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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/2111

of 13 July 2022

supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying conflicts of interest requirements for crowdfunding service providers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 8(7), fourth subparagraph, thereof,

Whereas:

- (1) Pursuant to Article 8(3) of Regulation (EU) 2020/1503, crowdfunding service providers are to maintain and operate effective internal rules to prevent conflicts of interest. In order to ensure that such rules meet their objective of preventing conflicts of interest over time, crowdfunding service providers should review those rules periodically and at least on an annual basis, and ensure that appropriate measures are taken to address any deficiencies regarding such rules.
- (2) To manage conflicts of interest, crowdfunding service providers should not over-rely on disclosure requirements set out in Article 8(5) of Regulation (EU) 2020/1503. Therefore, they should establish internal rules to prevent conflicts of interest. Internal rules to prevent conflicts of interest should be appropriate to the nature, scale and complexity of the crowdfunding services provided as well as to the size and organisation of the crowdfunding services provider's business. In that regard, internal rules to prevent conflicts of interest should take into account, where relevant, circumstances related to the fact that the crowdfunding service provider belongs to a group.
- (3) In designing internal rules to prevent conflicts of interest, crowdfunding service providers should make their best efforts to ensure the prevention, identification and management of conflicts of interest. Where a conflict of interest is nevertheless identified, crowdfunding service providers should take the necessary steps to ensure the disclosure of that conflict of interest to the clients of the crowdfunding service provider and to any other party who may be impacted.
- (4) The steps that crowdfunding service providers are to take in accordance with Article 8(4) of Regulation (EU) 2020/1503 should ensure with reasonable confidence that risks of damage to clients' interests will be prevented and, where this is not possible, appropriately mitigated.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

- (5) To ensure that clients can take an informed decision about services presenting actual conflict of interests, crowdfunding service providers should keep up-to-date the information, disclosed in accordance with Article 8(5) of Regulation (EU) 2020/1503, about the general nature and sources of conflicts of interest as well as the steps taken to mitigate them. Such disclosure should be appropriate to the nature of the clients to whom or which it is addressed, in particular taking into account their qualification as sophisticated or non-sophisticated investors, including prospective investors. The disclosure should include a description of the conflicts of interests and the related risks for the clients.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (7) European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Maintenance and operation of internal rules to prevent conflicts of interest

1. Crowdfunding service providers shall establish in writing, and implement and maintain, internal rules to prevent conflicts of interest. The rules to prevent conflicts of interest shall be appropriate to the size and organisation of the crowdfunding service provider, as well as the nature, scale and complexity of its business.
2. Where a crowdfunding service provider is a member of a group, the internal rules to prevent conflicts of interest referred to in paragraph 1 shall take into account any circumstances that constitute or may give rise to a conflict of interest due to the structure and business activities of other members of the group.
3. The internal rules to prevent conflicts of interest referred to in paragraph 1 shall require the crowdfunding service provider to:
 - (a) ensure that any of the persons referred to in Article 8(2), first subparagraph, points (a), (b) and (c) of Regulation (EU) 2020/1503 are not accepted as project owners in the crowdfunding projects offered on their crowdfunding platform;
 - (b) identify whether any of the persons referred to in Article 8(2), first subparagraph, points (a), (b) and (c), of Regulation (EU) 2020/1503 have been accepted as investors in the crowdfunding projects offered on their crowdfunding platform;
 - (c) identify any other circumstances which may give rise to an actual or potential conflict of interest between the persons referred to in Article 8(4) of Regulation (EU) 2020/1503, while taking into account the size and activities of the crowdfunding service provider and, where applicable, of the group to which it belongs, and the risk of damage to the interests of clients;

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (d) where relevant, specify procedures to be followed and measures to be adopted, including procedures and measures concerning the relevant internal responsibilities within the organisation of the crowdfunding service provider, to comply with the requirements laid down in Article 8(2) of Regulation (EU) 2020/1503 and pursuant to point (c) of this paragraph.

4. In the situation referred to in paragraph 3, point (b), persons as referred to in Article 8(4) of Regulation (EU) 2020/1503 that are engaged in different business activities involving a conflict of interest of the kind specified in Article 8(2), first subparagraph, points (a), (b) and (c), of Regulation (EU) 2020/1503 shall carry on those activities at a level of independence appropriate to:

- (a) the size and activities of the crowdfunding service provider;
- (b) where applicable, the size and activities of the group to which the crowdfunding service provider belongs;
- (c) to the risk of damage to the interests of clients.

5. In the situation referred to in paragraph 3, point (c), internal rules shall consist all of the following:

- (a) effective procedures to prevent or control the exchange of information between persons as referred to in Article 8(4) of Regulation (EU) 2020/1503 that are engaged in activities involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more clients of the crowdfunding service provider;
- (b) provisions for separate supervision of persons as referred to in Article 8(4) of Regulation (EU) 2020/1503 whose principal functions involve carrying out activities on behalf of, or providing services to clients whose interests may conflict, or who otherwise represent different interests that may conflict, including the interests of the crowdfunding service provider;
- (c) removal of any direct link between the remuneration of persons as referred to in Article 8(4) of Regulation (EU) 2020/1503 that are principally engaged in one activity and the remuneration of, or revenues generated by, different persons, as referred in article 8(4) of Regulation (EU) 2020/1503, principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
- (d) measures to prevent or limit any person from exercising inappropriate influence over the way in which a person as referred to in Article 8(4) of Regulation (EU) 2020/1503 carries out crowdfunding services;
- (e) measures to prevent or control the simultaneous or sequential involvement of a person as referred to in Article 8(4) of Regulation (EU) 2020/1503 in separate crowdfunding services where such involvement may impair the proper management of conflicts of interest.

6. Crowdfunding service providers shall assess and review their internal rules to prevent conflicts of interest at least annually and shall take all appropriate measures to address any deficiencies identified.

Article 2

Steps to prevent, identify and manage conflicts of interest

1. The steps that crowdfunding service providers are required to take in accordance with Article 8(4) of Regulation (EU) 2020/1503 shall aim at ensuring with reasonable confidence that risks of damage to client interests will be prevented, and, where that is not possible, appropriately mitigated.

2. For the purposes of identifying the types of conflict of interest that arise while providing crowdfunding services and whose existence may damage the interests of a client, in addition to the types of conflicts of interests referred to in Article 8(2), first subparagraph, of Regulation (EU) 2020/1503, crowdfunding service providers shall take into account, as a minimum, whether any of the persons referred to in Article 8(4) of that Regulation:

- (a) is likely to make a financial gain, or avoid a financial loss, at the expense of the client;
- (b) has an interest in the outcome of a service provided to the client which is distinct from the client's interest in that outcome;
- (c) has a financial or other incentive to favour the interest of a client or group of clients over the interests of another client.

Article 3

Disclosures regarding the general nature and source of conflicts of interest and mitigation steps

1. Crowdfunding service providers shall publish and update the information referred to in Article 8(5) of Regulation (EU) 2020/1503 on their website on a place that is easily accessible for clients. Crowdfunding service provider shall disclose that information to clients on a durable medium, unless no conflict of interest has been identified in accordance with Article 8(4) of Regulation (EU) 2020/1503, and shall update that information where relevant.
2. The disclosure referred to in paragraph 1 shall contain a specific and clear description of the conflicts of interest and associated risks identified in the context of a given service, taking into account the nature of the clients to whom the disclosure is being made, in particular their qualification as sophisticated or non-sophisticated prospective investors.

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2112**of 13 July 2022****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 authorisation as a crowdfunding service provider****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 12(16), fourth subparagraph, thereof,

Whereas:

- (1) To ensure a uniform mechanism by which competent authorities effectively exercise their powers in respect of applications for authorisation of prospective crowdfunding service providers, it is appropriate to set out common standard forms, templates, and procedures for such applications.
- (2) To facilitate communication between a prospective crowdfunding service provider and the competent authority, the competent authority should designate a contact point specifically for the purpose of the application process and should make the relevant contact details public on its website.
- (3) To enable the competent authority to thoroughly assess whether the application is complete, where the competent authority requires the prospective crowdfunding service provider to provide missing information, the time limit for the assessment of the completeness of the application referred to in Article 12(4) of Regulation (EU) 2020/1503 should be suspended from the date such information is requested until the date it is received by the competent authority.
- (4) To allow the competent authority to assess whether changes to the information provided in the application for authorisation may affect the procedure of authorisation, it is appropriate to require prospective crowdfunding service providers to communicate such changes without undue delay. Furthermore, it is necessary to establish that the time limits for the assessment of the information laid down in Article 12(8) of Regulation (EU) 2020/1503 apply from the date on which the amended information is provided by the applicant to the competent authority.
- (5) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (6) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (7) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Designation of a contact point

Competent authorities shall designate a contact point for receiving the applications for authorisation as a crowdfunding service provider pursuant to Article 12 of Regulation (EU) 2020/1503. Competent authorities shall keep the contact details of the designated contact point up-to-date and shall make those contact details public on their websites.

Article 2

Standard form

Prospective crowdfunding service providers shall submit their application for authorisation using the standard form set out in the Annex.

Article 3

Acknowledgement of receipt

Within 10 working days from the receipt of the application and notwithstanding the time limit set out in Article 12(4) of Regulation (EU) 2020/1503 for the assessment of whether the application is complete in accordance with that Article, the competent authority shall send electronically, on paper, or in both forms, an acknowledgement of receipt to the prospective crowdfunding service provider. That acknowledgement of receipt shall include the contact details of the persons who will handle the application for authorisation.

Article 4

Time limit suspension in case of missing information

Where the competent authority requires the prospective crowdfunding service provider to provide missing information in accordance with Article 12(4) of Regulation (EU) 2020/1503, the time limit for the assessment of whether the application is complete in accordance with that Article shall be suspended from the date such information is requested until the date it is received.

Article 5

Notification of changes

1. The prospective crowdfunding service provider shall notify the competent authority of any changes to the information provided in the application for authorisation without undue delay. The prospective crowdfunding provider shall provide the updated information by using the standard form set out in the Annex.
2. Where prospective crowdfunding service provider provides updated information, the time limit laid down in Article 12(8) of Regulation (EU) 2020/1503 shall start to run from the date on which that updated information is received by the competent authority.

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 6***Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

APPLICATION FOR AUTHORISATION AS CROWDFUNDING SERVICE PROVIDER

Information to be provided to the competent authority

Application for authorisation as crowdfunding service provider				
Information to be provided to the competent authority				
Field		Sub-field		Description
1	Applicant	1	Full legal name	Full legal name of the applicant
		2	Trading name(s)	Trading name(s) to be used to provide the crowdfunding services
		3	Internet address	Internet address of the website operated by the applicant
		4	Physical address	Registered address of the applicant
		5	National ID/Registration number (where available)	National identifier of the applicant or evidence of the registration with the national register of companies
		6	LEI (where available)	Legal entity identifier of the applicant
2	Name and contact details of the person in charge of the application	1	Full name	Full first name(s) and surname(s) of the contact person
		2	Function	Function and/or title of the contact person within the applicant or status as an external person (e.g., consultant, law firm) and proof that the person has the power to file the application
		3	Postal address (if different from the physical address of the applicant)	
		4	Telephone number	
		5	Email address	

Field		Sub-field		Description
3	Legal form	n/a	Legal form of incorporation under national legislation	
4	Articles of association	n/a	Articles of association and, where available, deed of incorporation	
5	Programme of operations setting out the types of crowdfunding services that the applicant intends to provide and the crowdfunding platform that it intends to operate, including where and how crowdfunding offers are to be marketed	1	Information on the types of crowdfunding services	<p>The applicant shall indicate:</p> <p>(a) The crowdfunding services that the applicant intends to provide (cross as appropriate):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Facilitation of granting of loans, which includes the provision of relevant information such as default rates of loans <input type="checkbox"/> Placing without a firm commitment basis of transferable securities and admitted instruments for crowdfunding purposes and the reception and transmission of orders in relation to those transferable securities and admitted instruments; <p>(b) (Where the applicant provides or intends to provide facilitation of granting of loans) Whether the applicant intends to provide individual portfolio management of loans including a description of the internal arrangements for the provision of such activity and a description of the contractual arrangements that the applicant will establish with project owners and with investors (with particular reference to the mandates that investors will give to the applicant);</p> <p>(c) Other services or activities that the prospective crowdfunding service provider intends to provide (cross as appropriate):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Asset safekeeping <input type="checkbox"/> Payment services <input type="checkbox"/> Use of special purpose vehicles for the provision of crowdfunding services <input type="checkbox"/> Application of credit scores to crowdfunding projects <input type="checkbox"/> Suggestion of the price and/or the interest rate of crowdfunding offers <input type="checkbox"/> Operating a bulletin board <input type="checkbox"/> Establishing and operating contingency funds;

Field		Sub-field		Description
				<p>(d) The types of offers that the applicant plans to present (such as loan-based projects, equity-based projects, the type of sector or business activity, the type of investments to be offered on the crowdfunding platform, and types of investors targeted);</p> <p>(e) The selection procedure setting out the details of the methods adopted to select the offers to be presented on the crowdfunding platform, including the nature and the extent of the due diligence undertaken in respect of project owners;</p> <p>(f) The arrangements to make public the offers on the crowdfunding platform and how the interests of investors for a crowdfunding project will be communicated to the relevant project owner;</p> <p>(g) Any other services/activities currently (or intended to be) provided by the applicant not covered by Regulation (EU) 2020/1503 that may be provided in accordance with Union or national law including references to and a copy of the relevant authorisations (where applicable)</p>
		2	Information on the crowdfunding platform	<p>Description of:</p> <p>(a) the arrangements to make the information referred to in Article 19 of Regulation (EU) 2020/1503 available on the website of the applicant's crowdfunding platform, including relevant IT arrangements;</p> <p>(b) the arrangements to make the crowdfunding platform an internet-based information system, publicly accessible and without discriminatory access;</p> <p>(c) the procedures and arrangements for the prompt, fair and expeditious provision of the crowdfunding services, including the description of:</p> <p>(i) the procedures for the reception and transmission of client orders;</p> <p>(ii) the systems for processing such orders;</p> <p>(iii) how those procedures and arrangements allow for the reception and transmission and execution of the client orders on an equal basis;</p>

Field		Sub-field		Description
				(d) mechanisms that the applicant plans to implement to facilitate the information flows between the project owner and the investors, or between the investors, if applicable
		3	Marketing strategy	Description of the marketing strategy that the prospective crowdfunding service provider plans to use in the Union, including languages of the marketing communications; identification of the Member States where advertisements will be most visible in media and the expected means of communication that will be used
6	Description of the governance arrangements and internal control mechanism to ensure compliance with Regulation (EU) 2020/1503, including risk-management and accounting procedures	1	Governance arrangements	Description of: <ul style="list-style-type: none"> (a) the internal structure of the applicant (organisational chart, etc.) with indication of the distribution of the tasks and powers and the relevant reporting lines, the control arrangements implemented and any other useful information to illustrate the applicant's operational features, policies and procedures to ensure effective and prudent management; (b) the staff-recruitment plan, if any, for the next three years and the relative state of implementation, or indication of the staff in active employment to be responsible for carrying out the services
		2	Internal control mechanisms	Description of the internal control mechanism (such as compliance function and risk management function, where established) put in place by the applicant, in order to monitor and to ensure compliance of its procedures with Regulation (EU) 2020/1503, including information on reporting to the management body
		3	Risk management	A mapping of the risks identified by the applicant and a description of risk management policies and procedures to identify, manage and monitor risks related to applicant's activities, processes and systems, including: <ul style="list-style-type: none"> (a) description of the internal processes and methodologies referred to in Article 6(2) of Regulation (EU) 2020/1503 (where applicable)

Field		Sub-field		Description
				(b) description of the policy of the contingency fund referred to in Article 6(5), point (b), of Regulation (EU) 2020/1503 (where applicable)
		4	Accounting procedures	Description of the accounting procedures by which the applicant will record and report its financial information
7	Description of systems, resources and procedures for the control and safeguarding of the data processing system	n/a	Control and safeguarding of data processing system	Description of: (a) the internal arrangements adopted to ensure the proper handling of the personal data and information received from investors, including the use of clouds (b) the policy for fraud prevention and privacy/data protection (c) the locations, methods and policies for documentation archiving, including the use of clouds
8	Description of operational risks	1	Risks related to the IT infrastructure and procedures	Description of the identified sources of operational risks and description of procedures, systems and controls adopted by the applicant to manage those operational risks (system reliability, security, integrity, privacy, etc.), including: (a) procedures to avoid operational interruptions; (b) back-up devices in place; (c) measures on safeguards against hackers' attacks
		2	Risk related to the determination of the offer	Description of the technical tools and human resources dedicated to the offer determination, in particular the determination of the pricing in accordance with Article 4(4), point (d), of Regulation (EU) 2020/1503
		3	Risks related to the asset safekeeping services and to the payment services (where applicable)	Where the applicant intends to provide asset safekeeping services and payment services, description of the identified sources of operational risks and description of procedures, systems and controls adopted by the applicant to manage those risks related to those services, including when those services are provided by a third party

