

Initial Appraisal of a European Commission Impact Assessment

European crowdfunding service providers for business

Impact assessment (SWD(2018) 56, SWD(2018) 57 (summary) accompanying a Commission proposal for a regulation of the European Parliament and of the Council on European crowdfunding service providers (ECSP) for business COM(2018) 113 and a Commission proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on Markets in Financial Instruments COM(2018) 99

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned proposal, published on 8 March 2018 and referred to Parliament's Committee on Economic and Monetary Affairs (ECON).

The strengthening of the capital markets to boost long-term investment in the EU is a priority EU goal. In this context, the Commission's 2017 [mid-term review of the capital markets union \(CMU\) action plan](#) noted that access to finance for small, innovative businesses is a challenge in all EU countries, even those where access to bank finance has remained stable during the financial crisis. Start-ups and other unlisted firms lack risk finance to invest in innovation and growth, in particular in the early stages of their development (IA, p. 6, 8). In view of closing this gap and complementing bank financing, the Commission supports alternative sources of financing, including technology-enabled financial services, the largest part of which consists in crowdfunding.¹ In this context, crowdfunding is defined as an 'open call for the collecting of resources ... from the wider public through an internet-based platform for a specific project' (IA, p. 8).² A 2016 Commission [staff working document](#)³ noted that crowdfunding has been developing rapidly since 2013, but remained concentrated in a few EU countries,⁴ with 81 % market share in the United Kingdom (UK) (IA, p. 16). Some Member States introduced national rules to regulate their online platforms and/or apply elements of existing EU legislation⁵ on financial services to specific types of crowdfunding, while others leave some aspects of the activity unregulated. This regulatory patchwork hinders cross-border crowdfunding and creates considerable market fragmentation (IA, pp. 26-30).

According to the IA, the divergence of legal frameworks and the wide range of types of fundraising, investors and fund seekers is bound to increase due to the fast growth of the crowdfunding sector and the implications of Brexit (IA, pp. 8-11). Against the backdrop of the priority goal of completing the CMU, the Commission decided that legislative action at EU level had become necessary to address the challenges of crowdfunding and included the initiative as part of its [FinTech action plan](#) in its 2018 work programme (IA, p. 30). The IA covers the legislative proposal to establish an EU regime for investment-based and lending-based crowdfunding and the amendment of the directive on markets in financial instruments (MiFID II) to exempt these from its provisions.⁶

Problem definition

Following a presentation of the main characteristics of crowdfunding and the different business models currently used by online platforms (funding based on donation, investment, lending or reward), the IA identifies two main problems in the current European crowdfunding market (IA, pp. 19-28):

- 1 The under-development and small scale of the market, due to market fragmentation and barriers to cross-border activity, preventing a boost to alternative funding for small firms;
- 2 The lack of investor trust in the reliability of crowdfunding platforms, preventing them from engaging in cross-border crowdfunding activities in particular.⁷

Preceding the problem definition as such, the IA describes the main features of different crowdfunding activities and actors (IA, pp. 8-15). This section covers all existing models, including consumer lending, and constitutes, together with the problem definition, about one-third of the IA (IA, pp. 7-28). While these explanations are useful, the IA could have clarified at this stage that donation, reward and lending to consumers for consumption will not be covered by the assessment. In fact, it focuses on the crowdfunding models with a financial return, susceptible to improving access to financing for small firms, namely investment- and lending-based crowdfunding (IA, p. 32-33). The IA points to the growing number of platforms mixing elements of different business models and highlights the relevance of networking effects and information asymmetries that make it challenging for investors to assess the quality of crowdfunding projects properly, especially cross-border investments (IA, pp. 11, 14-15). It also notes the general downward trend of the most used bank-financing tools for SMEs and of bank loans below €1 million since 2010 (IA, p. 21).

