

## PRESS RELEASE

### Investment-based crowdfunding needs EU-wide common approach

The European Securities and Markets Authority (ESMA) has published an [Opinion](#) along with an [Advice](#) on Investment-based crowdfunding. The Opinion clarifies the EU rules applicable to crowdfunding, while the Advice highlights issues for consideration by the EU institutions to achieve greater regulatory and supervisory convergence within the EU.

The Opinion is addressed to the national competent authorities (NCA) and provides clarity on how crowdfunding business models fit within the existing EU regulatory framework. It outlines how existing EU rules are likely to apply to crowdfunding platforms, depending on the precise business model used. It also provides guidance to NCAs who may be considering how to regulate platforms operating outside the scope of the harmonised EU rules on the key risks inherent to crowdfunding and the key components of a regulatory regime to address them.

The Advice, addressed to the EU institutions – Commission, Parliament and Council, highlights the concern that strong incentives currently exist for crowdfunding platforms to structure their business models to fall outside the scope of regulation and asks them to consider policy options to reduce these incentives. Avoiding regulation presents risks to investor protection and makes it harder for platforms to grow their businesses.

Steven Maijoor, ESMA Chair, said:

“ESMA’s aim is to enable crowdfunding to reach its potential as a source of finance, while ensuring that risks to users of crowdfunding platforms are identified and addressed in a proportionate and convergent way across the EU.

“We believe that there are benefits both for investors as well as for platforms by operating inside rather than outside the regulated space.

## **Opinion to National Competent Authorities**

Considering the diverse business models used within investment-based crowdfunding and depending on the precise structures used different EU legislation may apply. The Opinion sets out an analysis of how the main business models map across existing EU rules, e.g., the Markets in Financial Instruments Directive (MiFID), the Prospectus Directive, the Directive for Alternative Investment Fund Managers (AIFMD) and other financial and banking regulations. In addition, the Opinion outlines what ESMA believes should be the key components of an appropriate regulatory regime for investment-based crowdfunding activities.

## **ESMA's Advice to the EU Institutions**

The Advice to the EU institutions highlights gaps and issues in the current applicable regime where policymakers could consider taking action to ensure there is a regime protecting investors while also fit for purpose for crowdfunding platforms. These gaps and issues include:

- the impact of the Prospects Directive thresholds;
- capital requirements and the use of the MiFID optional exemption; and
- the potential development of a specific EU crowdfunding regime, in particular for those platforms that currently operate outside of the scope of MiFID

The Opinion and Advice have been prepared in collaboration with and input from the European Banking Authority (EBA) on the regulation that falls within its scope of action, i.e. the Payment Services Directive, and constitute the first output of a co-ordinated programme of work with the next expected output being a publication by EBA on lending-based crowdfunding. In line with their respective remits, ESMA has focused on investment-based crowdfunding, while EBA has focused on lending-based crowdfunding.

## Notes for editors

1. 2014/1378 [Opinion – Investment-based crowdfunding](#)
2. 2014/1560 [Advice – Investment-based crowdfunding](#)
3. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
4. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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