Field		Sub-field		Description
		4	Risks relating to outsourcing of operational functions	Where the applicant intends to rely on a third party for the performance of operational functions, description of the identified sources of operational risks and description of procedures, systems and controls adopted by the applicant to manage those operational risks
		5	Any other operational risk(s) (where applicable)	Description of any other identified source(s) of operational risks and description of the procedures, systems and controls adopted by the applicant to manage those operational risks
9	Description of the applicant's prudential safeguards in accordance with Article 11 of Regulation (EU) 2020/1503	1	Prudential safeguards	The amount of the prudential safeguards that the applicant has in place at the time of the application for authorisation and the description of the assumptions used for its determination
		2	Own funds (where applicable)	The amount of the prudential safeguards covered by own funds referred to in Article 11(2), point (a), of Regulation (EU) 2020/1503
		3	Insurance policy (where applicable)	The amount of the applicant's prudential safeguards covered by an insurance policy as referred to in Article 11(2), point (b), of Regulation (EU) 2020/1503
		4	Forecast calculations and plans	(a) Forecast calculation of the applicant's prudential safeguards for the first three business years (b) Forecast accounting plans for the first three business years, including: (i) forecast balance sheets; (ii) forecast profit and loss accounts or income statements; (c) Planning assumptions for the above forecast as well as explanations of the figures
		5	Prudential safeguards planning	Description of the applicant's prudential safeguards planning and monitoring procedures

Field		Sub-field		Description
10	Proof that the applicant meets the prudential safeguards in accordance with Article 11 of Regulation (EU) 2020/1503	1	Own funds	(a) Documentation of how the applicant has calculated the amount in accordance with Article 11 of Regulation (EU) 2020/1503; (b) For existing undertakings, an audited account statement or public register certifying the amount of own funds of the applicant; (c) For undertakings in the process of being incorporated, a bank statement issued by a bank certifying that the funds are deposited in the applicant's bank account
		2	Insurance policy	(a) Copy of the subscribed insurance policy incorporating all the elements necessary to comply with Article 11(6) and (7) of Regulation (EU) 2020/1503, where available, or (b) Copy of the preliminary insurance agreement incorporating all the elements necessary to comply with Article 11(6) and (7) of Regulation (EU) 2020/1503 signed by an undertaking authorised to provide insurance in accordance with Union law or national law
11	Description of the business continuity plan	n/a	Business continuity plan	Description of the measures and procedures to ensure, in the event of failure of the prospective crowdfunding service provider, the continuity of the provision of critical services related to existing investments and sound administration of agreements between the prospective crowdfunding service provider and its clients, including, where applicable, provisions for the continued servicing of outstanding loans, client notification and handover of asset safekeeping arrangements
12	Proof of good repute of shareholders that directly or indirectly hold 20 % or more of the share capital or voting rights	Sub-fields 1-10 shall be repeated and completed for each of the shareholders who directly or indirectly hold 20 % or more of the share capital or voting rights		
		Where the shareholder holding 20 % or more of the share capital or voting rights is not a natural person, sub-fields 8 and 9 shall be completed for the legal entity and repeated and completed for each member of the management body and other persons effectively directing the business		
		1	Ownership structure chart	Ownership structure chart of the applicant showing the individual stake of shareholders who directly or indirectly hold 20 % or more of the share capital or voting rights

Field		Sub-field		Description
		2	Name	(a) The full first name(s) and surname(s) in case of natural persons; (b) National ID number (ID or passport) in case of natural persons; (c) The legal name and legal form, in case of legal persons; (d) National ID/registration number (where available) in case of legal persons
		3	Date and place of birth (where applicable)	Date and place of birth of shareholders who are natural persons
		4	Domicile or registered address	(a) The domicile, in case of natural persons (b) The registered address, in case of legal persons
		5	Additional information in case of legal persons	Where the shareholder holding 20 % or more of the share capital or voting rights is a legal person a complete list of members of the management body and of persons who effectively direct its business, their name, date and place of birth, domicile, their national identification number where available
		6	Amount of the holding	Amount of the shares capital or voting rights held by the person in absolute value and in percentage terms. In case of indirect shareholder, the amount shall refer to the intermediate holder
		7	Information in case of indirect holding	Name and contact details of the person through which the share capital or voting rights are held

Field		Sub-field		Description
		8	Proof of good repute	<p>(a) Official certificate or other equivalent document in accordance with national law proving the absence of criminal records;</p> <p>(b) Information on criminal investigations and/or proceedings, as well as relevant civil and administrative cases, in respect of infringements of national rules in the fields of commercial law, insolvency law, financial services law, anti-money laundering law, fraud law or professional liability obligations, in particular through an official certificate (if and so far as it is available from the relevant Member State or third country) or through another equivalent document. In the event that civil or administrative sanctions in one of the abovementioned fields were imposed, a detailed description thereof shall be provided. For ongoing investigations or proceedings, the information may be provided through a declaration of honour;</p> <p>(c) Information on refusal of registration, authorisation, membership, or licence to carry out trade, business or a profession; or the withdrawal, revocation or termination of such a registration, authorisation, membership or licence; or expulsion by a regulatory or government body or a professional body or association. Information on any ongoing procedure related to the foregoing shall also be provided;</p> <p>(d) Information on dismissal from employment relating to positions and tasks concerning the management of funds or similar fiduciary relationships and description of the reasons for such dismissal</p>
		9	Pre-existing assessment (and ongoing)	Information on whether an assessment of the good repute of the shareholder has already been (or is being) conducted by another competent authority or any other authority under other financial legislation, including the name of that authority and, where applicable, the date and outcome of its assessment
		10	Information on the group structure (where applicable)	<p>Information on whether the applicant is:</p> <p>(a) a subsidiary of a crowdfunding service provider authorised in another Member State;</p> <p>(b) a subsidiary of the parent undertaking of a crowdfunding service provider that is authorised in another Member State;</p> <p>(c) controlled by the same natural or legal persons who control a crowdfunding service provider authorised in another Member State</p>

Field		Sub-field	Description
13	Identity of the natural persons responsible for the management of the applicant and proof that the natural persons involved in the management of the applicant are of good repute and possess sufficient knowledge, skills, and experience to manage the prospective crowdfunding provider and commit sufficient time to the performance of their duties	Sub-fields 1-12 shall be repeated and completed for each natural person who is member of the management or supervisory bodies of the applicant, and for each natural person who effectively directs the business Sub-fields 1-8 and 10-11 shall be repeated and completed for each natural person who is responsible of internal control functions (where appointed)	
		1	Full name
			Full first name(s) and surname(s) of the relevant natural person
		2	ID/Passport number
		3	Date and place of birth
		4	Domicile
		5	Postal address
			Postal address, if different from the address of domicile
		6	Telephone number
		7	Email address
		8	Position
			Position within the management body or the organisation of the applicant at which the natural person is/will be appointed
		9	Proof of good repute
			(a) Official certificate or other equivalent document in accordance with national law proving the absence of criminal records; (b) Information on criminal investigations or proceedings, as well as relevant civil and administrative cases, in respect of infringements of national rules in the fields of commercial law, insolvency law, financial services law, anti-money laundering law, fraud law or professional liability obligations, in particular through an official certificate (if and so far, as it is available from the relevant Member State or third country) or through another equivalent document. In the event of the existence of civil or administrative sanctions in respect of the abovementioned fields, a detailed description thereof shall be provided. For ongoing investigations or proceedings, the information may be provided through a declaration of honour;

Field		Sub-field		Description
				<p>(c) Information on refusal of registration, authorisation, membership, or licence to carry out trade, business or a profession; or the withdrawal, revocation or termination of such a registration, authorisation, membership or licence; or expulsion by a regulatory or government body or a professional body or association. Information on any ongoing procedure related to the foregoing shall also be provided;</p> <p>(d) Information on dismissal from employment relating to positions and tasks concerning the management of funds or similar fiduciary relationships and description of the reasons for such dismissal;</p>
		10	Curriculum Vitae	<p><i>Curriculum vitae</i> stating:</p> <p>(a) relevant education (including the name(s) and type(s) of educational institution(s), type, and date of diploma(s)) and professional training (including the topic of the training, type(s) of educational institution(s) and date by which training was completed);</p> <p>(b) relevant professional experience (in and outside the financial sector), including the names of all organisations for which the person has worked, and nature and duration of the functions performed (start and end dates) and the reason of for departure (new function within the company/group, voluntary departure, forced departure or expiry of the mandate);</p> <p>(c) for positions held in the previous 10 years, when describing those activities, details shall be included on all powers held and the areas of operations under control.</p> <p>The <i>curriculum vitae</i> may also include details (name, address, telephone number, email) of any reference person(s) who may be contacted by the competent authority (this field is not mandatory)</p>
		11	Time to be committed to the performance of the duties	<p>Information on the minimum time that will be devoted to the performance of the person's functions within the prospective crowdfunding service provider (annual and monthly indications), including information on:</p> <p>(a) the number of directorships in financial and non-financial companies held by that person at the same time;</p>

Field		Sub-field		Description
				<p>(b) the directorships in organisations which do not pursue predominantly commercial objectives held by that person at the same time;</p> <p>(c) other external professional activities, and any other functions and relevant activities, both within and outside the financial sector</p>
		12	Pre-existing (or ongoing) assessment of the reputation and experience	The information on whether an assessment of the good repute and of the knowledge and experience of the natural person has already been (or is being) conducted by another competent authority or any other authority under other financial legislation including the date of the assessment, the identity of that authority and, where applicable, the date and the outcome of this assessment
		13	Self-assessment of the collective knowledge, skills, and experience	Details of the result of the assessment on the collective possession of sufficient knowledge, skills, and experience to manage the prospective crowdfunding provider by the natural persons involved in the management of the prospective crowdfunding service provider, performed by the applicant itself
14	Description of the internal rules to prevent persons referred to in the first subparagraph of Article 8(2) of Regulation (EU) 2020/1503 from engaging, as project owners, in crowdfunding services offered by the prospective crowdfunding service provider	n/a	Internal procedures on conflicts of interest of project owners	Description of the relevant internal rules adopted by the applicant
15	Description of outsourcing arrangements	n/a	Information on outsourcing arrangements	<p>Description of:</p> <p>(a) the operational functions that the applicant plans to outsource, including cloud services;</p> <p>(b) the third parties to whom the operational functions will be outsourced (where available), including the indication of their location and a summary of the outsourcing arrangements in case the third party is located in a third country (where available);</p>

Field		Sub-field		Description
				(c) the internal arrangements and resources allocated to the control of the outsourced functions; (d) the service level agreements in place with the service providers
16	Description of procedures to handle complaints from clients	n/a	Information on complaint handling	Description of the procedures to handle complaints from clients adopted by the applicant, including the timeframe within which a decision on the complaint will be notified to potential complainants, as provided in the Commission Delegated Regulation (EU) 2022/2117 ⁽¹⁾
17	Confirmation of whether the applicant intends to provide payment services itself or through a third party, under Directive (EU) 2015/2366 of the European Parliament and of the Council ⁽²⁾ , or through an arrangement in accordance with Article 10(5) of Regulation (EU) 2020/1503	n/a	Information on payment services	1. The applicant shall inform the competent authority whether the payment services will be provided (cross as appropriate): <ul style="list-style-type: none"> <input type="checkbox"/> The applicant itself. If so, the applicant shall provide information on the relevant authorisation as payment service provider in accordance with Directive (EU) 2015/2366 <input type="checkbox"/> An authorised third party. If so, the applicant shall indicate the name of the third party, and the applicant shall submit a copy of the subscribed agreement with the third party incorporating all the elements necessary to comply with Regulation (EU) 2020/1503, when available, or a copy of the preliminary agreement with the third party, incorporating all the elements necessary to comply with Regulation (EU) 2020/1503 signed by a third party authorised to payment services in accordance with Union law or national law <input type="checkbox"/> Through arrangements in accordance with Article 10(5) of Regulation (EU) 2020/1503, which ensure that project owners accept funding of crowdfunding projects, or any other payment, only by means of a payment service provider in accordance with Directive (EU) 2015/2366. If so, the applicant shall provide a description of such arrangements. 2. The applicant shall include a description of the procedures and systems established by which the funds from the investors will be sent to the project owner and by which the investors will receive the remuneration of the capital invested

Field		Sub-field		Description
18	Procedures to verify the completeness, correctness and clarity of the information contained in the key investment information sheet	n/a	Procedures on the key investment information sheet	Description of the relevant procedures adopted by the applicant
19	Procedures in relation to investment limits for non-sophisticated investors referred to in Article 21(7) of Regulation (EU) 2020/1503	n/a	Procedures on investment limits for non-sophisticated investors	<ol style="list-style-type: none"> The applicant shall provide a description of the procedures adopted in order: <ol style="list-style-type: none"> to carry out the assessment whether and which crowdfunding services offered are appropriate, including details on information requested to non-sophisticated investors about their experience, investment objectives, financial situation and basic understanding of risks involved in investing in general and in investing in the types of investments offered on the crowdfunding platform, referred to in Article 21(1) and (2) of Regulation (EU) 2020/1503 to carry out the simulation required to prospective non-sophisticated investors of their ability to bear loss, referred to in Article 21(5) of Regulation (EU) 2020/1503 to provide the information referred to in Article 21(4) of Regulation (EU) 2020/1503 The applicant shall provide a description of the procedures adopted by the applicant on investment limits for non-sophisticated investors, including the description of the content of the specific risk warning and the arrangements to acquire from the investor the explicit consent

(¹) Commission Delegated Regulation (EU) 2022/2117 of 13 July 2022 supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements, standard formats and procedures for complaint handling (see page 42 of this Official Journal)..

(²) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

COMMISSION DELEGATED REGULATION (EU) 2022/2113**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards for the exchange of information between competent authorities in relation to investigation, supervision and enforcement activities in relation to European crowdfunding service providers for business****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 31(8), third subparagraph, thereof,

Whereas:

- (1) The information to be exchanged by competent authorities pursuant to Article 31(1) of Regulation (EU) 2020/1503 should allow those authorities to effectively carry out their investigation, supervision and enforcement activities under that Regulation. Consequently, it is necessary to specify the information that competent authorities are to exchange to be able to perform those tasks.
- (2) To ensure that competent authorities can effectively monitor crowdfunding service providers, competent authorities should exchange general background information and constituting documents, including national incorporation documents, or other documents that provide insight into the structure and operational activities of crowdfunding service providers. For the same reason, competent authorities should also exchange information about the authorisation process and the management bodies of crowdfunding service providers, including information on the suitability to manage a crowdfunding service provider and the reputation of the members of the management body, and information about shareholders, imposed penalties and administrative measures, enforcement actions and crowdfunding service providers' relevant conduct and compliance history.
- (3) In order to discharge their supervisory duties in a comprehensive manner, competent authorities should also exchange relevant information on other natural or legal persons and crowdfunding related third parties that are of relevance for the provision of the services provided by the crowdfunding service providers, including information on third parties designated to perform operational functions in relation to the provision of crowdfunding services.
- (4) Exchange of information between competent authorities will be most useful in the circumstances where issues of regulatory concern may arise related to the entities subject to Regulation (EU) 2020/1503, including information about the initial application for authorisation of crowdfunding service providers, the on-going supervision of an entity's compliance with that Regulation, and supervisory and enforcement actions which may impact the operations of an entity in another jurisdiction.
- (5) The exchange of information between competent authorities in relation to investigation, supervision and enforcement activities should be carried out in compliance with the right to protection of personal data of the persons concerned, as set out in Articles 7 and 8, respectively, of the Charter of Fundamental Rights of the European Union and must comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁾.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).
- (7) ESMA did not conduct open public consultations on the draft regulatory technical standards on which this Regulation is based, nor did it analyse the potential costs and benefits, as this would have been highly disproportionate in relation to the scope and impact of those standards, taking into account the fact that those standards principally concern competent authorities.
- (8) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾.
- (9) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Information about crowdfunding service providers that is to be exchanged

Competent authorities shall exchange the following information about a crowdfunding service provider:

- (a) general information and documents relating to the crowdfunding service provider:
 - (i) the name of the crowdfunding service provider, the address of its head or registered office, contact details, its ISO 17442 legal entity identifier (LEI) code and relevant excerpts from nationally held registers;
 - (ii) information concerning constitutional documents that the crowdfunding service provider is required to have under the applicable national legislation;
- (b) information about the natural persons responsible for the management of the crowdfunding service provider which was provided as part of the authorisation process, including:
 - (i) the name and personal identification number, where the latter is available in the relevant Member State;
 - (ii) information on the positions which such persons hold within the crowdfunding service provider;
- (c) information necessary to assess the good repute and suitability of the natural persons responsible for the management of the crowdfunding service provider, including, where available:
 - (i) information about their work experience;
 - (ii) the following information about their reputation:
 - (1) information about criminal records, or administrative or civil sanctions and information about criminal investigations opened against such persons in respect of infringements of national rules in the fields of commercial law, insolvency law, financial services law, anti-money laundering law, fraud law or professional liability obligations, through an official certificate, or other equivalent document in accordance with national law, and a detailed description of any civil or administrative sanctions imposed;

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽⁴⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (2) information about ongoing investigations or proceedings other than those set out in point (c)(ii)(1)
 - (3) information about any refusal of registration, authorisation, membership or license to carry out a business or a profession, and information about the withdrawal, revocation or termination of such a registration, authorisation, membership or license, or exclusion by a regulatory or government body or by a professional body or association;
 - (4) information about any dismissal from employment relating to positions and tasks concerning the management of funds or similar fiduciary relationships and a description of the reasons for such dismissal;
- (d) information about shareholders who hold 20 % or more of the share capital or voting rights of the crowdfunding service provider, including information on the absence of criminal records or administrative or civil sanctions and information about criminal investigations opened against such shareholders, in respect of infringements of national rules in the fields of commercial law, insolvency law, financial services law, anti-money laundering law, fraud law or professional liability obligations and a detailed description of any civil or administrative sanctions imposed;
- (e) information about the crowdfunding service provider's organisational structure, operating conditions and compliance with the requirements set out in Regulation (EU) 2020/1503, which was provided as part of the authorisation process and as updated through the supervisory activities of the competent authority receiving the request for information, including but not limited to:
- (i) information about the governance arrangements and internal control mechanisms ensuring compliance with Regulation (EU) 2020/1503, including risk-management and accounting procedures;
 - (ii) a programme of operations setting out the types of crowdfunding services provided by the crowdfunding service provider in accordance with Regulation (EU) 2020/1503;
 - (iii) compliance records of the crowdfunding service provider, including information held by competent authorities;
 - (iv) information that can be requested from crowdfunding service providers in relation to the activities and requirements specified in Articles 3 to 11 of Regulation (EU) 2020/1503;
- (f) information about the authorisation as a crowdfunding service provider or the withdrawal of authorisation pursuant to Articles 12, 13 and 17 of Regulation (EU) 2020/1503;
- (g) information on any penalty, including criminal penalties, administrative measures or enforcement actions, imposed on the crowdfunding service provider;
- (h) any other information necessary for cooperating in investigation, supervision and enforcement activities pursuant to Article 31(1) of Regulation (EU) 2020/1503.