The IA illustrates the problems, their consequences and drivers in a problem tree, indicating that conflicting national frameworks on crowdfunding on the one hand, and the dispersed structures of investors and products on the other, contribute to the above-mentioned problems (IA, p. 20). The great variation of national licensing and investor protection schemes, diverging definitions of business models and 'often ineffective' application of existing EU legislation are considered to contribute to market fragmentation and regulatory arbitrage.⁸ According to the IA, the ensuing legal uncertainties considerably affect stakeholder trust and restrict European crowdfunding to an essentially small and 'local' market, compared to other regions of the world (IA, pp. 22-25).⁹ The IA quantifies the total European crowdfunding (or online alternative finance market)¹⁰ at around €5.4 billion in 2015 (€7.7 billion in 2016). The UK had a large market share of about €4.4 billion in 2015, followed by France, Germany and the Netherlands (€319 million, €249 million and €111 million respectively) (IA, p. 16, 18, 22). Unlike the [Inception Impact Assessment](#), which featured market fragmentation as problem 1, the IA presents it as one of the drivers, considering rather the lack of cross-border crowdfunding as crucial to both problems. It assumes (only) €16.9 million 'cross-border activity' within the EU between 2013 and 2014, stressing that of the total €180 million cross-border funding for 'successful projects', most was raised through unspecified 'non-EU-platforms' (IA, p. 18).¹¹ Nevertheless, it concludes that the high growth rates of the sector in recent years (between 83 % and over 100 % between 2013 and 2015) and the increasing numbers of institutional investors indicate a strong potential for further development of the market, and thus, of the problems (IA, pp. 18-19, 39). The IA mentions other factors influencing the identified problems, which exceed its scope and are not analysed: different legal systems in the Member States in general, taxation and other issues (IA, p. 20). The IA considers the companies using crowdfunding as potentially affected by the problems, as well as 200 to 250 online platforms – each employing between 10 and 200 staff – the investors and the further European Securities Markets Authority (ESMA), which is expected to replace national administrations in their responsibility for licensing and monitoring crowdfunding activities (IA, p. 7, 39).

Objectives of the initiative

According to the IA, the general objective of the Commission proposal is to promote the efficiency and diversification of the EU capital market, to improve access to alternative financing for innovative small enterprises and thereby to contribute to the creation of jobs and growth (IA, p. 31). To be able to do so, the initiative aims at eliminating the problems currently preventing the development of cross-border crowdfunding activities in particular. The **specific** objectives are to:

- 1 enable crowdfunding platforms to scale up;
- 2 a) enhance investor trust by strengthening the integrity of crowdfunding platforms;
and
b) increase the transparency of these platforms for investors.

The objectives derive directly from the identified problems and their drivers. However, the **specific** objectives could have been better defined, especially in the absence of **operational** objectives, which are not featured in the IA, despite being requested by the better regulation guidelines.¹² They

do not provide a specification on **how** to enable platforms to scale up, nor a differentiation between the currently unregulated lending-based crowdfunding and investment-based crowdfunding, now regulated in the Member States by elements of MiFID II (IA, p. 29). Consequently, the specific objectives do not appear to fulfil all of the 'S.M.A.R.T.' criteria of being specific, measurable, achievable, relevant and time-bound, as required by the better regulation guidelines in view of effective monitoring and, later on, evaluation of the achievement of the objectives. Notwithstanding these weaknesses, the objectives appear to be in line with the 2017 [mid-term review](#) of the [action plan on building a capital markets union](#), the [FinTech action plan](#) and the Digital Single Market.

Range of options considered

Prior to screening the policy options to achieve the objectives, the IA defines the scope of the envisaged action. It embeds the types of crowdfunding services to be covered by this initiative (investment and lending-based services, reception and transmission of orders and placing of securities without a firm commitment basis),¹³ the monetary volume of these crowdfunding services (products below €1 million)¹⁴ and the range of instruments traded on crowdfunding platforms (transferable securities, loan agreements or other credit intermediation tools) (IA, pp. 32-35). The IA then provides a distinct description of the baseline scenario (no EU action) as option 1. In this context, it takes the main features of the current national regimes into account: a) the authorisation procedure, b) the governance and operations of the platforms and c) the rules on information disclosure to investors and business conduct (IA, p. 35-37). Each description of options 2, 3 and 4 refers to these items and opens with a short abstract box (IA, pp. 37-47). The IA presents the following policy options (the preferred option of the IA is shaded in grey):

Option 1 – No EU action

Baseline scenario: Diverging national rules (from detailed to none) and considerably diverging application of existing EU legislation regarding crowdfunding activities would persist and maintain the market fragmentation and the barriers to cross-border crowdfunding (IA, pp. 36-37).

