



BANCA D'ITALIA
EUROSISTEMA



CONSOB
COMMISSIONE NAZIONALE
PER LE SOCIETÀ E LA BORSA

Communication

Regulations on *crowdfunding* service providers for businesses - Guidelines for operators interested in submitting applications for authorization

As of 10 November 2021, Regulation (EU) 2020/1503 (*Regulation on European crowdfunding service providers for business*, hereinafter also the "ECSP Regulation") relating to European providers of *crowdfunding* services for businesses is applicable.

Subjects wishing to manage *crowdfunding* platforms both based on investment (*equity-based*) and on loan (*lending-based*) must request a specific authorization and are subject to uniform rules, defined at European level, as well as to the supervision of the authorities designated by the Member states.

The Article no. 48 disciplines the transitional period, providing that *crowdfunding* service providers for businesses already operating under national regimes "*may continue, in accordance with the applicable national law, to provide crowdfunding services that are included in the scope of this Regulation until 10 November 2022 or until the issue of an authorization referred to in Article no. 12, whichever is the earlier*" (see paragraph 1). On 12 July the European Commission, exercising the option provided for in paragraph 3 of the same Article no. 48, extended the period until 10 November 2023.

Because of this framework, from 11 November 2023, only *crowdfunding* service providers for companies that have obtained authorization under the ECSP Regulation will continue to operate in Italy.

The contents of the application for authorization and the related procedure are governed by Article no. 12, which also gives the European Commission the power to further specify the requirements and procedures for submitting the application for authorization, adopting regulatory technical standards, based on the projects and the proposals developed by ESMA.

On 13 July, the European Commission adopted the Delegated Regulation "*supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying requirements and arrangements for the application for authorization as a crowdfunding service provider*", together with further Delegated Regulations that involve aspects of central importance for the operations of crowdfunding service providers, such as - among others - the measures and procedures for the business continuity plan, the sheet containing the key information on investment and conflicts of interest¹.

¹ The Delegated Regulation relating to the authorization is available at the following link: (<https://webgate.ec.europa.eu/regdel/#/delegatedActs/1794?lang=en>).

Consob and the Bank of Italy have been designated as competent authorities for the authorization and supervision of crowdfunding service providers. In fact, on 26 August of last year it was published in the Official Gazette no. 199 the European Delegation Law for the year 2021 containing the delegation to the Government for the transposition of European directives and the implementation of other regulatory acts of the European Union, which, in article no. 5, establishes the principles and guiding criteria for the adaptation of national law to the provisions of the ECSP Regulation².

However, Consob and the Bank of Italy will be able to receive formal requests for the issue of authorization to operate as a provider of *crowdfunding* services pursuant to the ECSP Regulation and the related Delegated Regulations and start the related evaluation process only following the adoption of the implementing Legislative Decree.

At the national level, the Regulation introduces for the first time a comprehensive discipline for *lending crowdfunding* for companies, while replacing the national regulatory framework applicable to managers of *equity crowdfunding* portals. It provides that operators comply with prudential requirements and have appropriate organizational structures to ensure adequate risk management and continuity of operations; the Regulation also introduces rules for the protection of investors inspired by those of Directive 2014/65/EU, the so-called MiFID2.

The operators concerned must therefore carefully evaluate the interventions necessary to ensure compliance with the new requirements and equip themselves with suitable organizational and control structures to oversee the proper conduct of the activity, in view of the submission of the application for authorization.

In order to facilitate an orderly start of the new regime, pending the completion of the process of adapting the national legislation, Consob and the Bank of Italy are available to entertain informal discussions to guide the operators interested in the future presentation of authorization applications, also providing clarifications and, if necessary, preliminary considerations, on the information and documentary elements to be attached to the requests. Interested parties are therefore invited to fill in the [attached form](#)³ and to send it to Consob [at the following email address: DIN_VIN_interlocuzioni_crowdfunding@consob.it] and to the Bank of Italy [at the following email address RIV.AutorizzazioniCrowdfunding@bancaditalia.it].

It is understood, given the informal and preliminary nature of these discussions, that the administrative authorization procedures will be started only after, once the regulatory framework has been completed, the operators will be able to submit a formal application for authorization, in compliance with the relevant European and national provisions.

Rome, 21 October 2022

The further Delegated Regulations of the European Commission, implementing the ECSP Regulation, can be found at the following link: (<https://webgate.ec.europa.eu/regdel/#/home?lang=en>).

These Delegated Regulations will be applicable following publication in the OJEU, which will take place once the three-month period has elapsed, during which the Council and Parliament will be able to formulate their observations.

² In particular, the article no. 5, paragraph 1, letter c), identifies Consob and the Bank of Italy "as competent authorities pursuant to Article 29, paragraph 1, of Regulation (EU) 2020/1503, having regard to their respective functions, also providing for forms of appropriate coordination to avoid duplication and overlaps and minimize the burdens on supervised entities".

³ The managers currently registered in the register kept by Consob pursuant to Article no. 50-*quinquies*, paragraph 2, of Legislative Decree no. 58/1998 are also invited to fill in the form in question, which may allow you to provide an update of any information already provided in this regard.