Article 2

Information about other persons and unincorporated entities that is to be exchanged

1. In relation to crowdfunding related third parties that are of relevance for the provision of the services provided by the crowdfunding service providers and that are natural persons, competent authorities shall exchange the person's name, date and place of birth, the personal identification number, where available in the Member State concerned, and address and contact details.
2. In relation to crowdfunding related third parties that are of relevance for the provision of the services provided by the crowdfunding service providers and that are legal persons, a competent authority may also request documents certifying:
 - (a) the legal person's business name;

- (b) the address of the legal person's head or registered office, and postal address where different;
 - (c) the legal person's contact details, and national identification number or LEI code where available;
 - (d) the registration of legal form of the legal person, in accordance with the applicable national legislation;
 - (e) a complete list of persons who effectively direct the business of the legal person, including their name, date and place of birth, address, contact details, and their personal identification number where available in the Member State concerned.
3. Competent authorities shall exchange any other information necessary for cooperating in investigation, supervision and enforcement activities pursuant to Article 31(1) of Regulation (EU) 2020/1503.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2114**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the entry knowledge test and the simulation of the ability to bear loss for prospective non-sophisticated investors in crowdfunding projects****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 21(8), fourth subparagraph, thereof,

Whereas:

- (1) In order to ensure that crowdfunding service providers carry out the entry knowledge test for prospective non-sophisticated investors referred to in Article 21 of Regulation (EU) 2020/1503 in a harmonised way, it is necessary to lay down common rules for the assessment of whether and which crowdfunding services offered are appropriate for the prospective non-sophisticated investors.
- (2) In order to ensure that crowdfunding service providers ascertain that prospective non-sophisticated investors understand the level of risk associated with crowdfunding investments, crowdfunding service providers should take reasonable steps to ensure that the information collected from prospective non-sophisticated investors is reliable and reflects accurately their knowledge, skills, experience and financial situation, investment objectives and basic understanding of the risks involved.
- (3) Investors should be informed clearly and in a uniform manner about the risks they would incur if they decide to invest in crowdfunding services. Crowdfunding service providers should therefore issue a harmonised risk warning to prospective non-sophisticated investors failing the entry knowledge test following specific requirements on how the warning should be displayed to such investors.
- (4) In order to promote investor protection and ensure that the simulation of the ability to bear loss is performed adequately by prospective non-sophisticated investors, crowdfunding service providers should make available on their website an online calculation tool aiming at helping prospective non-sophisticated investors to simulate their ability to bear loss. However, because of the sensitive nature of the information to be provided by prospective non-sophisticated investors in such online calculation tool, that tool should be set up in a way that prevents crowdfunding service providers from being able to access or record the information inputted by prospective non-sophisticated investors.
- (5) In order to ensure that information provided by prospective non-sophisticated investors in the online calculation tool cannot be collected without their express consent, that tool should be set up in a way that prevents crowdfunding service providers from altering or interfering with the result of the simulation performed by prospective non-sophisticated investors. Furthermore, in order to protect prospective non-sophisticated investors and in particular to enable them to check that the information they inserted is correct and accurate, the result of the simulation of the ability to bear loss should not be collected directly by crowdfunding service providers but rather should only be shared willingly by prospective non-sophisticated investors once they consider that the result of the simulation reflects adequately their ability to bear loss.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

- (6) In order to ensure flexibility in the way the simulation of the ability to bear losses is performed, crowdfunding service providers should be able to offer prospective non-sophisticated investors the possibility to simulate their ability to bear losses through a different method without the help of the online calculation tool, provided that such possibility is offered in addition to making the online calculation tool available on the crowdfunding service providers' website.
- (7) In order to ensure a harmonised approach in the simulation of prospective non-sophisticated investors' ability to bear losses, rules should be laid down with regard to how the net worth of prospective non-sophisticated investors should be calculated, based on their annual income, total of liquid assets and annual financial commitments.
- (8) Given the risks of divergent approaches, and the potential negative consequences of such divergences on the meaningfulness of the simulation of prospective non-sophisticated investors' ability to bear losses, it is appropriate to specify with a sufficient degree of detail how each of the components used to calculate the net worth should be computed and to establish a common date for the valuation of the various components.
- (9) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority and developed in close cooperation with the European Banking Authority.
- (10) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (11) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Assessment of appropriateness of crowdfunding services

1. When assessing, in accordance with Article 21(1) of Regulation (EU) 2020/1503, whether and which crowdfunding services offered are appropriate for prospective non-sophisticated investors, crowdfunding service providers shall consider the following:
 - (a) whether the prospective non-sophisticated investor has the necessary experience and knowledge to understand the risks involved in investing in general;
 - (b) whether the prospective non-sophisticated investor has the necessary experience and knowledge to understand the risks involved in the types of investments offered on the crowdfunding platform.
2. For the purposes of paragraph 1, point (b), crowdfunding service providers shall assess the prospective non-sophisticated investor's understanding of what constitutes a crowdfunding service and the risks involved in it.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 2***Information to be requested in accordance with Article 21(2) of Regulation (EU) 2020/1503**

1. The information that crowdfunding service providers are to request from prospective non-sophisticated investors regarding their experience and basic understanding of risks involved in investing shall include, to the extent appropriate to the nature, scale and complexity of the crowdfunding service offered and the type of investment envisaged, the following:

- (a) the types of investment services and financial investments with which the prospective non-sophisticated investor is familiar;
- (b) the nature, volume and frequency of the prospective non-sophisticated investor's past transactions in transferable securities, admitted instruments for crowdfunding purposes or loans, including in early or expansion stage businesses, and the period over which those transactions have been carried out;
- (c) the level of education and profession or relevant former profession of the prospective non-sophisticated investor, including any professional experience or skills acquired in relation to crowdfunding investments.

2. The information that crowdfunding service providers are to request from prospective non-sophisticated investors regarding their investment objectives shall include, where relevant in relation to the type of crowdfunding service offered, the following:

- (a) information on the prospective non-sophisticated investors' expected holding period of investments;
- (b) the risk profile of the prospective non-sophisticated investors and their preferences regarding the sustainability of investments;
- (c) the aims of the prospective non-sophisticated investors' investment.

3. When assessing the financial situation of prospective non-sophisticated investors, crowdfunding service providers shall take into consideration the results of the simulation referred to in Article 21(5) of Regulation (EU) 2020/1503.

*Article 3***Reliability of the information requested in accordance with Article 21(2) of Regulation (EU) 2020/1503**

1. Crowdfunding service providers shall take reasonable steps to ensure that the information collected from prospective non-sophisticated investors in accordance with Article 21(2) of Regulation (EU) 2020/1503 is reliable and reflects accurately prospective non-sophisticated investors' knowledge, skills, experience and financial situation, investment objectives and basic understanding of the risks involved.

2. For the purposes of paragraph 1, crowdfunding service providers shall take the following steps:

- (a) inform prospective non-sophisticated investors on the importance of providing accurate and up-to-date information;
- (b) ensure that the means used to collect information are suitable for the aims of those prospective non-sophisticated investors and appropriately designed for use by those prospective non-sophisticated investors;
- (c) ensure that questions used in are likely to be understood by prospective non-sophisticated investors and precise enough to collect information reflecting adequately and accurately the situation of prospective non-sophisticated investors.

Article 4

Risk warning pursuant to Article 21(4) of Regulation (EU) 2020/1503

1. When issuing the risk warning referred to in Article 21(4) of Regulation (EU) 2020/1503, crowdfunding service providers shall not encourage prospective non-sophisticated investors to proceed with the investment.
2. The risk warning referred to in paragraph 1 shall contain the following text:
'An investment in a crowdfunding project includes the risk of losing the entirety of the money invested.'
3. The risk warning referred to in paragraph 1 shall be displayed to prospective non-sophisticated investors in an easily readable and prominent way on the crowdfunding service providers' website.
4. The window displaying the risk warning referred to in paragraph 1 shall be prominent and remain visible on the crowdfunding service providers' website until the prospective non-sophisticated investors have acknowledged that they have received and understood that warning.

Article 5

Simulation of the ability to bear losses using an online calculation tool

1. Crowdfunding service providers shall make available on their website an online calculation tool enabling prospective non-sophisticated investors to simulate their ability to bear losses.
2. The online tool referred to in paragraph 1 shall compute the ability to bear losses of prospective non-sophisticated investors, based on the information listed in Article 21(5), points (a), (b) and (c), of Regulation (EU) 2020/1503, as provided by the non-sophisticated investor.
3. The online tool referred to in paragraph 1 shall be easy to use and shall not require prospective non-sophisticated investors to perform any tasks other than providing the information set out in Article 21(5), points (a), (b) and (c), of Regulation (EU) 2020/1503.
4. The online tool referred to in paragraph 1 shall display the result of the simulation in a manner which is clear and understandable for prospective non-sophisticated investors.
5. The online tool referred to in paragraph 1 shall be set up in a way that does not enable crowdfunding service providers to access or record the information inputted by prospective investors pursuant to paragraph 3 or to amend or interfere with the result of the simulation referred to in paragraph 4. However, the online tool may embed a feature enabling prospective non-sophisticated investors to transmit the result of the simulation to the crowdfunding service provider.

Article 6

Simulation of the ability to bear losses in addition to the online calculation tool

In addition to the on-line tool referred to in Article 5(1), crowdfunding service providers may offer prospective non-sophisticated investors the possibility to simulate their ability to bear losses through a different method, provided that the crowdfunding service provider provides the prospective non-sophisticated investors with appropriate information about the method used to simulate the ability to bear losses.

*Article 7***Calculation of the net worth of a prospective non-sophisticated investor**

For the purposes of the simulation referred to in Article 21(5) of Regulation (EU) 2020/1503, the net worth of prospective non-sophisticated investors shall be calculated in accordance with the following formula:

$$\text{Net worth} = (\text{net annual income}) + (\text{total of liquid assets}) - (\text{annual financial commitments})$$

*Article 8***Net annual income**

1. The net annual income referred to in the formula laid down in Article 7 shall be calculated as the total annual income received by the non-sophisticated investor after deduction of associated costs and charges, social contributions and taxes.
2. For the purposes of paragraph 1, the total annual income shall be the sum of any labour income, any interests on bank deposits or other debt instruments, any dividend payments or any real estate income, whereby:
 - (a) 'labour income' shall include wages, unemployment benefits and pension payments received by the non-sophisticated investor, with the exclusion of exceptional payments;
 - (b) 'interests on bank deposits or other debt instruments' shall include payments on bank deposits or other debt instruments received by the non-sophisticated investor during the preceding calendar year, with the exclusion of exceptional payments;
 - (c) 'dividend payments' shall include payments received by the prospective non-sophisticated investor by virtue of holding shares or units of a collective investment scheme or other equity instruments, with the exclusion of any capital gains realised by selling all or part of such holding;
 - (d) 'real estate income' shall include any payment received in relation to the renting of real estate properties, with the exclusion of any capital gain realised by selling all or part of such real estate properties.

*Article 9***Total of liquid assets**

1. The total liquid assets referred to in the formula laid down in Article 7 shall be calculated as the sum of the total cash held by a non-sophisticated investor on saving accounts and current accounts, and the value of assets that can be easily and swiftly converted into cash, including:
 - (a) saving products that can be turned into cash within a maximum of 30 calendar days;
 - (b) financial instruments negotiated on a regulated market within the meaning of Article 4(1), point (21), of Directive 2014/65/EU of the European Parliament and of the Council ^(*);
 - (c) shares and units of collective investment schemes offering redemption rights on at least a weekly basis.

^(*) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, (OJ L 173, 12.6.2014, p. 349).

2. The following assets shall not be considered to constitute liquid assets:
 - (a) real estate properties;
 - (b) amounts paid to a pension scheme for occupational retirement purposes;
 - (c) company shares which are not freely redeemable or transferable, including previous crowdfunding investments.

Article 10

Annual financial commitments

The annual financial commitments referred to in the formula laid down in Article 7 shall include all the expenditures for which a non-sophisticated investor has undertaken a commitment in relation to a given calendar year, including:

- (a) alimony and child support payments;
- (b) rent and mortgage payments;
- (c) repayments of loans;
- (d) payments of insurance premiums;
- (e) utilities expenses payments, including those made to cover electricity, heating and water expenses;
- (f) service subscription payments;
- (g) income tax and property taxes.

Article 11

Valuation date of total of liquid assets and annual financial commitments

1. The total of liquid assets referred to in Article 9 and the annual financial commitments referred to in Article 10 shall be valued as of 31 December of the calendar year preceding the one in which the simulation is performed.
2. However, where a valuation at such date would not accurately reflect the current situation of the prospective investor's net worth, the valuation shall be performed at a more recent date enabling a more accurate valuation.
3. For the purpose of paragraph 2, a more recent date may be any date between 31 December of the calendar year preceding the one in which the simulation is performed and the date on which the simulation is performed and shall be the same for the valuation of the total of liquid assets and the annual financial commitments. When determining such date, prospective non-sophisticated investors shall consider whether taking such date as the reference date will enable an accurate valuation in respect of the net annual income, the total of liquid assets and the annual financial commitments referred to in the formula laid down in Article 7.
4. The net annual income referred to in Article 8 shall be the income of the calendar year preceding the year in which the simulation is performed. However, where the valuation of the total of liquid assets and annual financial commitments is performed using a more recent date pursuant to paragraph 2 of this Article, the net annual income shall be the income received during the 12 months preceding such more recent date.

Article 12

Transmission of the result of the simulation of the ability to bear loss

Crowdfunding service providers shall request prospective non-sophisticated investors to provide them with the result of the simulation carried out pursuant to Article 21(5) of Regulation (EU) 2020/1503.