Option 2 – Directive

Minimum standards for crowdfunding platforms, with authorisation of business activities by (ex-post) notification to the National Competition Authorities (NCAs), thus without ex-ante approval. Furthermore, this option envisages minimum disclosure requirements to provide sufficient information to investors on the investment risks, in a key investment information sheet (KIIS). Prospectus regulation exemption rules would apply, leaving it to the Member States to decide whether to apply an additional exemption for crowdfunding offers between €1 million and €8 million. As regards platform management and business conduct, the IA notes the possibility to exchange good practice and potentially for 'light initial screening' by NCAs, but does not provide further information on these issues (IA, p. 38).

Option 3 – Combination of MiFID II amendment and new regulation

Product-based approach, with separate regimes for investment and for lending-based crowdfunding. The former would be governed (and licensed) by an amended MiFID passport regime – as for investment firms, but with some 'proportionate adjustment' (not specified further by the IA) according to the type of financial product used in the crowdfunding. Credit intermediation for business services, that is lending-based crowdfunding currently not regulated at EU level, would be covered by an additional new regulation, to provide passports for these services (IA, p. 44).

Option 4 – New regulation on voluntary European crowdfunding service providers (ECCSPs)

Under this option, a voluntary, single regime would be set up for businesses that intend to become involved in cross-border investment, and lending-based crowdfunding, to be authorised by ESMA (IA, pp. 47-49). This would co-exist with national regimes, as for domestic business a national licence would suffice, while for cross-border activities, a crowdfunding platform would need the ECSP label. This option does not include capital requirements, but provisions regarding organisation and conduct of business similar to the MiFID regime, as well as transparency requirements with a key

investment information sheet (KIIS), as under option 2. Platforms providing services outside the scope of the ECSP would have to comply with existing legislation.

The options range from no EU action and a directive with minimum standards to a comprehensive single EU regulation for crowdfunding service providers in the EU. They are presented in a balanced way, but some aspects could have been explored more thoroughly, for example the monitoring by the NCAs under option 2, or details of the 'proportionate rules' for crowdfunding platforms under existing EU legislation under option 3 (IA, p. 39, 41). The IA explains the differences between investment- and lending-based crowdfunding, mirrored (only) in option 3 suggesting two distinct systems, whereas all other options address all crowdfunding categories as one business activity. The IA mentions one discarded option, namely non-regulatory action below the level of minimum standards (as in option 2), arguing that this would not have solved the problems of market fragmentation caused to a large extent by the divergence of national rules (IA, p. 37).

Scope of the impact assessment

The IA combines the description of each option with a short section on their impacts, providing a rather limited analysis of the latter. It uses both qualitative and quantitative methods to assess the options for their **economic** impact, mainly in terms of costs and cost savings (benefits). **Social** 'externalities' are only mentioned in one paragraph for the preferred option, as is 'limited impact on third countries', in one sentence, despite the UK's 81 % market share and some anticipated, yet not explored, effects of a future Brexit (IA, p. 56). The IA does not expect any relevant **environmental** impacts. Taking into account the importance of missing cross-border crowdfunding and the geographical concentration of crowdfunding in a few Member States acknowledged by the IA, a look at territorial impacts might have been relevant in this context, but is not considered.

