a project owner perspective the payment of fees on successful completion of fundraising seems to be aligned with the initial objectives of the project owner. The question may come as to whether there are then cost and administrative disadvantages for the project owner in having a wide range of investors to deal with after that point, and whether platforms' fee structures incentivise them to use structures that help project owners in this regard (e.g., holding companies, nominee ownership etc.). In terms of the cost of using platforms relative to other forms of finance it is hard to draw firm conclusions as the comparison is not straightforward.

The fee structure does not in most cases seem to be aligned to investor objectives. Only where the platform benefits from a share of the investor's profits is there an incentive for the platform to promote the success of the investment, rather than of the initial fundraising. Where the platform co-invests there may also be an alignment of interests, but also the potential for conflicts of interests between groups of investors (i.e., the platform vs the investors) depending on how the co-investment is carried out. The reliance on payments from the project owner on completion of initial fundraising may also reduce incentives for the platform to carry out rigorous due diligence without there being a strong incentive for the limits of due diligence to be made clear to investors.

Costs to investors remain more difficult to assess at this stage. Certainly, investors could more cheaply have access either to listed equities or to funds of such equities, but depending on investor objectives this may not be the right comparator as few such companies would raise finance through crowdfunding platforms. It is not uncommon in private equity to see asset managers retain a substantial portion of the profit made on investments through performance fees. However, asset managers provide selection and monitoring services that crowdfunding platforms tend not to offer, not to mention the diversification benefits attached to investments in funds.

We have seen some examples of platforms trying to enlarge the scope of their offering to project owners and to investors, and expect this trend to continue. On the project owner side, some platforms are seeking to position themselves as a 'full service' corporate finance proposition, from crowdfunding in the early stages through to listing. On the investor side, some platforms seem to be preparing to offer at least linkages to advisory services (one UK platform says it is looking to establish a panel of financial advisers for those investors who want a second opinion), with others looking at ways of developing more of an asset management relationship, though in this case it is unclear whether they are in reality offering more than centralised access to information about the performance of the project and investment.

## Appendix

### Regulated entities

Number	Entity Name	Country	Website
1	Regional Funding	Austria	<a href="http://www.regionalfunding.at">www.regionalfunding.at</a>
2	Anaxago	France	<a href="http://www.anaxago.com">www.anaxago.com</a>
3	Lumo	France	<a href="http://www.lumo-france.com">www.lumo-france.com</a>
4	Raizers	France	<a href="http://www.raizers.com/">www.raizers.com/</a>
5	Sowefund	France	<a href="http://www.sowefund.com/">www.sowefund.com/</a>
6	Wiseed	France	<a href="http://www.wiseed.com/fr">www.wiseed.com/fr</a>
7	Bergfürst Bank	Germany	<a href="http://de.bergfuerst.com/">de.bergfuerst.com/</a>
8	Assiteca Crowd	Italy	<a href="http://www.assitecacrowd.com">www.assitecacrowd.com</a>
9	Crowdfundme	Italy	<a href="http://www.crowdfundme.it">www.crowdfundme.it</a>
10	Ecomill	Italy	<a href="http://www.ecomill.it">www.ecomill.it</a>
11	Fundera	Italy	<a href="http://www.fundera.it">www.fundera.it</a>
12	Mamacrowd	Italy	<a href="http://www.mamcrowd.com">www.mamcrowd.com</a>
13	Muumlab	Italy	<a href="http://www.muumlab.com">www.muumlab.com</a>
14	Nextequity	Italy	<a href="http://www.nextequity.it">www.nextequity.it</a>
15	Smarthub	Italy	<a href="http://www.smarthub.eu">www.smarthub.eu</a>
16	Starsup	Italy	<a href="http://www.starsup.it">www.starsup.it</a>
17	Tip Equity	Italy	<a href="http://www.equity.tip.ventures">www.equity.tip.ventures</a>
18	Unicaseed	Italy	<a href="http://www.unicaseed.it">www.unicaseed.it</a>
19	Crowdinvesting	Netherlands	<a href="http://www.duurzaaminvesteren.nl">www.duurzaaminvesteren.nl</a>
20	Crowdabout Now	Netherlands	<a href="http://www.crowdaboutnow.nl">www.crowdaboutnow.nl</a>
21	Abundance Nrg/ Abundance Generation	UK	<a href="http://www.abundancegeneration.com">www.abundancegeneration.com</a>
22	Angels Den Crowdfunding	UK	<a href="http://www.angelsden.com">www.angelsden.com</a>
24	Angels Den Services	UK	<a href="http://www.angelsden.com">www.angelsden.com</a>
25	Crowd For Angels	UK	<a href="http://www.crowdforangels.com">www.crowdforangels.com</a>
26	Crowd2Fund	UK	<a href="http://www.crowd2fund.com">www.crowd2fund.com</a>
27	Crowdbnk	UK	<a href="http://www.crowdbnk.com">www.crowdbnk.com</a>
28	Crowdcube Capital	UK	<a href="http://www.crowdcube.com">www.crowdcube.com</a>
29	Crowdcube Ventures	UK	<a href="http://www.crowdcube.com">www.crowdcube.com</a>
30	Fireflock.Com	UK	<a href="http://www.fireflock.com">www.fireflock.com</a>
31	Funding Planet.Com/ Accelerangel	UK	<a href="http://www.fundingplanet.com">www.fundingplanet.com</a>
32	Funding Tree	UK	<a href="http://www.fundingtree.co.uk">www.fundingtree.co.uk</a>
33	Ice Dragons	UK	<a href="http://www.icedragons.co.uk">www.icedragons.co.uk</a>
34	Investingzone	UK	<a href="http://www.investingzone.com">www.investingzone.com</a>
35	London House Exchange Property Partner	UK	<a href="http://www.propertypartner.co">www.propertypartner.co</a>
36	Seedrs	UK	<a href="http://www.seedrs.com">www.seedrs.com</a>
37	Property Crowd Limited	UK	<a href="http://www.propertycrowd.com">www.propertycrowd.com</a>
38	Quintessentially Ventures Limited	UK	<a href="http://www.qventures.co">www.qventures.co</a>
39	Share-In	UK	<a href="http://www.sharein.com">www.sharein.com</a>
40	Social Stock Exchange	UK	<a href="http://www.socialstockexchange.com">www.socialstockexchange.com</a>

41	Squareknot	UK	<a href="http://www.squareknot.co.uk">www.squareknot.co.uk</a>
42	Syndicate Room	UK	<a href="http://www.syndicateroom.com">www.syndicateroom.com</a>
43	The Ideas Factory	UK	<a href="http://www.theideasfactory.com">www.theideasfactory.com</a>
44	Trillion Fund	UK	<a href="http://www.trillionfund.com">www.trillionfund.com</a>
45	Venturefounders	UK	<a href="http://www.venturefounders.co.uk">www.venturefounders.co.uk</a>
46	Volpit	UK	<a href="http://www.volpit.com">www.volpit.com</a>

\* Country of origin as reported by NCAs. Please note that this list includes both platforms that are directly authorised/registered and those which are tied agents of authorised investment firms.