*Article 13***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2115**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodology for calculating default rates of loans offered on a crowdfunding platform****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 20(3), third subparagraph thereof,

Whereas:

- (1) It is necessary to enable investors to make informed investment decisions. Since one crowdfunding project may offer more than one loan, it is necessary, when specifying the methodology for calculating the default rates of projects offered on a crowdfunding platform, to lay down rules for the calculation of default rates at the level of each individual loan with regard to a particular crowdfunding project offered on a crowdfunding platform. A definition of default at a more granular level, i.e., at the loan level, allows to capture cases where a project owner is unlikely to fulfil its credit obligations related to one loan but not to others. Therefore, to calculating the default rates of projects offered on a crowdfunding platform, crowdfunding service providers should not automatically consider the different loans to the same project as defaulted at the same time. Crowdfunding service providers should assess whether some indications of default are related to the crowdfunding project as a whole, rather than a particular loan. In particular, where a significant part of the loans related to a crowdfunding project is in default, crowdfunding service providers may consider it unlikely that the other loans of that crowdfunding project will be paid in full without recourse to actions, including realising security and treat those loans as defaulted as well.
- (2) It is necessary to avoid regulatory arbitrage and to enable investors to compare the performance of crowdfunding service providers who provide crowdfunding services consisting of the facilitation of granting of loans, and, in particular, the quality of projects offered on crowdfunding platforms. It is therefore appropriate to specify the elements on the basis of which such crowdfunding service providers should consider a default to have occurred with regard to a loan offered on their crowdfunding platform. Those crowdfunding service providers should therefore have in place effective processes that enable them to obtain the necessary information in order to identify, without undue delay, the occurrence of the default of loans offered on their crowdfunding platform.
- (3) Article 20(1), of Regulation (EU) 2020/1503 requires crowdfunding service providers which provide crowdfunding services consisting of the facilitation of granting of loans to disclose annually the default rates of the crowdfunding projects offered on their crowdfunding platform over at least the preceding 36 months and publish an outcome statement within 4 months of the end of each financial year indicating the expected and actual default rate of all loans they have facilitated. In order to make sure that investors and potential investors have access to information with similar time horizons for risk and reward metrics in relation to the loans offered on a crowdfunding platform, it is necessary to ensure consistency with Article 180(1), point (a), of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽²⁾, and use 1-year default rates as reference for the calculation of default rates. The 1-year default rates represent the share of loans going from a non-defaulted status into a defaulted status at least

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

once during a 1-year observation period. Hence, the expected default rate should provide an estimate of the proportion of non-defaulted loans that are expected to default in a 1-year observation period. Consequently, in order to base the estimation of such expected default rate on the actual default rate, the calculation of the actual default rate should be restricted to loans which are in a non-defaulted status at the beginning of the 1-year observation period. To ensure a comparable and fair representation of the default rates, no weighting scheme should be applied to calculate the yearly default rates (loan-based calculation). Hence, the monetary amount of the loans should not be used for the calculation of the default rates to avoid that more predominance is given to some loans in such calculation. In case of bias due to the presence of short-term loans, crowdfunding service providers which provide crowdfunding services consisting of the facilitation of granting of loans should adjust the calculation of the default rate. To ensure a fair representation of the default rates to investors, crowdfunding service providers which provide crowdfunding services consisting of the facilitation of granting of loans should not manipulate or misrepresent the default rates published in accordance with Article 20(2) of Regulation (EU) 2020/1503.

- (4) Inconsistent, inaccurate, incomplete, or outdated data may lead to errors in the calculation of the default rates of crowdfunding projects. Consequently, to ensure reliability and high quality of data, the procedures related to gathering and storing of data should be robust and well documented.
- (5) Crowdfunding service providers' internal method for the calculation of the actual and expected default rates should be based on information about the performance of loans facilitated by those crowdfunding service providers and the risk categories set out in the risk-management framework referred to in Article 19(7), point (d), of Regulation (EU) 2020/1503.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA'), in close cooperation with the European Banking Authority.
- (7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Default of loans offered on a crowdfunding platform

1. Crowdfunding service providers which provide crowdfunding services consisting of the facilitation of granting of loans shall consider a default to have occurred with regard to a particular loan offered on their crowdfunding platform when either or both of the following events have taken place:

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision No 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽⁴⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (a) the crowdfunding service provider considers that the project owner is unlikely to pay in full, or otherwise fulfil its credit obligations related to the loan concerned, without recourse to actions, such as realising security;
- (b) the project owner is more than 90 days past due on any material credit obligation related to the loan concerned.

2. For the purposes of paragraph 1, point (a), the following elements shall be considered as indicators of unlikelihood to pay:

- (a) a distressed restructuring of the credit obligation related to the loan concerned has occurred where this is likely to result in a diminished financial obligation caused by the material forgiveness, or postponement, of principal, interest or, where relevant, fees;
- (b) the project owner has applied for, or has been placed in, bankruptcy or similar protection, where this would avoid or delay repayment to investors of a credit obligation related to the loan concerned.

For the purposes of point (a), a distressed restructuring shall be considered to have occurred where concessions have been extended towards a project owner facing or about to face difficulties in meeting its financial commitments.

3. For the purposes of paragraph 1, point (b), where the credit agreement explicitly allows the project owner to change the payment schedule, or to suspend or postpone the payments under certain conditions, and where the project owner acts within the rights granted in that credit agreement, the changed, suspended or postponed payments shall not be considered past due, but the counting of days past due shall be based on the new payment schedule once it is specified. Crowdfunding service providers shall nonetheless analyse the reasons for such changes in the payment schedule, or the suspension or postponement of the payments, and assess the possibility of unlikelihood to pay as referred to in paragraph 1, point (a).

4. Crowdfunding service providers shall disclose the materiality threshold used for the purposes of paragraph 1, point (b).

5. Crowdfunding service providers shall inform investors in case of default of a loan without delay.

Article 2

Methodology for the calculation of the default rate of loans offered on a crowdfunding platform

1. For the purposes of the disclosure referred to in Article 20(1), point (a), of Regulation (EU) 2020/1503, crowdfunding service providers shall calculate the simple average of the observed 1-year default rate over the entire historical observation period using non-overlapping 12-month observation windows.

2. For the calculation of the 1-year default rate referred to in paragraph 1, crowdfunding service providers shall ensure all of the following:

- (a) that the denominator consists of the number of non-defaulted loans observed at the beginning of the 12-month observation window;
- (b) that the numerator includes all loans considered in the denominator that had at least one default event during the 12-month observation window.

3. For the purposes of paragraph 2, loans for which no payment is scheduled in the payment schedule during the 12-month observation period shall be excluded from the data set used to calculate the default rate for that period.

4. For the purposes of paragraph 1 and irrespective of whether a crowdfunding service provider is using external, internal, or pooled data sources, or a combination of the three, the length of the underlying historical observation period used shall be at least 36 months for at least one source. Where the available observation period spans a longer period for any source, that longer period shall be used. A crowdfunding service provider that has been in operation for less than 36 months shall use the period over which it has been in operation.

5. Crowdfunding service providers shall disclose the denominator and numerator used to calculate the 1-year default rate in accordance with paragraph 2 for the period determined in accordance with paragraph 4.

Article 3

Methodology for the calculation of the actual default rate of loans by risk category

1. For the publication of actual default rates of all loans in accordance with Article 20(1), point (b)(i), of Regulation (EU) 2020/1503, crowdfunding service providers shall calculate the simple averages of the observed 1-year default rate by risk category over the entire historical observation period using non-overlapping 12-month observation windows.
2. For the calculation of the 1-year default rate by risk category, crowdfunding service providers shall ensure all of the following:
 - (a) that the denominator consists of the number of non-defaulted loans observed at the beginning of the 12-month observation period within the risk category for which the default rate is calculated;
 - (b) that the numerator includes all loans considered in the denominator that had at least one default event during the 12-month observation period.
3. For the purposes of paragraph 2, loans for which no payment is scheduled in the payment schedule during the 12-month observation period shall be excluded from the data set used to calculate the default rate for that period.
4. For the purposes of paragraph 1, irrespective of whether a crowdfunding service provider is using external, internal, or pooled data sources, or a combination of the three, the length of the underlying historical observation period used shall be at least 36 months for at least one source. Where the available observation period spans a longer period for any source, that longer period shall be used. A crowdfunding service provider that has been in operation for less than 36 months it shall use the period over which it has been in operation.
5. Crowdfunding service providers shall disclose the denominator and numerator used to calculate the actual default rate of all loans by risk category in accordance with paragraph 2 for the period determined in accordance with paragraph 4.

Article 4

Methodology for the calculation of the expected default rate of loans by risk category

1. For the publication of expected default rates of all loans in accordance with Article 20(1), point (b)(i), of Regulation (EU) 2020/1503, crowdfunding service providers shall base their estimates of the expected default rates by risk category on the actual default rates of loans by risk category calculated in accordance with Article 3.
2. For the purposes of paragraph 1 and irrespective of whether a crowdfunding service provider is using external, internal, or pooled data sources, or a combination of the three, for its expected default rate estimation, the length of the underlying historical observation period used shall be at least 36 months for at least one source. Where the available observation period spans a longer period for any source, that longer period shall be used. A crowdfunding service provider that has been in operation for less than 36 months shall use the period over which it has been in operation.

Article 5

Assignment to risk categories

For the purposes of Articles 3 and 4, crowdfunding service providers shall assign the individual loans to the relevant risk category set out in the risk-management framework on the basis of sound and well-defined criteria and taking into account all the relevant factors that may have unfavourable effects on the performance of the loans.

*Article 6***Data accuracy**

Crowdfunding service providers shall ensure the consistency and appropriateness of data used to calculate the default rates in accordance with this Regulation.

*Article 7***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2116**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the measures and procedures for crowdfunding service providers' business continuity plan****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 12(16), fourth subparagraph, thereof,

Whereas:

- (1) In order to ensure that the measures and procedures for the business continuity plan referred to in Article 12(2), point (j), of Regulation (EU) 2020/1503 are duly harmonised within the Union, the measures and procedures of such plan should be specified.
- (2) In order to properly address the risks associated with the cessation of critical services, the business continuity plan should ensure that critical services including those that are outsourced, continue to be performed despite the failure of the crowdfunding service provider, or the third party to which critical services have been outsourced.
- (3) Given the range of events that can have a detrimental impact on the performance of critical services, the business continuity plan should address situations triggering a significant defect or default in the performance of critical services.
- (4) To ensure that the business continuity plan is effective, it is appropriate to set out the minimum content of measures and procedures for the business continuity plan.
- (5) It is appropriate to clarify a limited number of technical terms. Those technical definitions are necessary to ensure the uniform application of this Regulation and, hence, contribute to the establishment of a single rulebook for Union crowdfunding service providers. Those definitions serve only for the purpose of setting out the obligations of crowdfunding service providers and should be strictly limited to understanding this Regulation.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (7) European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision No 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation, the following definitions apply:

- (a) ‘critical services’ means operational and business services whose defect or default in their performance would materially impair the continuing compliance of a crowdfunding service provider with Regulation (EU) 2020/1503, or its financial performance, or the soundness or the continuity of its crowdfunding services and activities, notably vis-à-vis its clients;
- (b) ‘failure’ means any insolvency or pre-insolvency proceeding applicable under relevant national law or any significant business interruption;
- (c) ‘significant business interruption’ means a significant defect or default that materially impairs the performance of critical services.

Article 2

Minimum content of the business continuity plan

- 1. Crowdfunding service providers shall develop a detailed business continuity plan addressing the risks associated with their failure (‘the business continuity plan’).
- 2. The business continuity plan shall include:
 - (a) measures and procedures to ensure the continuity of the provision of critical services related to existing investments;
 - (b) measures and procedures to ensure the sound administration of agreements between the crowdfunding service provider and its clients and the sound administration of critical business data.

Article 3

Continuity of the provision of critical services

- 1. The business continuity plan shall ensure that critical services, including those outsourced to third parties, continue to be performed despite the failure of the crowdfunding service provider or the third party to which critical services have been outsourced.
- 2. The measures contained in the business continuity plan shall be adapted to the business model of the crowdfunding service provider and shall include arrangements ensuring the continuity of critical services through the outsourcing of some or all of such critical services to a third-party entity.
- 3. The business continuity plan shall include provisions for:
 - (a) notification of the client about the occurrence of an event of failure;
 - (b) the clients’ access to information relating to their investments;
 - (c) where applicable, the continued servicing of outstanding loans;
 - (d) where applicable, the continuation of payment services as referred to in Article 10 of Regulation (EU) 2020/1503, including the arrangements referred to in paragraph 5 of that Article;
 - (e) where applicable, the handover of asset safekeeping arrangements as referred to in Article 10 of Regulation (EU) 2020/1503.

*Article 4***Sound administration of agreements**

1. The business continuity plan shall, taking into account the nature, scale and complexity of the crowdfunding service provider as well as its business model, set out detailed measures to be taken to ensure the sound administration of agreements between the crowdfunding service provider and its clients.
2. The steps referred to in paragraph 1 shall be applied to:
 - (a) agreements between the crowdfunding service provider and its clients, including information that is of critical importance for the sound administration of agreements;
 - (b) results from the entry knowledge test referred to in Article 21 of Regulation (EU) 2020/1503;
 - (c) other critical business data.
3. The steps referred in paragraph 1 shall consist in the following:
 - (a) the storage in a safe place of agreements referred to in paragraph 2, point (a), where the original is only available in paper form;
 - (b) relevant back-up of the documents and information referred to in paragraph 2.
4. Information and agreements enabling to trace payments made by investors and project owners shall be considered as critical business data for the purposes of paragraph 2, point (c).

*Article 5***Procedures**

1. The procedures referred to in Article 2(2), points (a) and (b), shall be adapted to the business model of the crowdfunding service provider and shall include:
 - (a) a compilation of a list of contact details of the persons or department in charge in case of failure of the crowdfunding service provider;
 - (b) the identification of the three most likely scenarios of failure and the description of measures to be taken to mitigate their impact on the continuity of critical services;
 - (c) provisions regarding access by staff of the crowdfunding service provider to the workspace and company network;
 - (d) provisions regarding access to client information and, where relevant, client assets;
 - (e) an identification of operational and financial risks as well as measures to reduce their occurrence;
 - (f) an identification of critical business systems and contingency measures to ensure their continuity;
 - (g) an identification of critical business relationships, including outsourced functions;
 - (h) procedures to ensure the continuity of communication between the crowdfunding service provider, its clients, business partners, employees and competent authorities.

*Article 6***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2117**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements, standard formats and procedures for complaint handling****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, ⁽¹⁾ and in particular Article 7(5), third subparagraph, thereof,

Whereas:

- (1) In the interests of investor protection as well as to promote an effective system of internal governance, crowdfunding service providers should provide on their website to their clients with easy access to a clear, understandable and up-to-date description of their complaints handling procedure.
- (2) In order to avoid diverging complaints handling procedures among crowdfunding service providers across the Union, clients should be able to file their complaints using harmonised standard formats.
- (3) In order to provide for an adequate level of protection of investors, it is appropriate to require crowdfunding service providers to ensure that complainants are allowed to file complaints in, at least, the language used by the crowdfunding service providers to promote their services or crowdfunding offers in the Union.
- (4) To ensure a prompt and timely handling of complaints, crowdfunding service providers should acknowledge receipt of any complaint and inform the complainant within 10 working days of the receipt of the complaint about whether that complaint is admissible. Upon acknowledgment of receipt of the complaint, the complainant should receive the contact details of the person or department for any queries related to the complaint, as well as an indicative timeframe within which a decision on the complaint can be expected. Where a complaint is deemed inadmissible, the crowdfunding service provider should inform the complainant of its decision and provide the complainant with the reasons for that inadmissibility.
- (5) To ensure a prompt, timely and fair investigation of complaints, crowdfunding service providers should, upon receipt of a complaint, assess whether that complaint is clear, complete and contains all relevant evidence and information necessary for handling it. Where appropriate, additional information should be requested promptly. Crowdfunding services providers should gather and investigate all relevant evidence and information regarding the complaint. Complainants should be kept duly informed about the complaints handling process.
- (6) To ensure a fair and effective handling of complaints, it is necessary that decisions on complaints address all points raised by the complainant in its complaint. Moreover, complaints presenting similar circumstances should result in consistent decisions, unless the crowdfunding service provider is able to provide an objective justification for any possible deviation from a previously taken decision.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

- (7) To ensure a prompt handling of complaints, decisions on complaints should be communicated to the complainant as soon as possible and within the timeframe determined in the complaints handling procedure. In exceptional circumstances where the crowdfunding service provider is not able to meet that timeframe, the complainant should be informed of the reasons for the delay and of the date by which a decision will be delivered.
- (8) Where the decision on a complaint does not address positively all of complainant's request, it is appropriate that the decision contains a thorough reasoning and information on available remedies.
- (9) In order to ensure efficient interactions, crowdfunding service providers should communicate with complainants in clear and understandable language. Communications of crowdfunding service providers should be made in writing by electronic means or, upon the complainant's request, in paper form.
- (10) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).
- (11) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Complaint handling procedures

- 1. For the purposes of this Regulation, 'complaint' means a statement of dissatisfaction addressed to a crowdfunding service provider by one of its clients relating to the provision of crowdfunding services.
- 2. The procedures for complaints handling as referred to in Article 7(1) of Regulation (EU) 2020/1503 shall provide the clients of crowdfunding service providers with clear and accurate information and shall contain at least all of the following:
 - (a) the conditions for the admissibility of complaints;
 - (b) information that complaints are filed and handled free of charge;
 - (c) a detailed description of how to file complaints, including:
 - (1) information that complaints must be filed using the standard template set out in the Annex;
 - (2) the type of information and evidence to be provided by the complainant;
 - (3) the identity and contact details of the person to whom or the department to which complaints must be addressed;
 - (4) the electronic platform, system or address to which complaints must be submitted;
 - (5) the language or languages in which a complainant is allowed to file a complaint pursuant to Article 2(2);

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (d) the process for complaints handling, as specified in Articles 3 to 5;
- (e) the timeframe within which a decision on the complaint is notified to the complainant.

3. Crowdfunding service providers shall be able to amend the procedures for complaints handling, where appropriate. They shall publish an up-to-date description of such procedures on their website, as well as the standard template set out in the Annex, and ensure that both the description and that template are easily accessible on their website.

4. The description of the complaint handling procedures and the standard template set out in the Annex shall be published in each of the languages of the key investment information sheet referred to in Articles 23 and 24 of Regulation (EU) 2020/1503 or the marketing communications referred to in Article 27(1) of that Regulation.