The IA provides exemplary quantifications of **cost and benefits (savings)** for options 2 and 3 and presents a summary cost/benefit table for option 4 in Annex 3 (relating to MiFID-licensed and other platforms, SMEs, investors and administrations). For instance, it estimates total one-off compliance costs for platforms to be between €888 800 and €2.2 million under option 2, while information disclosure in the form of the new information sheet (KIIS under options 2 and 4) would entail costs of around €3 000 per KIIS¹⁵ (IA, p. 39). Further, the proportionate application of MiFID II governance rules to investment-based crowdfunding under option 3 would add costs for the 60 % of platforms without a MiFID licence, partly due to the need to keep additional regulatory capital of up to €125 000 to avoid the risk of insolvency (IA, p. 45).¹⁶ Based on calculations carried out in another IA (for MiFID II), the IA expects one-off compliance costs for platforms of €25 000 to €50 000 and between €12 000 and €20 000 of recurring costs linked to rules on business conduct (IA, p. 45).¹⁷ In this context, it has to be noted that the IA does not explain the method of these estimations. Their evidence-base is sometimes not transparent, for instance relating to the indirect benefits of the expansion of crowdfunding in the single market, estimated under the preferred option 4 at €20 or €25 billion, the potential cost savings of €29 billion for platforms or the potential stock of cash available to investors is estimated to be around €720 billion (IA, pp. 54, 69-71).¹⁸ In fact, the presentation of the costs and benefits offers glimpses of potential monetary impacts on different elements of crowdfunding (such as license fees, IT costs or compliance costs), rather than a unified picture. Moreover, the use of varying references in the estimations make their comparison challenging. For example, there are inconsistencies regarding the number or categories of platforms taken into account in different calculations.¹⁹ Non-monetary benefits of crowdfunding are mentioned briefly and include the validation of business ideas and of traded products on crowdfunding platforms, as well as market expansion (via the network effects) (IA, p.12).

Comparing the effectiveness and efficiency of the options against the specific objectives, the IA argues that under option 1 (baseline scenario) all the identified problems would persist or worsen, especially in view of Brexit (IA, pp. 36-37, 51). It sees some benefits in option 2, namely the flexibility of the minimum requirements, allowing the crowdfunding industry to develop innovative business models, but ultimately finds it would maintain uncertainties and thus, fail to address the main issues

of missing cross-border activity and market fragmentation (IA, p. 38, 51). Moreover, the IA notes the need for clarification and guidance for Member States under this option, to ensure coherent definition and treatment of platform activities and business models (IA, p. 42). In comparison, option 3 would provide more legal certainty to platforms, but potentially diminish innovation for business models, as all platforms would have to adhere to a common set of EU rules. Also, it is expected to be less effective in terms of transparency than options 2 and 4 (with their harmonised template (KIS)) (IA, pp. 44-45, 52). While option 3 is expected to increase investor protection, trust and legal certainty – and thereby cross-border activities – the IA considers it potentially disproportionate and, importantly, not apt to cope with the growing tendency of platforms to mix different business models (IA, p. 45). In addition, separate systems for investment- and lending-based crowdfunding could increase the possibility of gold plating – an aspect that lacks explanation in the IA – and overall costs for stakeholders (IA, p. 52). The combination of both investment- and lending-based crowdfunding in one single regime is proposed in option 4, which could also co-exist with national regimes for crowdfunding (IA, p. 49). After benchmarking it against all other options, the IA selects option 4 as the most cost effective and preferred option (IA, p. 53).

Subsidiarity / proportionality

The IA argues that the great variation of national rules prevents cross-border activities and creates legal uncertainty and mistrust in the reliability of crowdfunding platforms, which can only be addressed by EU legislation harmonising the rules for crowdfunding (IA, p. 29). It explains that the IA's preferred option would result in a level playing field, transparency and stability for platform providers and investors in all Member States (IA p. 30). Proportionality is addressed consistently throughout the IA, from the problem definition and the policy options to their comparison and the selection of the preferred option (IA, pp.19-27, 41-43, 45-48, 52). The IA points out that the proposed regulation could co-exist with national rules and would relieve the platforms from applying MiFID II or MiFIR rules that might be disproportionate for small crowdfunding activities (IA, pp. 33-34, 45). The exclusion of donation- and reward-based crowdfunding from the preferred option also aims at ensuring respect of the proportionality principle.