Article 2

Standard format and language

1. Crowdfunding service providers shall ensure that clients are able to submit complaints by electronic means, using the standard template set out in the Annex.
2. Crowdfunding service providers shall ensure that clients are able to file complaints in any of the languages referred to in Article 1(4).

Article 3

Acknowledgment of receipt and verification of admissibility

1. Crowdfunding service providers shall acknowledge receipt of a complaint and inform the complainant about whether the complaint is admissible within 10 working days of its receipt. Where a complaint does not fulfil the conditions of admissibility referred to in Article 1(2), point (a), crowdfunding service providers shall provide the complainant with a clear explanation of the reasons for rejecting the complaint as inadmissible.
2. The acknowledgment of receipt of a complaint shall contain the following:
 - (a) the identity and contact details, including email address and telephone number, of the person to whom, or the department to which, complainants can address any query related to their complaint;
 - (b) a reference to the timeframe referred to in Article 1(2), point (e).

Article 4

Investigation of complaints

1. Upon receipt of an admissible complaint, crowdfunding service providers shall, without undue delay, assess whether the complaint is clear and complete. In particular, they shall assess whether the complaint contains all relevant information and evidence. Where a crowdfunding service provider concludes that a complaint is unclear or incomplete, it shall promptly request any additional information or evidence necessary for the proper handling of the complaint.
2. Crowdfunding service providers shall seek to gather and examine all relevant information and evidence regarding a complaint.
3. Crowdfunding service providers shall keep the complainant duly informed about any additional steps taken to handle the complaint and reply to reasonable information requests made by the complainant without any undue delay.

*Article 5***Decisions**

1. In its decision on a complaint, the crowdfunding service provider shall address all points raised in the complaint and shall state the reasons for the outcome of the investigation. That decision shall be consistent with any previous decision taken by the crowdfunding service provider in respect of similar complaints, unless the crowdfunding service provider is able to justify why a different conclusion is drawn.
2. Crowdfunding service providers shall communicate their decision on a complaint to the complainant as soon as possible and within the timeframe referred to in Article 1(2), point (e).
3. Where, in exceptional situations, the decision on a complaint cannot be provided within the timeframe referred to in of Article 1(2), point (e), crowdfunding service providers shall inform the complainant about the reasons for that delay and specify the date of the decision.
4. Where the decision does not satisfy the complainant's demand or only partially satisfies it, the decision shall thoroughly set out the reasoning and contain information on available remedies.

*Article 6***Communication with complainants**

1. When handling complaints, crowdfunding service providers shall communicate with complainants in a clear and plain language that is easy to understand.
2. Any communication made by the crowdfunding service provider under Articles 3 to 5 that is addressed to a complainant shall be made in the language in which the complainant filed its complaint, provided that the language used by the complainant is one of the languages referred to in Article 1(4). The communication shall be made in writing by electronic means or, upon the complainant's request, in paper form.

*Article 7***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Standard format for the submission of complaints**SUBMISSION OF A COMPLAINT**

(to be sent by the client to the crowdfunding service provider)

1.a Personal data of the complainant

LAST NAME/LEGAL ENTITY NAME	FIRST NAME	REGISTRATION NUMBER AND LEI (IF AVAILABLE)

ADDRESS: STREET, NUMBER, FLOOR (for firms registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE	EMAIL

1.b Contact details (if different from 1.a)

LAST NAME/LEGAL ENTITY NAME	FIRST NAME

ADDRESS: STREET, NUMBER, FLOOR (for firms registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE	EMAIL

2.a Personal data of the legal representative (if applicable) (a power of attorney or other official document as proof of the appointment of the representative)

LAST NAME	FIRST NAME/LEGAL ENTITY NAME	REGISTRATION NUMBER AND LEI (IF AVAILABLE)

ADDRESS: STREET, NUMBER, FLOOR (for firms registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE		EMAIL	
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2.b Contact details (if different from 2.a)

LAST NAME/LEGAL ENTITY NAME	FIRST NAME

ADDRESS: STREET, NUMBER, FLOOR (for firms registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE		EMAIL	
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3. Information about the complaint

3.a Full reference of the investment or agreement to which the complaint relates (i.e. investment reference number, name of the project owner/company or crowdfunding project, other references of the relevant transactions...)

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3.b Description of the complaint's subject-matter (please clearly specify the subject matter of the complaint)

--

Please provide documentation supporting the facts mentioned.

3.c Date(s) of the facts that have generated the complaint

--

3.d *Description of damage, loss or detriment caused (where relevant)*

--

3.e *Other comments or relevant information (where relevant)*

--

In (place) _____ on (date) _____

SIGNATURE

COMPLAINANT/LEGAL REPRESENTATIVE

Documentation provided (please check the appropriate box):

Power of attorney or other relevant document	
Copy of the contractual documents of the investments to which the complaint relates.....	
Other documents supporting the complaint:	

COMMISSION DELEGATED REGULATION (EU) 2022/2118**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards on individual portfolio management of loans by crowdfunding service providers, specifying the elements of the method to assess credit risk, the information on each individual portfolio to be disclosed to investors, and the policies and procedures required in relation to contingency funds****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, ⁽¹⁾ and in particular Article 6(7), thereof,

Whereas:

- (1) When investing in a portfolio of loans offered by a crowdfunding service provider, investors do not select the projects in which they will invest their funds, but rather select a number of parameters and risk indicators and leave to the crowdfunding service provider the task of allocating the funds accordingly. Therefore, the crowdfunding service provider should disclose appropriate levels of information to prospective and current investors, allowing those investors to have sufficient knowledge about the returns and risks of the projects and make informed decisions.
- (2) In order to reduce the information asymmetry between crowdfunding service providers and investors, investors should be provided with all the relevant information about the composition of the portfolio, including the projects where their funds are invested, as well as the quality of the loans financing those projects. That should allow investors to better understand and compare the performance and riskiness of different portfolios, either offered on the same platform or on alternative platforms.
- (3) Investors are exposed not only to risks connected to the projects or the loans in which their funds are invested, but also to the way the crowdfunding service provider assesses the risk of those loans and projects and how that provider manages the selection of loans for the portfolio. In that respect, performing stress tests on the portfolio and sensitivity analysis on the single loan and the single project owner can be particularly effective in providing a thorough and complete assessment of the investments. It is hence appropriate that, when the crowdfunding service provider performs such stress tests, the results of those analyses are disclosed to investors.
- (4) In order to ensure effective transparency, the information about the elements to be included by the crowdfunding service provider in the method employed to perform credit risk assessments should be disclosed appropriately. That will allow investors to understand whether an adequate and prudential approach is taken by crowdfunding service providers in the process of assessing the sustainability of projects being financed, the affordability of the loans for the project owners, and the composition of the individual loans in a structured portfolio.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

- (5) A crowdfunding service provider may rely on a dedicated contingency fund to compensate investors for the losses those investors may incur in the event that project owners do not repay their loans. Investors will need to be made aware that the mere existence of such contingency fund does not provide a guarantee that the investment can be considered risk-free and that they will be reimbursed in the event that the loan they have financed is in default, as there is absolute discretion on the part of the crowdfunding service provider to decide on any payments. In order to ensure adequate investor protection, it is important that crowdfunding service providers have in place appropriate policies and governance arrangements when managing, either directly or through a third-party provider, contingency funds.
- (6) This Regulation is based on the draft regulatory technical standards developed by the EBA in close cooperation with ESMA and submitted to the Commission.
- (7) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽²⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Accuracy and reliability of information to be provided to investors

1. Crowdfunding service providers shall ensure that the information provided to investors pursuant to Article 6(2) and (4) of Regulation (EU) 2020/1503 is accurate, reliable and kept regularly updated.
2. For the purposes of paragraph 1, crowdfunding service providers shall ensure that:
 - (a) the data used to conduct the assessments of creditworthiness referred to in Chapter II of this Regulation are consistent, complete and appropriate;
 - (b) the measurement techniques are appropriate to the complexity and level of the risks underlying the single crowdfunding projects and/or the portfolios, are based on reliable data, and are subject to periodic validation; and
 - (c) the procedures relating to data management are robust well documented, reliable and regularly updated.

⁽²⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 2***Format of the information to be disclosed**

1. For the purposes of Chapter II, the information provided to investors shall be easily available in a dedicated section of the crowdfunding service provider's website that is clearly distinguishable from marketing communications.
2. For the purposes of Chapter III, the information provided to individual investors on their portfolio of loans shall be made available on a secure page of the crowdfunding service provider's website that shall be accessible via an adequate means of personal identification.
3. The information referred to in paragraphs 1 and 2 shall be presented in a way that is easy to read and expressed in a manner and using language that facilitates its understanding. Where ordinary words can be used, technical terms shall be avoided and, when used, they shall be explained.

CHAPTER II

*Elements, including the format, to be included in the description of the method to assess credit risk**Article 3***Credit risk of individual crowdfunding projects**

The description provided to investors of the method to assess the credit risk of individual crowdfunding projects within a portfolio as referred to in Article 6(2), point (a) of Regulation (EU) 2020/1503, shall contain all of the following elements:

- (a) the criteria and the key financial indicators used to establish the feasibility and sustainability of the business plans of the individual crowdfunding projects;
- (b) an analysis of the expected cash flows of the crowdfunding projects and an assessment of how certain those expected cash flows are over different time horizons;
- (c) an analysis of the characteristics, including the degree of competition, of the business sector in which the project owners operate;
- (d) an assessment of the project owners' knowledge, experience, reputation and capacity to manage business activities in the project's specific sector;
- (e) the procedures regarding the acceptance and recognition of collateral or guarantee and credit risk mitigation measures, where relevant;
- (f) the type of the repayment schedule for the loan and the frequency of instalments;
- (g) the procedures to assign each loan associated with a project to an appropriate risk category as defined by the risk management framework;
- (h) the source and type of data used for the purposes of points (a) to (g).

*Article 4***Credit risk at the investor's portfolio level**

1. The description provided to investors of the method to assess credit risk at the investor's portfolio level as referred to in Article 6(2), point (b) of Regulation (EU) 2020/1503, shall contain an explanation of how, in the process of composing a portfolio, the following elements are taken into account:
 - (a) the distribution of loans in accordance with their maturity within the same portfolio;
 - (b) the interest rate for each loan of the same portfolio;
 - (c) the share of loans in a single portfolio granted to the same project owner or to a group of connected project owners;

- (d) the share of loans in a single portfolio granted to project owners established or operating in the same jurisdiction or geographical area;
 - (e) the share of loans in a single portfolio granted to project owners operating in the same business sector;
 - (f) the share of loans assigned to the same risk category;
 - (g) the method used to evaluate the correlation of risks within the same portfolio.
2. For the purposes of paragraph 1, point (c), a group of connected project owners shall mean any of the following:
- (a) two or more natural or legal persons who constitute a single risk because one of them, directly or indirectly, has control over the other or others;
 - (b) two or more natural or legal persons are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of the others would also be likely to encounter funding or repayment difficulties.
3. A crowdfunding service provider that advertises a specific target rate of return on investment for a portfolio shall disclose the procedure employed to select the individual loans to be included in the portfolio.

Article 5

Credit risk of project owners

The description provided to investors of the method used to assess the credit risk of project owners as referred to in Article 6(2), point (c) of Regulation (EU) 2020/1503, shall contain all of the following elements:

- (a) the procedures for the credit approval and monitoring processes;
- (b) the procedures to determine the project owner's credit scoring, where applicable;
- (c) the procedures for using external ratings for assessing a project owner's creditworthiness;
- (d) the procedures regarding the acceptance and recognition of collateral or guarantee and credit risk mitigation measures, where relevant;
- (e) the procedures and data used to assess the financial history of the project owner and the procedures to be followed in the event that the project owner fails or refuses to provide the required information.

Article 6

Use of models

1. For the purposes of Article 6(2), third subparagraph, of Regulation (EU) 2020/1503, crowdfunding service providers shall provide adequate information on the models included in the method used for the credit risk assessment of crowdfunding projects, for the assessment of the creditworthiness of project owners, for the credit approval and monitoring processes, and for the composition of portfolios, including all of the following:

- (a) the source of the data used as input for the models;
- (b) the framework employed to ensure the quality of the input data;
- (c) the existence of appropriate governance arrangements for the design and use of such models;
- (d) the framework to ensure that the quality of the model output is regularly assessed and validated, and where appropriate, reviewed.

2. When automated models are used as part of the method for the credit risk assessment of crowdfunding projects, in the creditworthiness assessment of project owners, in the credit approval and monitoring processes, or in the composition of portfolios, crowdfunding service providers shall disclose all of the following:

- (a) how the use of automated models is appropriate to the size, nature and complexity of the types of crowdfunding project selected for the investor's portfolio;
- (b) the conditions for the application of automated decision-making in the credit-approval and monitoring processes, including identifying loans, segments and limits for which automated decision-making is allowed.

Article 7

Information on stress testing and sensitivity analysis

Crowdfunding service providers that conduct stress test and sensitivity analysis exercises shall provide investors with information on all of the following:

- (a) at the level of the single loan and single project owner, any sensitivity analyses conducted to reflect potentially negative future market and idiosyncratic events that are relevant to the type and purpose of the loan;
- (b) at the level of the portfolio, the procedures and information systems for stress testing that are conducted to assess the resilience of the portfolio through the economic cycle and in different scenarios.

CHAPTER III

Information to be provided on each individual portfolio

Article 8

Calculation of the weighted average annual interest rate

1. For the calculation of the weighted average annual interest rate on loans in a portfolio as referred to in Article 6(4), point (b), of Regulation (EU) 2020/1503, crowdfunding service providers shall calculate the average, weighted for the outstanding amount of loans in a portfolio, of the annual interest rate of every loan of which the portfolio is composed.

2. In order to calculate the weighted average annual interest rate referred to in paragraph 1, crowdfunding service providers shall ensure all of the following:

- (a) that the denominator consists of the sum of the notional amount of every loan included in the portfolio;
- (b) that the numerator consists of the sum of the products of:
 - (i) the notional amount of every loan;
 - (ii) the annual interest rate of every loan included in the portfolio.

3. For the purposes of paragraph 2, point (b)(ii), the annual interest rate shall correspond to any of the following:

- (a) in the case of a fixed interest rate, the annual interest rate as laid down in the loan contract;
- (b) in the case of a variable interest rate, the interest rate in force at the time of the publication of the weighted average annual interest rate, taking into account any upper limit as laid down in the loan contract;
- (c) in cases in which the loan is split into tranches earning different interest rates, the weighted average of the interest rates as laid down in the loan contract.

*Article 9***Distribution of loans according to risk category**

1. For the calculation of the distribution of loans according to risk category, in absolute numbers and as a percentage, as referred to in Article 6(4), point (c), of Regulation (EU) 2020/1503, crowdfunding service providers shall ensure that each individual loan is assigned to the relevant risk category set out in the risk management framework on the basis of sound and well-defined criteria, as referred to in Article 4(4), point (f), of Regulation (EU) 2020/1503, and as specified in accordance with Article 19(7), point (d) of that Regulation.
2. For the purposes of paragraph 1, and for each risk category, the following definitions shall apply:
 - (a) the distribution of loans according to risk category in absolute numbers shall refer to the sum of the notional amount of every loan in the same risk category;
 - (b) the distribution of loans according to risk category as a percentage shall refer to the ratio between:
 - (i) the sum of the notional amount of every loan in the same risk category;
 - (ii) the total notional amount of all loans within the portfolio.
3. For the disclosure of information to investors, crowdfunding service providers shall establish and maintain clear and effective policies and procedures for the specification of the risk categories.

*Article 10***Key information for every loan included in the portfolio**

1. The key information for every loan of which a portfolio is composed referred to in Article 6(4), point (d) of Regulation (EU) 2020/1503 shall contain all of the following:
 - (a) the amount of the loan, including the most recent outstanding balance;
 - (b) the currency in which the loan is granted;
 - (c) the entity responsible for the servicing of the loan, including its legal name, registration number and place of registration, registered office and contact details, and its servicing policy;
 - (d) the identity of the project owner, including indicating its legal name, the country of incorporation and registration number, the address of its registered office and its corporate website;
 - (e) the ownership structure of the project owner;
 - (f) the purpose of the loan, by adding a brief description of the crowdfunding project;
 - (g) the interest rate or any other compensation laid down in the loan, for each year until maturity, and where the interest rate or any other compensation is not directly available, the calculation method;
 - (h) the maturity date of the loan;
 - (i) the relevant risk category to which the loan is assigned in accordance with the risk management framework referred to in Article 4(4), point (f) of Regulation (EU) 2020/1503;
 - (j) the schedule for the repayment of the principal and for the payment of interest on the loan;

- (k) the compliance of the project owner with the instalment payment schedule of the loan by indicating any past due payment or any default as referred to in Article 1(1) of Commission Delegated Regulation (EU) 2022/2115 ⁽⁴⁾;
 - (l) the percentage of the amount of the crowdfunding project being financed by the investor through the loan, expressed as the ratio between:
 - (i) the notional amount of the loan;
 - (ii) the total amount of the crowdfunding project.
2. The information provided for each loan included in a portfolio shall report whether a project owner has more than one crowdfunding project in place financed through any crowdfunding service provider, and contain all of the following information:
- (a) the type of offer and the instrument used for financing the project;
 - (b) the completion date (past or expected);
 - (c) the notional amount that the project owner is borrowing;
 - (d) other relevant information, including all other financial obligations and contingent liabilities.
3. The crowdfunding service provider shall require the project owner to provide the information referred to in paragraph 2.
4. Crowdfunding service providers shall take appropriate steps to ensure that the information provided by project owners in accordance with paragraph 3 is accurate, reliable and up to date.

Article 11

Information about risk mitigation measures

1. For the purposes of Article 6(4), point (e), of Regulation (EU) 2020/1503, a 'risk mitigation measure' shall mean a technique used by a project owner to reduce the credit risk associated with a loan, which can take either of the following forms:
- (a) 'funded credit protection', which means a technique of risk mitigation where the reduction of the credit risk associated with a loan derives from the right of the investor, in the event of the default of the loan or on the occurrence of other specified credit events relating to the project or project owner, to liquidate or obtain transfer or appropriation of, or to retain, certain assets or amounts, or to reduce the amount of the loan;
 - (b) 'unfunded credit protection', which means a technique of risk mitigation where the reduction of the credit risk associated with a loan derives from the obligation of a third party to pay an amount in the event of the default of the loan or on the occurrence of other specified credit events relating to the project or project owner.
2. In the event that a loan is guaranteed by 'funded credit protection' as referred to in paragraph 1, the crowdfunding service provider shall provide all of the following information:
- (a) the type of asset(s);
 - (b) the most recent valuation of such asset(s) and the amount(s) that can be liquidated, transferred, retained or appropriated;
 - (c) the valuation method;
 - (d) the ratio between the amount referred to in for in point (b) and the total notional amount of the loan, expressed as a percentage.

⁽⁴⁾ Commission Delegated Regulation (EU) 2022/2115 of 13 July 2022 supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodology for calculating default rates of loans offered on a crowdfunding platform (see page 33 of this Official Journal).

3. In the event that a loan is guaranteed by ‘unfunded credit protection’ as referred to in paragraph 2, the crowdfunding service provider shall provide, as a minimum, the following information:

- (a) the name, address and legal nature of the third party acting as protection provider or guarantor;
- (b) the ratio between:
 - (i) the notional amount of the loan covered by the third party;
 - (ii) the total notional amount of the loan, expressed as a percentage.

4. For the purposes of paragraphs 2 and 3, crowdfunding service providers shall ensure all of the following:

- (a) that the eligibility and the valuation of any risk mitigation measure are assessed in accordance with adequate policies and procedures within the risk management framework, as referred to in Article 4(4), point (f) of Regulation (EU) 2020/1503 and as specified in accordance with Article 19(7), point (d) of that Regulation;
- (b) that the valuation of any risk mitigation measure takes into account all the disposition costs arising from obtaining and selling collateral.

Article 12

Information on defaults on credit agreements by the project owner

1. In order to comply with Article 6(4), point (f), of Regulation (EU) 2020/1503, crowdfunding service providers shall require project owners to provide information on defaults that have occurred under credit agreements in the past five years.

2. When ‘credit agreement’ refers to an agreement whereby an investor grants to a project owner credit in the form of a loan for a specific crowdfunding project, the following definitions shall apply:

- (a) ‘default’ means ‘default’ as defined in Article 1(1) of Delegated Regulation (EU) 2022/2115;
- (b) a ‘credit agreement’ means an agreement whereby an investor grants to a project owner credit in the form of a loan for a specific crowdfunding project.

3. The information on defaults referred to in paragraph 1 shall be provided by the project owner to the crowdfunding service provider at all of the instances:

- (a) at the point of loan origination;
- (b) immediately after the occurrence of a default event;
- (c) until the maturity date of the credit agreement included in the portfolio.

4. Crowdfunding service providers shall take appropriate steps to ensure that the information provided by project owners in accordance with paragraphs 2 and 3 is accurate, reliable and up to date.

5. When ‘credit agreement’ means any financial instrument as defined in Article 4(1), point (50), of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽⁹⁾ and information on past defaults are not available, crowdfunding service providers shall require project owners to provide all of the following information over the past five years:

⁽⁹⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

- (a) past due days;
- (b) amount of arrears.

6. Crowdfunding service providers shall disclose to investors whether the source of information referred to in paragraphs 2 and 5 is included in one or more of the following and specify which:

- (a) a sworn statement by the project owner;
- (b) information available in credit registers;
- (c) publicly available information, including from debt collection companies or credit rating agencies;
- (d) other type of information.

7. Crowdfunding service providers shall take appropriate steps to ensure all of the following:

- (a) that the information provided by project owners in accordance with paragraph 5 is accurate, reliable and up to date;
- (b) that the disclosure to investors of the information referred to in paragraph 5 is in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁶⁾.

Article 13

Information on fees paid in respect of the loan by the investor, the crowdfunding service provider or the project owner

The information about the fees paid in respect of loans as referred to in Article 6(4), point (g) of Regulation (EU) 2020/1503 shall contain all of the following:

- (a) the natural or legal person paying the fees, including whether that person subject is the investor, the crowdfunding service provider, the project owner, or a third party;
- (b) the monetary amount of the fees;
- (c) the natural or legal person receiving the fees, including whether that person is the crowdfunding service provider or, in the event of operational functions being outsourced, a third party;
- (d) any services remunerated by fees, including subscription fees, management fees, fees for debt collection processes and exit fees;
- (e) the calculation method for the fees, including whether the amount of the fees represents a percentage of the notional amount of the loan or any other variable, or a fixed amount;
- (f) the schedule of payment of the fees.

Article 14

Information on the valuation of the loan

1. The valuation of the loan referred to in Article 6(4), point (h) shall, for each individual loan, reflect the likely actual return, defined as the discounted annual return on the investment expected by the investor on a given valuation date, based on the most recent available information.

2. For the purposes of paragraph 1, the calculation of the likely actual return shall be based on all of the following information:

⁽⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (a) the interest rate or any other compensation laid down in the loan;
- (b) the yield to maturity;
- (c) the application of any fees as referred to in Article 6(4), point (g) of Regulation (EU) 2020/1503;
- (d) the expected default rates, determined in accordance with Article 4(1) of Delegated Regulation (EU) 2022/2115;
- (e) any other costs paid by the project owner or the investor or the crowdfunding service provider in relation to the loan.

3. The valuation of the loan as referred to in Article 6(4), point (h) of Regulation (EU) 2020/1503 shall include the valuation of the portfolio in which the loan is included, expressed as the ratio between the following:

- (a) numerator obtained by the sum of the products of:
 - (i) the notional amount of each loan in the portfolio;
 - (ii) the respective likely actual return of every loan of which the portfolio is composed;
- (b) denominator obtained by the sum of the notional amount of every loan of which the portfolio is composed.

CHAPTER IV

Policies, procedures and organisational arrangements required with regard to contingency funds

Article 15

General requirements

1. Crowdfunding service providers that have established and operate a contingency fund for their activities relating to the individual portfolio management of loans shall have in place adequate policies and procedures and organisational arrangements to ensure that the contingency fund is managed prudently and can fulfil its objectives.
2. For the purposes of paragraph 1, the policies, procedures and organisational arrangements relating to the contingency fund shall be approved by the management body of the crowdfunding service provider and shall be in written form, updated, and well documented.

Article 16

Organisational arrangements

1. Crowdfunding service providers shall ensure a robust and transparent organisational and operational structure for any contingency fund they may have in place and shall have a written description of it.
2. The management body of crowdfunding service providers shall oversee the implementation of the governance and organisational arrangements of the contingency fund.
3. For the purposes of paragraph 2, all the members of the management body of crowdfunding service providers shall:
 - (a) have full knowledge of the legal, organisational and operational structure of the contingency fund and ensure that that structure is in line with its approved purposes;
 - (b) be fully aware of the structure, responsibilities and the division of tasks within the contingency fund.

4. The organisational structure of the fund shall not impede the ability of the management body to identify, oversee and manage effectively the risks that the fund will face as a result of its operations.

Article 17

Governance policy

1. Crowdfunding service providers shall have in place a governance policy to govern the contingency fund. That policy shall ensure that internal governance arrangements, processes and mechanisms are consistent, well integrated and adequate to ensure the well-functioning of the contingency fund.
2. The governance policy referred to in paragraph 1 shall contain all of the following elements and information:
 - (a) the purpose of the contingency fund;
 - (b) the legal and operational structure of the contingency fund, including whether it is operated by the crowdfunding service provider itself or by a third party;
 - (c) the duration of the contingency fund, including cases in which the fund has an unlimited term.
3. In the event that the contingency fund is operated by a third party, the governance policy referred to in paragraph 1 shall also contain all of the following:
 - (a) the composition of the management body of the contingency fund;
 - (b) the responsibilities and duties of the management body of the contingency fund;
 - (c) a description of the competences and skills of each member of the management body of the contingency fund;
 - (d) the frequency of the meetings of the management body of the contingency fund;
 - (e) the reporting requirements between the management body of the contingency fund and the management body of the crowdfunding service provider;
 - (f) the responsibilities for the documentation, management and control of the outsourcing arrangements;
 - (g) the identification of one or more senior staff members who are directly accountable to the management body of the crowdfunding service provider and responsible for managing and overseeing the risks of outsourcing arrangements, including the respective documentation.

Article 18

Funding policy

1. The crowdfunding service provider shall have in place a funding policy to determine how the contingency fund is financed and how the proceeds collected are managed.
2. For the purpose of paragraph 1, the funding policy referred to in paragraph 1 shall contain all of the following elements and information:
 - (a) any initial contribution made by the crowdfunding service provider into the contingency fund;
 - (b) the type of fees that are collected for accruing the contingency fund;
 - (c) the criteria the contingency fund management takes into account when deciding the type of fees to be levied;
 - (d) the criteria the contingency fund management takes into account when deciding the amount of fees to be levied for each loan;

- (e) the decision-making process to determine the amount and nature of fees to be levied;
- (f) the investment strategy adopted by the contingency fund for investing the funds under management;
- (g) the legal ownership of the funds;
- (h) how the funds will be dissolved in the event of the maturity of the contingency fund;
- (i) how the funds are segregated from other assets owned by the crowdfunding service provider;
- (j) how the money paid into the contingency fund will be treated in the event of the insolvency of the contingency fund operator.

Article 19

Disbursement policy

The crowdfunding service provider shall have in place a policy to determine how all of the following elements are considered in the decision on proceeding to any disbursement from the contingency fund to investors:

- (a) updated available fund balance;
- (b) the share of the loans that have defaulted in a given portfolio;
- (c) the interest rates and maturity of the loans that have defaulted in a given portfolio;
- (d) the procedure to be followed when considering whether to make a discretionary payment from the contingency fund;
- (e) the circumstances in which the contingency fund may be activated for the pay-out;
- (f) the criteria to be considered in the event of competing or simultaneous claims of investors on the same defaulted loans.

Article 20

Business continuity policy

Crowdfunding service providers shall establish a sound business continuity policy for the contingency fund to ensure its ability to operate on an ongoing basis and to limit possible losses in the event of temporary or definitive failure.

Article 21

Transparency and disclosure to investors

1. The management body of the crowdfunding service provider shall inform and update its staff about the contingency fund's policies and procedures in a clear and consistent way, at least to the level needed to carry out the duties of the contingency fund.
2. The policies, procedures and organisational arrangements that the crowdfunding service provider shall have in place in accordance with Article 6(7), point (c) of Regulation (EU) 2020/1503 shall be consistently reflected in the contingency fund policy referred to in Article 6(5), point (b), of that Regulation.

Article 22

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/2119**of 13 July 2022****supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards for the key investment information sheet****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 23(16), fourth subparagraph, thereof,

Whereas:

- (1) To ensure the comparability among key investment information sheets of different crowdfunding offers and facilitate the drafting of key investment information sheets by project owners, a common model for the presentation of the information concerned should be set out. That model should ensure that project owners follow a similar presentation pattern in form and substance, whilst allowing for the required flexibility that considers the specificities of each crowdfunding offer, considering their nature, scale and complexity.
- (2) To ensure the interoperability of data and to enable cross-referencing information included in the key investment information sheet with other information, in particular the information reported in accordance with Commission Implementing Regulation (EU) 2022/2120 ⁽²⁾, each key investment information sheet should contain a unique identifier of the crowdfunding offer to which it relates.
- (3) To give project owners the possibility to provide prospective investors further relevant information, it should be possible to include hyperlinks, which should follow common model. However, those hyperlinks should not impair the comprehensiveness of the key investment information sheet as a stand-alone document. Therefore, the use of hyperlinks should not exempt project owners from the obligation to include the relevant information in the key investment information sheet in a clear and comprehensive manner.
- (4) In order to enable prospective investors to make informed investment decisions, the key investment information sheet should contain a specific and non-generic description of all relevant risks related to the crowdfunding project, the crowdfunding offer and the project owner.
- (5) To allow the comparability and clarity of financial information contained in the key investment information sheet and thus enhance transparency for prospective investors, financial statements and information should be presented in accordance with commonly recognised standards and principles.
- (6) To allow for transparent information on the commissions, fees and other transaction costs incurred by the investor throughout the life of the crowdfunding project, the key investment information sheet should present a breakdown of direct and indirect costs, which specifies entry costs, exit costs, costs incurred during the project and incidental costs.
- (7) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2022/2120 of 13 July 2022 laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to data standards and formats, templates and procedures for reporting information on projects funded through crowdfunding platforms (see page 76 of this Official Journal).

- (8) European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾.
- (9) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Key investment information sheet model

1. When providing the information in the key investment information sheet referred to in Article 23 of Regulation (EU) 2020/1503, crowdfunding service providers shall use the model laid down in the Annex to this Regulation.
2. The information referred to in paragraph 1 shall be made available as soon as the relevant crowdfunding offer is published by the crowdfunding service provider.

Article 2

Format and language requirements of the key investment information sheet model

1. The information referred to in Article 1 shall be presented in a way that is easy to read and shall be expressed in a way that facilitates the understanding of the information, including by prospective non-sophisticated investors, and taking into consideration the possible comprehension difficulties arising from the nature, scale and complexity of the crowdfunding offer.
2. The language used in the key investment information sheet shall be clear and succinct and technical terms shall be avoided where everyday words can be used instead.

Article 3

Identifier of the crowdfunding offer

1. The key investment information sheet shall include a standardised, permanent and unique identifier of the relevant crowdfunding offer.
2. The identifier referred to in paragraph 1 shall be the result of the concatenation of the following elements in the following order:
 - (a) the ISO 17442 legal entity identifier (LEI) code of the crowdfunding service provider;
 - (b) a code composed of eight numerical characters, which shall be generated internally by the crowdfunding service provider and which shall be unique to each crowdfunding offer published by the crowdfunding service provider.
3. The identifier formed in accordance with paragraph 2 shall not be altered upon the modification of the key investment information sheet resulting from any of the following:
 - (a) the translation of the key investment information sheet into different languages pursuant to Article 23(4) and (13) of Regulation (EU) 2020/1503;

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽⁴⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (b) updates to the key investment information sheet pursuant to Article 23(8) and (12) of Regulation (EU) 2020/1503;
- (c) other non-material alteration of the information included in the key investment information sheet.

Article 4

Choice of terms in the key investment information sheet model

Where the key investment information sheet model laid down in the Annex enables a choice of terms or expressions, such choice shall be made as follows:

- (a) the expressions 'target capital' or 'capital raising' shall be used for crowdfunding offers relating to equity transferable securities or admitted instruments for crowdfunding purposes;
- (b) the expressions 'target funds' or 'funds borrowing' shall be used for crowdfunding offers relating to loans, non-equity transferable securities or hybrid instruments;
- (c) the terms 'transferable securities' or 'admitted instruments for crowdfunding purposes' shall be used in accordance with the type of instruments offered.

Article 5

Use of hyperlinks in the key investment information sheet model

1. The key investment information sheet may contain hyperlinks as set out in the model laid down in the Annex.
2. The hyperlinks shall be complementary to the information given and shall not replace that information, except as otherwise provided in the model.
3. The hyperlinks shall be consistent with the information provided elsewhere in the key investment information sheet and the external resources referenced in the hyperlinks shall be freely and easily accessible.

Article 6

Types of main risks associated with a crowdfunding offer

1. The types of main risks which are associated with a crowdfunding offer shall be disclosed in the key investment information sheet relating to that offer in accordance with the instructions set out in Part C of the Annex. Where relevant, other risks shall also be disclosed.
2. The description of the risks associated with a crowdfunding offer shall be of relevance to that specific offer and shall be prepared solely for the benefit of prospective investors and shall not give general statements on investment risks or limit the liability of the project owner or any persons acting on their behalf.

Article 7

Financial ratios, statements and information in the key investment information sheet model

The financial statements and information referred to in the key investment information sheet model laid down in the Annex shall be presented in accordance with International Financial Reporting Standard (IFRS) or local Generally Accepted Accounting Principles (GAAP), as applicable.