At the time of writing, no reasoned opinions or contributions from national parliaments have been received. The subsidiarity deadline was 14 May 2018. The European Economic and Social Committee is preparing an opinion on the issue, scheduled for adoption in July 2018.²⁰

Budgetary or public finance implications

The IA expects implications for the EU budget through increased costs, staffing and administrative burden for ESMA of between €2.3 and €2.8 million per year (IA, pp. 55-56).²¹ The IA states that these costs would be lower than a continued application of the MiFID rules and authorisation by national administrations, although without providing quantified substantiation of this claim. The IA does not provide information regarding budgetary implications in the Member States.

SME test / Competitiveness

The IA repeatedly stresses the relevance of the initiative for SMEs, but does not coherently analyse or quantify its impact on them (IA, pp. 6, 12, 15-16, 32). It uses the term 'SMEs' alongside, inter alia, 'firms, enterprises, companies, micro-companies, small enterprises', without specifying their type, number or size, as required in the better regulation toolbox (tool 22).²² While mentioning a potential reduction in fees of 5-7 % for SMEs investing in crowdfunding, the IA acknowledges other equally relevant factors, such as the individual risk of the firms, that cannot be estimated in this context (Annex 3, IA, pp. 70-71). As far as costs are concerned, the preferred option implies, according to the IA, total direct one-off costs for 'businesses' (of between €300 000 and €600 000 (investment-based crowdfunding) and between €650 000 and €1.3 million (lending based crowdfunding) (IA, Annex 3, p.72).²³ The IA expects the preferred option to foster competition in the sector, but does not analyse this issue (IA, pp. 7, 34, 68).

Simplification and other regulatory implications

The IA expects the preferred option to contribute to a significant simplification of the complex current mixture of national and EU rules governing crowdfunding (IA, p. 30). It projects a reduction of financial and administrative burdens for all key stakeholders. It assumes that the creation of a harmonised authorisation procedure and information disclosure would simplify cross-border activities particularly, and increase transparency as well as investor trust (IA, p. 55). The IA underlines the complementarity of the preferred option with existing national regimes and its voluntary nature, entailing only implications for the platforms that will opt for the new EU regime (IA, p. 52).

Quality of data, research and analysis

Overall, the IA's assessments are reasonable and logical. The IA references internal and external research, including several recent studies and the 2016 Commission staff working document on crowdfunding in the EU (IA, pp. 58-59, 66, 120-121).²⁴ However, the impact analysis of the options could have been more thorough and precise (see pp. 4-5). The IA does not discuss the availability or the quality of relevant data, in spite of acknowledging a number of times that certain costs are 'very difficult to assess' (IA, p. 39, 45, 56). Available data – including the extracts from eight case studies presented in Annex 6 – seems to be limited, covering the few Member States with a high market share of crowdfunding, without discussing geographical balance or EU-wide coverage. According to the IA, it has benefited from the input of the European Supervisory Authorities (ESAs), mainly ESMA (IA, p. 67). The quantifications are based on ESMA sources, but references often remain unspecific ('statistics by ESMA', 'DG FISMA estimations', 'market observations', 'Commission services', 'other publications') (IA, p. 15, 22, 24, 60, 72). As mentioned above, the quantified estimates in the IA appear to be somewhat fragmented, the links between them and their relevance for the sector is not elaborated in a transparent way. It is not apparent how the different cost categories featured add up to the indicated total costs, in particular those regarding the preferred option (IA, pp. 69-75).