Article 8

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

KEY INVESTMENT INFORMATION SHEET MODEL

This crowdfunding offer has been neither verified nor approved by [competent authorities – insert full denomination of competent authority/ies] or the European Securities and Markets Authority (ESMA).

The appropriateness of your experience and knowledge have not necessarily been assessed before you were granted access to this investment.

By making this investment, you assume full risk of taking this investment, including the risk of partial or entire loss of the money invested.

Risk warning

Investment in this crowdfunding project entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee schemes established in accordance with Directive 2014/49/EU of the European Parliament and of the Council ⁽¹⁾. Nor is your investment covered by the investor compensation schemes established in accordance with Directive 97/9/EC of the European Parliament and of the Council ⁽²⁾.

You may not receive any return on your investment.

This is not a savings product and we advise you not to invest more than 10 % of your net worth in crowdfunding projects.

You may not be able to sell the investment instruments when you wish. If you are able to sell them, you may nonetheless incur losses.

⁽¹⁾ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

⁽²⁾ Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 84, 26.3.1997, p. 22).

Pre-contractual reflection period for non-sophisticated investors

Non-sophisticated investors benefit from a reflection period during which they can, at any time, revoke their offer to invest or expression of interest in the crowdfunding offer without giving a reason and without incurring a penalty. The reflection period starts at the moment the prospective non-sophisticated investor makes an offer to invest or signals its expression of interest and expires after four calendar days therefrom.

[Insert here the modalities whereby non-sophisticated investors can exercise their revocation right during the reflection period, together with information on this process and its consequences.]

Overview of the crowdfunding offer

Offer identifier	Identifier of the offer as set out in Article 3
Project owner and project name	
Type of offer and instrument type	
Target amount	Target amount and currency of the crowdfunding offer, including the equivalent value in euro and the date of the exchange rate, if the crowdfunding offer provides for a non-euro currency.
Deadline	The date on which the offer will be closed for prospective investors.

Part A: Information about the project owner(s) and the crowdfunding project

(a)	<p>Project owner and crowdfunding project ⁽¹⁾ <i>[Complete this Section by including the information indicated below, as applicable]</i></p> <p>Identity: Legal name of the project owner, country of incorporation/registration and registration number.</p> <p>Legal form: Legal form.</p> <p>Contact details: Website, address of the registered office, email and phone number.</p> <p>Ownership: The date of the last change of ownership and a brief description of the ownership structure of the project owner and, where relevant, the project. This information may be presented as a diagram. ⁽²⁾</p> <p>Management: A brief description of the project owner's management bodies. Where available and deemed appropriate, a hyperlink to the <i>curricula vitae</i> of the members of the management bodies may be included.</p>
(b)	<p>Responsibility for the information provided in this key investment information sheet 'The project owner declares that, to the best of its knowledge, no information has been omitted or is materially misleading or inaccurate. The project owner is responsible for the preparation of this key investment information sheet.' <i>[Complete this Section by listing the natural and legal persons who are responsible for the information given in the key investment information sheet in accordance with national law. In the case of natural persons, such as the members of the project owner's administrative, management or supervisory bodies, indicate their names and functions. In the case of legal persons, indicate their names and registered offices.]</i> 'The declaration of [each of] the above person[s] with respect to their responsibility for the information given in this key investment information sheet pursuant to Article 23(9) of Regulation (EU) 2020/1503 of the European Parliament and of the Council* ⁽³⁾ is included as [Annex [A] hereto ⁽⁴⁾].'</p>
(c)	<p>Principal activities of the project owner; products or services offered by the project owner A short description of the nature of the project owner's current principal activities and business achievements, including, where relevant, a brief presentation of its strategy and added value created.</p>
(d)	<p>Hyperlink to the most recent financial statements of the project owner To the extent available, a hyperlink to the most recent financial statements of the project owner shall be included. If the financial statements have been audited, a hyperlink to the relevant audit report(s) may also be included. If the most recent financial statements are not available, this fact shall be explicitly mentioned. The reasons for such unavailability may be specified. Only where the most recent financial statements are not available, a hyperlink to the up-to-date balance sheet of the project owner may be included instead, if available. Where there is a special purpose vehicle interposed between the project owner and the investors, the information above may be provided also with regard to the SPV.</p>

⁽¹⁾ Without prejudice to the obligation to provide the information set out in this Section, the project owner may also include its logo in this Section.

⁽²⁾ In case for example the project owner is part of a group, the diagram could display the structure of the group and the project owner's position within the group.

⁽³⁾ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

⁽⁴⁾ The declaration of each responsible person shall conform to Article 23(9) of Regulation (EU) 2020/1503.

(e)	<p>Key annual financial figures and ratios for the project owner for the last three years</p> <p>Presentation of the key annual financial figures and ratios such as:</p> <ul style="list-style-type: none"> (i) turnover; (ii) annual net profit; (iii) total assets; (iv) gross, operating and net profit margins; (v) net debt; debt to equity ratio; (vi) acid test ratio; debt service cover ratio; (vii) earnings before interest, taxes, depreciation and amortisation (EBITDA); (viii) return on equity; (ix) ratio of intangible fixed assets to total assets.
(f)	<p>Description of the crowdfunding project, including its purpose and main features</p> <p>A description of the crowdfunding project, including its purpose and main features and the intended use of the funds raised.</p>

Part B: Main features of the crowdfunding process and conditions for the [capital raising] or [funds borrowing]

(a)	Minimum [target capital to be raised] or [target funds to be borrowed] in a single crowdfunding offer [Amount and currency] The number of offers (public or non-public) that have already been completed by the project owner or crowdfunding provider for this crowdfunding project			
	Type of offer and instruments offered	Completion date	Amount [raised / borrowed] and target amount (including the euro-equivalent value and the date of the exchange rate in case of non-euro currencies)	Other relevant information, if any
(b)	Deadline for reaching the [target capital to be raised] or [target funds to be borrowed]: [The date on which the offer will be closed for potential investors.]			
(c)	Information on the consequences if the [target capital is not raised] or [target funds are not borrowed] by the deadline Information on the consequences relating to the crowdfunding process and the investors' participations, if the crowdfunding offer does not reach the targeted minimum amount, including: (i) whether the crowdfunding offer and the investors' commitments would be cancelled; (ii) whether any amounts that were paid by investors would be refunded and, if so, under what modalities and when; (iii) whether investors would incur any fees or expenses as a result of the offer not reaching the targeted amount.			
(d)	The maximum offer amount when different from the [target capital] or [target funds] referred to in point (a) Maximum offer amount and currency (including the euro-equivalent value in case of a non-euro currency), if such amount is different from the [target capital] or [target funds].			
(e)	Amount of own funds committed to the crowdfunding project by the project owner An indication of whether major shareholders or members of the project owner's management, supervisory or administrative bodies have invested in, subscribed for or committed to invest in or subscribe for the offered instruments, and the amount thereof, including as a percentage with respect to the offer's target amount.			

(f)	Change of the composition of the project owner's capital or loans related to the crowdfunding offer A description of the changes that will result in the composition of the project owner's capital and indebtedness as a consequence of the crowdfunding offer.
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Part C: Risk factors

Presentation of the main risks

Complete this Section by describing the main risks associated with the crowdfunding project according to the types of main risks identified below.

The following list of the types of main risk is non-exhaustive. Any other main risk which is relevant to the crowdfunding project, the crowdfunding offer, the project owner, the transferable securities, and the admitted instruments for crowdfunding purposes or loans shall also be described in this Part.

Type 1 – Project risk

Risks that are inherent to the project and that may cause the project to fail. Those risks may concern, but are not limited to:

- (i) project dependencies, such as funding, legal, licensing, copyrights;
- (ii) occurrence of adverse scenarios with a negative impact;
- (iii) technological development of competitors or competitive products;
- (iv) risks deriving from the project owner.

Type 2 – Sector risk

Risks that are inherent to the specific sector. Such risks may be caused, for instance, by a change in the macro-economic circumstances, a decrease of demand in the sector in which the crowdfunding project operates and dependencies on other sectors.

The sector of the project shall be described by using the classification referred to in Article 2(1), point (a), of Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽⁵⁾.

Type 3 – Risk of default

The risk that a project or the project owner may be subject to bankruptcy or other insolvency proceedings, and other occurrences concerning the project or the project owner which may result in the loss of the investment for the investors. Such risks may be caused by a variety of factors, including:

- (a) (severe) change in macro-economic circumstances;
- (b) mismanagement;
- (c) lack of experience;
- (d) fraud;
- (e) the financing not fitting the business purpose;
- (f) unsuccessful product launch;
- (g) lack of cash flow.

Type 4 – Risk of lower, delayed or no returns

The risk that the return is lower than expected, delayed or that the project defaults on capital or interest payments.

Type 5 – Risk of a platform failure

The risk that the crowdfunding platform is temporarily or permanently not able to provide its services.

Type 6 – Risk of illiquidity of the investment

The risk that investors cannot sell their investment.

⁽⁵⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

Type 7 – Other risks

Risks that are, inter alia, out of the project owner's control, such as political and regulatory risks.

Part D: Information related to the offer of transferable securities and admitted instruments for crowdfunding purposes

(a)	<p>Total amount and type of [transferable securities] or [admitted instruments for crowdfunding purposes] to be offered</p> <p>The following information shall be specified:</p> <ul style="list-style-type: none"> (i) a description of the type and class of instruments to be offered; (ii) where applicable, the number of instruments to be offered, their denomination, currency and terms; (iii) the relative seniority of the instruments in the issuer's capital structure in the event of insolvency, including, where applicable, information on the ranking and subordination of the securities.
(b)	<p>Subscription price</p> <p>The price at which the [transferable securities] or [admitted instruments for crowdfunding purposes] will be offered. Where applicable, this Section shall also indicate the minimum subscription amount per investor.</p>
(c)	<p>Whether oversubscriptions are accepted and how they are allocated</p>
(d)	<p>Terms of subscription and payment</p> <p>This Section shall include a clear description of the terms of subscription, including the transfer of the subscription price, and of the payment process, including timing and method.</p> <p>This Section may also include a hyperlink to a description of the subscription process and instructions.</p>
(e)	<p>Custody and delivery of [transferable securities] or [admitted instruments for crowdfunding purposes] to investors</p> <p>This Section shall specify the delivery date (or where no such firm commitment can be made, the latest possible delivery date) and the process of delivery of the relevant instruments (including any collateral to the instruments), and indicate the name and contact details (including e-mail) of the issuer or its agent.</p> <p>Where custody services are not provided by the crowdfunding service provider, a clear statement to that effect shall be made.</p> <p>This Section shall include the identity, registration number and contact details of the custodian. It shall be mentioned whether or not any fee shall be due by the investor to the custodian.</p>
(f)	<p>Information relating to the guarantee or collateral by which the investment is secured (where applicable)</p> <ul style="list-style-type: none"> (i) Is the [guarantor] or [collateral provider] a legal person? (ii) The identity, legal form and contact details of the [guarantor] or [collateral provider] (iii) Information on the nature and the terms of the [guarantee] or [collateral] (including its ranking)
(g)	<p>Information relating to a firm commitment to buy back the [transferable securities] or [admitted instruments for crowdfunding purposes] (where applicable)</p> <p>Description of the buy-back arrangement</p> <p>This Section shall provide clear and concise information with respect to any buy-back commitment. Where appropriate, more detailed information may be provided by way of a hyperlink.</p> <p>Time period for the buy-back</p> <p>Description of the conditions to participate in the buy-back (including any applicable deadlines).</p>

(h)	<p>Interest rate and maturity information</p> <p>This Section shall apply to non-equity transferable securities (such as bonds) or hybrid instruments (such as bonds convertible to shares).</p> <p>Nominal interest rate:</p> <p>The nominal interest rate per year shall be clearly stated. Furthermore, this Section shall include a brief explanation of the method used for its calculation or a hyperlink to the website of the crowdfunding service provider including such explanation.</p> <p>The annual interest rate shall be disclosed with two decimals of precision and in the following preferred format: [•] % per year (calculated by way of the [include the applied calculation method]); or where the interest rate is variable, brief information about the key factors determining the interest rate (e.g. Euro Interbank Offered Rate, EURIBOR, plus X %) and its calculation.</p> <p>Date from which the interest becomes payable:</p> <p>Due dates for interest payments:</p> <p>Maturity date (including intermediate repayments where applicable):</p> <p>Applicable yield:</p> <p>The yield shall be calculated as a yearly rate and in line with the method used for the calculation of the annual nominal interest rate and provided with two decimals of precision. The key assumptions on which the yield calculation is based shall also be briefly disclosed.</p>
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Part E: Information on special purpose vehicles (SPV)

(a)	<p>Is an SPV interposed between the project owner and the investor?</p> <p>Yes/no</p>
(b)	<p>Contact details of the SPV</p> <p>If the answer to the above question is 'yes', this Section shall specify the SPV's identity, legal form and registered office.</p>

Part F: Investor rights

[In accordance with Article 23(7) of Regulation (EU) 2020/1503, in the case of admitted instruments for crowdfunding purposes, where the information required under Part F of this Annex exceeds one side of A4-sized paper format if printed, the remainder shall be produced in an annex attached to the key investment information sheet.]

(a)	<p>Key rights attached to the [transferable securities] or [admitted instruments for crowdfunding purposes]</p> <p>A short description of the key rights attached to the instruments, grouped by types, such as:</p> <ul style="list-style-type: none"> (i) dividend rights; (ii) voting rights; (iii) information access rights; (iv) pre-emption rights in offers for subscription of instruments of the same class; (v) right to share in the issuer's profits; (vi) right to share in any surplus in the event of liquidation; (vii) redemption rights; (viii) conversion rights; (ix) joint exit rights in the event of the occurrence of an operative event (i.e. change of control, tag-along rights). <p>A hyperlink to the project owner's constitutional documents or any other relevant legal documents, together with references to the relevant articles or section numbers, may be included.</p>
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(b) and (c)	<p>Restrictions to which the [transferable securities] or [admitted instruments for crowdfunding purposes] are subject and restrictions on the transferring of the instruments.</p> <p>This Section shall include a description of any shareholders' agreement or other arrangement preventing or in any case limiting the transferability of the instruments, such as clauses restricting the right to sell the instruments (for example approval clauses or temporary inalienability clauses).</p> <p>This Section shall also include a description of other restrictions to which the instruments are subject, such as any forced disposal clause (for example exclusion clauses, repurchase clauses, joint exit obligation in the event of a change of control, drag-along rights), specifying in particular the financial conditions of such disposals.</p>
(d)	<p>Opportunities for the investor to exit the investment</p>
(e)	<p>For equity instruments, distribution of capital and voting rights before and after the capital increase resulting from the offer (assuming all the [transferable securities] or [admitted instruments for crowdfunding purposes] will be subscribed)</p> <p>When presenting the distribution of capital and voting rights before and after the capital increase resulting from the offer, the following information shall be included for each class of share capital:</p> <ul style="list-style-type: none"> (i) the total of the issuer's authorised share capital; (ii) the number of shares issued and fully paid and issued but not fully paid; and (iii) the par value per share, or that the shares have no par value. <p>If there are shares not representing capital, state the number and main characteristics of such shares.</p>

Part G: Disclosures related to loans

(a)	<p>The nature, duration and other material terms of the loan</p>
(b)	<p>The applicable interest rates or, where applicable, other compensation to the investor</p> <p>The applicable interest rates per year shall be clearly stated. Furthermore, this Section shall include a brief explanation of the method used for their calculation or a link to the website of the crowdfunding service provider including such explanation.</p> <p>The annual interest rates shall be disclosed with two decimals of precision and in the following preferred format: [•] % per year (calculated by way of the [include the applied calculation method]); or where the interest rate is variable, brief information about the key factors determining the interest rate (e.g. EURIBOR plus X %) and its calculation.</p>
(c)	<p>Risk mitigation measures, including the existence of collateral providers or guarantors or other types of guarantees</p>
(d)	<p>The schedule for the repayment of the principal and payment of interest</p> <p>Where advance repayment is permitted, on the initiative of the project owner or of the lender, it shall be described, stipulating repayment terms and conditions.</p>
(e)	<p>Any default on credit agreements by the project owner within the past five years</p> <p><i>[For the purposes of this Section, the definition of default as set out in Article 1 of Commission Delegated Regulation (EU) 2022/2115 ⁽⁶⁾]</i></p>

⁽⁶⁾ Commission Delegated Regulation (EU) 2022/2115 of 13 July 2022 supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodology for calculating default rates of loans offered on a crowdfunding platform (see page 33 of this Official Journal).