Stakeholder consultation

The IA clearly identifies the stakeholders affected by the problems and the proposed options of regulatory action (see p. 3). In the context of the Commission's monitoring of the crowdfunding sector since 2013, several stakeholder consultations were carried out, but, in apparent contradiction with the recommendations of the better regulation guidelines, none specifically for this IA. The most recent open public consultation took place in the context of the preparation of the FinTech action plan (23 March 2017 to 15 June 2017), thus not exclusively covering crowdfunding (IA, pp. 61-63). It received a total of 724 responses, and according to the IA's synopsis report, 73 % of respondents supported EU action to harmonise definitions, licensing requirements and legal uncertainty in the context of crowdfunding in general (IA, p. 63). Throughout the IA, the references to stakeholder feedback regarding the profile of the respondents are mostly unspecific. Furthermore, the IA mentions feedback following the publication of the Inception IA (41 reactions) and other public consultations on initiatives on the CMU, as well as a more dated (2013) [public consultation](#) on 'Crowdfunding in the EU' with 893 responses, apparently also supportive of EU legislative action on crowdfunding (IA, p. 65). The IA notes that in the consultation on the Inception IA, no stakeholder supported option 1 and only 7 % option 2, but does not provide similar information regarding options 3 and 4. In addition to the consultations, the IA refers to a series of three workshops with Member States and one workshop carried out in the framework of a [study](#) on cross-border crowdfunding.²⁵ It also notes the discussions of the 'European Crowdfunding Stakeholder Forum', set up in 2015 (IA, p. 65-66).

Monitoring and evaluation

The IA stresses the importance of 'robust monitoring and evaluation' of the fast-growing crowdfunding sector and suggests establishing a 'detailed programme for monitoring', involving the Commission, and national and European authorities (IA, p. 57). It proposes a list of indicators,

with the Commission in charge of monitoring the take-up of the legislation, while the collection of data, (among other things on annual crowdfunding volumes, the type of investors and cross-border investments), would be supported by national and European administrations and associations such as the European Crowdfunding Network (ECN). According to the IA, the ESAs, supervisors and market associations would preferably monitor indirect costs and benefits. The IA does not mention specific details nor a timeframe for the ex-post evaluation of the new legislation.

Commission Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) of the Commission issued a positive opinion with reservations on the draft IA on 3 March 2018. It particularly identified shortcomings concerning the explanation of the urgency of an initiative at EU level, the content of some options and a better reflection of the stakeholder's views. These issues were addressed partly in the final IA, although especially the aspect of centralised supervision and the competences of ESMA envisaged under the preferred option is not analysed in depth. The IA does not contain the mandatory Annex on the follow-up to the RSB opinion (requested by the better regulation toolbox (tool 12)).

Coherence between the Commission's legislative proposal and IA

The legislative proposal appears to follow the IA's preferred option. However, it is going beyond its rather general recommendations, notably as regards the powers and competences of ESMA, providing for a comprehensive system of administrative sanctions and fines, as well as a number of delegated acts (Articles 21-37). The indicators recommended by the IA are not featured in the proposal, but in the legislative financial statement (in the context of ESMA staffing needs). The proposal does not contain a 'detailed monitoring programme' suggested by the IA.

Conclusions

Based on internal and external expertise, the IA provides useful qualitative and quantitative information on the developing EU crowdfunding sector. It clearly identifies the main problems and develops specific, but not operational, objectives to tackle them. The assessments of the options could have been more specific and complete, for example regarding social or territorial implications. Moreover, an analysis of the effects on the main targets – that is SMEs, in particular start-ups – is missing. In the same vein, the relevance of UK withdrawal from the EU for the EU crowdfunding sector could have been explained more in detail, taking the very large market share of crowdfunding in the UK into account. It is notable that the IA remains both general and brief as regards the supervision of the preferred option, in particular the power and competences of ESMA, which constitute an important part of the legislative proposal. The quantified estimations of the IA could have been presented in a more transparent and coherent manner. The IA highlights the voluntary and proportionate character of the preferred option that would affect only the enterprises that decide to use it in view of increasing cross-border crowdfunding activities across the EU. It does not explore the implications of a potential for low uptake of the new EU regime.

ENDNOTES

- ¹ Other examples of financial technology services are blockchain, distributed ledger or robo-trading.
- ² For definitions of different crowdfunding categories see A. Delivorias, [Crowdfunding in Europe](#), EPRS, European Parliament, 2017.
- ³ Crowdfunding in the EU Capital Markets Union, [SWD\(2016\) 154](#), European Commission, p. 3.
- ⁴ United Kingdom, France, Germany, the Netherlands, Finland and Spain (IA, p. 16, 37).
- ⁵ Annex 5 of the IA, pp. 98-113, provides an overview of 14 relevant EU legal acts, inter alia the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR), the Prospectus regulation and the Payment Services Directive.
- ⁶ See also A. Delivorias, [Establishing a basis for European crowdfunding service providers](#), EU Legislation in Progress, EPRS, May 2018.
- ⁷ The biggest perceived risks are loan defaults or business failures, fraudulent activities or collapse of platforms due to malpractice (IA, pp. 19, 25-26).

- ⁸ Annex 4 of the IA provides an overview of the current regulatory frameworks for crowdfunding in 10 Member States.
- ⁹ The Asian-Pacific market is around €94.6 billion and the Americas' market €33.6 billion (IA, p. 8). The IA reports, based on unspecified 'market observations', that no platform is currently operating actively in all EU Member States and generally low levels of foreign investment in the EU crowdfunding sector (IA, p. 18, 22).
- ¹⁰ There seems to be some imprecision, as the IA, p. 21 and 22, Figure 6, refers to these numbers as 'total crowdfunding volume', whereas, p. 16 and 18 (Figures 2 and 4) of the IA, attribute them to 'alternate finance volumes'.
- ¹¹ The IA provides no information about the criteria of 'successful projects' or on the location of the used non-EU-platforms.
- ¹² Better regulation guidelines, [SWD\(2017\) 350](#), European Commission, July 2017, pp. 20, 30 and tool 16.
- ¹³ Based on ESMA input (IA, pp. 34-35). Other services, such as portfolio management or investment advice would be subject to the full MiFID regime and other existing EU regimes.
- ¹⁴ Above €1 million, Member States, in the framework of the Prospectus regulation, decide whether or not a prospectus for public issuance is required (IA, p. 34).
- ¹⁵ Assuming annual costs per IT professional of €100.000 and 2-4 weeks to implement necessary changes (IA, p. 39).
- ¹⁶ To comply with MiFID II, €125 000 in case of reception and transmission or execution of orders or management of portfolios while not dealing with the client's money on its own account. Member States can decide to lower the amount to €50 000 if the firm is not authorised to hold client money (IA, p. 44).
- ¹⁷ According to the IA, p. 45, these could be significantly lower for platforms that have already a national licence and apply some business conduct rules. It considers it even more difficult to estimate the cost impacts on lending-based platforms.
- ¹⁸ The IA does not provide the source or method for the estimates of 'cost of non-Europe' for crowdfunding (€29 billion). The definition of the term itself is still debated and would need specification if used for quantifications.
- ¹⁹ Estimates relating to MiFID licensed or 'other' platforms, to platforms carrying out different services or to '(non-registered' platforms (11, 42, 190 or 33 out of 99 platforms).
- ²⁰ Rapporteur is D. Mareels of the Employers' Group of the EESC.
- ²¹ The explanatory memorandum of the proposal (p.8) indicates a cost impact of €1.6 million, assuming the authorisation and supervision of 25 ECSPs by ESMA for the first year of implementation.
- ²² Both a platform and an investor could be a SME, but they seem to be classified in separate categories as regards benefits and in one category ('business') as regards costs (Annex 3).
- ²³ Under the assumption that all platforms opt for the the EU regime.
- ²⁴ The information presented in Annexes 2, 4 and 5 was mostly already available in other publications (for example as Annex to the SWD cited in footnote 3).
- ²⁵ European Crowdfunding Network & Osborne Clarke, Barriers to the cross-border development of crowdfunding in the EU, 2017.

This briefing, prepared for the Committee on Economic and Monetary Affairs (ECON), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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