(f)	<p>The servicing of the loan (including in situations where the project owner does not meet its obligations)</p> <p>This Section shall specify the entity (including its legal name, registration number and place of registration, registered office and contact details) responsible for the servicing of the loan and provide brief information with respect to its servicing policy, which shall include information about the procedures undertaken in case that the obligations under the loan are not met. A hyperlink may be provided to the relevant page or document containing the detailed servicing policy.</p>
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Part H: Fees, information and legal redress

(a)	<p>Fees and costs incurred by the investor relating to the investment (including administrative costs resulting from the sale of admitted instruments for crowdfunding purposes)</p> <p>This Section shall contain a presentation in table-format of all direct and indirect fees, commissions, costs and charges incurred by the investor in relation to their investment and exit from the investment.</p> <p>Where euro (or other applicable currency) amounts and percentage values are stated, they shall be calculated for a hypothetical investment of EUR 10 000 and on an annual basis.</p>												
	<table> <tr> <th colspan="2" data-bbox="255 952 383 1142">Fees, Charges and other Costs</th><th data-bbox="550 952 742 1142">in euros (or other applicable currency)</th><th data-bbox="742 952 949 1142">as percentage of total investment amount</th><th data-bbox="949 952 1417 1142">Examples (non-exhaustive)</th></tr> </table>	Fees, Charges and other Costs		in euros (or other applicable currency)	as percentage of total investment amount	Examples (non-exhaustive)							
Fees, Charges and other Costs		in euros (or other applicable currency)	as percentage of total investment amount	Examples (non-exhaustive)									
	<table> <tr> <td data-bbox="255 1142 383 1422" rowspan="2">One-off</td><td data-bbox="383 1142 550 1422">Entry costs (please provide details)</td><td data-bbox="550 1142 742 1422">EUR [...]</td><td data-bbox="742 1142 949 1422">[...]%</td><td data-bbox="949 1142 1417 1422">The costs the investor pays when entering the investment. Those costs comprise of costs relating to the investor's subscription (such as notary fees, up-front-loads, and stamp duties), and costs relating to the underlying asset (such as finder's and agent fees, notary fees, real estate and other acquisition taxes)</td></tr> <tr> <td data-bbox="383 1422 550 1601">Exit costs (please provide details)</td><td data-bbox="550 1422 742 1601">EUR [...]</td><td data-bbox="742 1422 949 1601">[...]%</td><td data-bbox="949 1422 1417 1601">The costs the investor pays when exiting the investment at maturity (such as finder's and agent fees, notary fees, real estate and other acquisition taxes, winding-down expenses)</td></tr> </table>	One-off	Entry costs (please provide details)	EUR [...]	[...]%	The costs the investor pays when entering the investment. Those costs comprise of costs relating to the investor's subscription (such as notary fees, up-front-loads, and stamp duties), and costs relating to the underlying asset (such as finder's and agent fees, notary fees, real estate and other acquisition taxes)	Exit costs (please provide details)	EUR [...]	[...]%	The costs the investor pays when exiting the investment at maturity (such as finder's and agent fees, notary fees, real estate and other acquisition taxes, winding-down expenses)			
One-off	Entry costs (please provide details)		EUR [...]	[...]%	The costs the investor pays when entering the investment. Those costs comprise of costs relating to the investor's subscription (such as notary fees, up-front-loads, and stamp duties), and costs relating to the underlying asset (such as finder's and agent fees, notary fees, real estate and other acquisition taxes)								
	Exit costs (please provide details)	EUR [...]	[...]%	The costs the investor pays when exiting the investment at maturity (such as finder's and agent fees, notary fees, real estate and other acquisition taxes, winding-down expenses)									
	Ongoing	EUR [...]	[...]%	The costs the investor incurs during the holding period of the investment (such as custody and management fees, audit and legal fees, ongoing taxes relating to your investment or the underlying asset)									
	Incidental	Performance fees/ Carried interest (please provide details)	EUR [...]	Fees the investor pays to the project owner(s) if certain success parameters are met									

		Other incidental fees (please provide details)	EUR [...]	[...]%	Finder's fees, refinancing fees, transaction fees (to the extent not already included in the one-off fees)
(b)	Where and how additional information about the crowdfunding project, the project owner [and, where applicable, the SPV] can be obtained free of charge				
(c)	How and to whom the investor may address a complaint about the investment or about the conduct of the project owner or the crowdfunding service provider The following information shall be provided in summary: <ul style="list-style-type: none"> (i) steps to be followed for filing a complaint about the investment or about the conduct of the project owner or the crowdfunding service provider; (ii) a link to the relevant webpage and form for such complaints; (iii) an up-to-date website or email address to which such complaints may be submitted. 				

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2120**of 13 July 2022****laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to data standards and formats, templates and procedures for reporting information on projects funded through crowdfunding platforms****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 16(3), third subparagraph, thereof,

Whereas:

- (1) For the purposes of effective aggregation and comparison of information on funded crowdfunding projects by competent authorities, there should be consistency in the standards and formats used by crowdfunding service providers when reporting that information in accordance with Article 16(1) of Regulation (EU) 2020/1503. Therefore, a template, which provides for common standards and formats for reporting that information, should be set out.
- (2) In order to allow the timely collection of information and its subsequent submission to ESMA by competent authorities, crowdfunding service providers should report to competent authorities information for a calendar year no later than by the end of February of the following year. In order to provide competent authorities and ESMA with comprehensive information which is necessary to enhance the competent authorities' capability to supervise the respective entities as well as to enable ESMA to develop and publish complete statistics relating to the crowdfunding market in the Union, the information reported by crowdfunding service providers should include information on all projects funded on a crowdfunding service provider's platform, including projects which did not raise any money in the relevant year. Crowdfunding service providers should ensure that the information they provide is complete and accurate.
- (3) Given the sensitivity of information to be reported by crowdfunding service providers, the procedures for reporting that information should ensure the confidentiality of the information reported.
- (4) In order to ensure the certain and efficient identification of project owners, commonly used identifiers thereof should be reported. Where the project owner is a legal entity, the ISO 17442 legal entity identifier code (LEI) of the project owner should be reported. Given that there is no common international standard for the identification of natural persons and considering the importance of ensuring a clear identification of project owners, who are natural persons, the identifier set out in Article 6 of Commission Delegated Regulation (EU) 2017/590 ⁽²⁾ should be reported for those project owners. Furthermore, in order to ensure the interoperability of data and to enable supplementing the reported information with other data available in the key investment information sheet referred to in Article 23 of Regulation (EU) 2020/1503, the identifier of the crowdfunding offer determined in accordance with Article 3 of Commission Delegated Regulation (EU) 2022/2119 ⁽³⁾ should be reported..

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (OJ L 87, 31.3.2017, p. 449).

⁽³⁾ Commission Delegated Regulation (EU) 2022/2119 of 13 July 2022 supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards for the key investment information sheet (see page 63 of this Official Journal).

- (5) In order to enable ESMA to perform effective cross-border aggregation and comparison of information and to develop statistics relating to the crowdfunding market in the Union, there should be consistency in the standards and formats used when providing information on crowdfunding projects by competent authorities to ESMA. Therefore, a template, which provides for common standards and formats for reporting that information should be set out. Competent authorities should provide ESMA with complete and accurate information, with the identification of the project owner anonymised using a common method.
- (6) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.
- (7) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁴⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁵⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Data standards and formats, template and procedures for reporting information to competent authorities

1. Information reported pursuant to Article 16(1) of Regulation (EU) 2020/1503 shall include the complete and accurate details referred to in Table 2 in the Annex to this Regulation, in accordance with the standards and formats specified in that Table, using an electronic form in a common CSV template or in another alternative format accepted by the competent authority to which the information is to be reported.
2. The procedures for reporting information in accordance with this Article shall include mechanisms to ensure the confidentiality of the information reported.
3. The information referred to in paragraph 1 shall be reported for each calendar year by the end of February of the following calendar year.
4. The information referred to in paragraph 1 shall include the following details:
 - (a) for the crowdfunding service provider, the ISO 17442 legal entity identifier (LEI) code;
 - (b) for the project owner:
 - (i) the LEI code, if the project owner is a legal person;
 - (ii) the identifier set out in Article 6 of Delegated Regulation (EU) 2017/590, if the project owner is a natural person;
 - (c) for each individual project, the identifier of the crowdfunding offer determined in accordance with Article 3 of Delegated Regulation (EU) 2022/2119.

⁽⁴⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 2***Data standards and formats, template and procedures for reporting information to ESMA**

1. Information reported pursuant to Article 16(2) of Regulation (EU) 2020/1503 shall include the complete and accurate details referred to in Table 3 in the Annex to this Regulation, in accordance with the standards and formats specified in that Table, using an electronic form in a common CSV template.
2. The information permitting the identification of the project owner shall be anonymised using a common cryptographic hashing algorithm.

*Article 3***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Table 1

Glossary for Tables 2 and 3

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{COUNTRYCODE_2}	2 alphanumerical characters	2 letter country code, as defined by ISO 3166-1 alpha-2 country code
{CURRENCYCODE_3}	3 alphanumerical characters	3 letter currency code, as defined by ISO 4217 currency codes
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — thousand separator is not used; — negative numbers are prefixed with '-' (minus); — values are rounded and not truncated.
{INTEGER-n}	Integer number of up to n digits in total	Numerical field for both positive and negative integer values. — thousand separator is not used; — negative numbers are prefixed with '-' (minus).
{LEI}	20 alphanumerical characters	The ISO 17442 legal entity identifier (LEI) code
{NATIONAL_ID}	35 alphanumerical characters	The identifier is derived in accordance with Article 6 of Delegated Regulation (EU) 2017/590.

Table 2

Information to be reported to competent authorities

N	Field	Content to be reported	Format and standards to be used for reporting
1	Crowdfunding service provider identification code	Code used to identify the crowdfunding service provider responsible for submitting the report.	{LEI}
2	Reporting period	The year which the report is submitted for.	YYYY

Information on the projects for which a crowdfunding offer has been made by the crowdfunding service provider during the reporting period.

Fields 3 to 6 shall be repeated for each project. If the amount raised is expressed in more than one currency, fields 5 to 6 shall be repeated for each currency respectively.

3	Identifier of the crowdfunding offer	Unique identifier of the crowdfunding offer as specified in Article 3 of Delegated Regulation (EU) 2022/2119.	{ALPHANUM-28}
4	Sector	Sector of the project as specified in the first level of classification set out in Article 2(1), point (a), of Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽¹⁾ .	{ALPHANUM-1}
5	Amount raised	The amount raised for the project. The information reported in this field shall be consistent with the values provided in field 12.	{DECIMAL-18/5}
6	Amount raised currency	Currency in which the amount raised is expressed.	{CURRENCYCODE_3}

Information on the project owner(s) of each project.

Field 7 shall be repeated for each project owner.

7	Project owner(s) identifier	Code used to identify the project owner: (a) where the project owner is a legal entity, the LEI code; (b) where the project owner is a natural person, the identifier determined in accordance with Article 6 of Delegated Regulation (EU) 2017/590.	{LEI} {NATIONAL_ID}
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Information on the investors and the instruments issued for each project.

If different types of instruments, different types of investors, different countries of investors or currencies are to be reported, fields 8 to 13 shall be repeated as many times as required for each combination of instrument type, investor type, investor country and currency.

8	Instrument type	Type of instruments issued.	<p>LOAN – Loans</p> <p>ICFP – Admitted instruments for crowdfunding purposes</p> <p>EQUI – Equity instruments which are transferable securities pursuant to Article 4(1), point (44), of Directive 2014/65/EU of the European Parliament and of the Council ⁽²⁾, such as those referred to in point (a) thereof</p> <p>DEBT – Debt instruments which are transferable securities pursuant to Article 4(1), point (44), of Directive 2014/65/EU, such as those referred to in point (b) thereof</p> <p>OTHR – Other transferable securities, pursuant to Article 4(1), point (44), of Directive 2014/65/EU, such as those referred to in point (c) thereof</p>
9	Investor type	<p>Type or types of investors indicating whether the investor is:</p> <p>(a) a natural or legal person who is a professional client by virtue of Section I, points (1) to (4), of Annex II to Directive 2014/65/EU;</p> <p>(b) a natural or legal person who has the approval of the crowdfunding service provider to be treated as a sophisticated investor in accordance with the criteria and the procedure laid down in Annex II to Regulation (EU) 2020/1503;</p> <p>(c) a non-sophisticated investor;</p> <p>(d) the project owner.</p> <p>Where the amount reported in field 12 refers to the amount invested into the project by the project owner, then the investor type reported in this field shall include the project owner as referred to in point (d).</p>	<p>PROF – a professional client in accordance with Section I, points (1) to (4), of Annex II to Directive 2014/65/EU</p> <p>SOPH – a sophisticated investor in accordance with the criteria and the procedure laid down in Annex II to Regulation (EU) 2020/1503</p> <p>RETL – Non-sophisticated investor</p> <p>OTHR – Project owners</p>

10	Investor country	Country of fiscal residency of the investors.	{COUNTRYCODE_2}
11	Number of investors	The number of individual investors for the given investor type and the investor country.	{INTEGER-9}
12	Invested amount	The total amount invested for the given investor type and the investor country expressed in the currency used for the payment.	{DECIMAL-18/5}
13	Invested amount currency	Currency in which the invested amount is expressed.	{CURRENCYCODE_3}

(¹) Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

(²) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, (OJ L 173, 12.6.2014, p. 349).

Table 3

Information to be reported to ESMA

N	Field	Content to be reported	Format and standards to be used for reporting
1	Crowdfunding service provider identification code	Code used to identify the crowdfunding service provider responsible for submitting the report.	{LEI}
2	Reporting period	The year which the report is submitted for.	YYYY

Information on the projects for which a crowdfunding offer has been made by the crowdfunding service provider during the reporting period.

Fields 3 to 6 shall be repeated for each project. If the amount raised is expressed in more than one currency, fields 5 to 6 shall be repeated for each currency respectively.

3	Identifier of the crowdfunding offer	Unique identifier of the crowdfunding offer as specified in Article 3 of Delegated Regulation (EU) 2022/2119.	{ALPHANUM-28}
4	Sector	Sector of the project as specified in the first level of classification set out in Article 2(1), point (a), of Regulation (EC) No 1893/2006.	{ALPHANUM-1}
5	Amount raised	The amount raised for the project. The information reported in this field shall be consistent with the values provided in field 12.	{DECIMAL-18/5}
6	Amount raised currency	Currency in which the amount raised is expressed.	{CURRENCYCODE_3}

Information on the project owner(s) of each project.

Field 7 shall be repeated for each project owner.

7	Project owner(s) anonymised identifier	The identifier of the project owner anonymised in accordance with Article 2(2).	{ALPHANUM}
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Information on the investors and instruments issued for each project.

If different types of instruments or different types of investors, different countries of investors or currencies are to be reported, fields 8 to 13 shall be repeated as many times as required for each combination of instrument type, investors type, investors country and currency.

8	Instrument type	Type of instruments issued.	<p>LOAN – Loans</p> <p>ICFP – Admitted instruments for crowdfunding purposes</p> <p>EQUI – Equity instruments which are transferrable securities pursuant to Article 4(1), point (44), of Directive 2014/65/EU, such as those referred to in point (a) thereof</p> <p>DEBT – Debt instruments which are transferrable securities pursuant to Article 4(1), point (44), of Directive 2014/65/EU, such as those referred to in point (b) thereof</p> <p>OTHR – Other transferable securities pursuant to Article 4(1), point (44), of Directive 2014/65/EU, such as those referred to in point (c) thereof</p>
9	Investor type	<p>Type of investors indicating whether the investor is:</p> <p>(a) a natural or legal person who is a professional client by virtue of Section I, points (1) to (4), of Annex II to Directive 2014/65/EU;</p> <p>(b) a natural or legal person who has the approval of the crowdfunding service provider to be treated as a sophisticated investor in accordance with the criteria and the procedure laid down in Annex II to Regulation (EU) 2020/1503;</p> <p>(c) a non-sophisticated investor;</p> <p>(d) the project owner.</p> <p>Where the amount reported in field 12 refers to the amount invested into the project by the project owner, then the investor type reported in this field shall include the project owner as referred to in point (d).</p>	<p>PROF – a professional client in accordance with Section I, point (1) to (4), of Annex II to Directive 2014/65/EU</p> <p>SOPH – a sophisticated investor in accordance with the criteria and the procedure laid down in Annex II to Regulation (EU) 2020/1503</p> <p>RETL – Non-sophisticated investor</p> <p>OTHR – Project owners</p>

10	Investor country	Country of fiscal residency of the investors.	{COUNTRYCODE_2}
11	Number of investors	The number of individual investors for the given investor type and the investor country.	{INTEGER-9}
12	Invested amount	The total amount invested for the given investor type and the investor country expressed in the currency used for the payment.	{DECIMAL-18/5}
13	Invested amount currency	Currency in which the invested amount is expressed.	{CURRENCYCODE_3}

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2121**of 13 July 2022****laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and ESMA in relation to European crowdfunding service providers for business****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 32(4), third subparagraph, thereof,

Whereas:

- (1) To ensure that competent authorities and the European Securities and Markets Authority (ESMA) are able to cooperate and exchange information in an efficient and timely manner for the purposes of Regulation (EU) 2020/1503, it is appropriate to set out standard forms, templates and procedures to be used by competent authorities and ESMA for such cooperation and exchange of information, including for the submission of relevant requests, acknowledgement of receipt of, and replies to such requests, as well as for the unsolicited transmission of information.
- (2) In order to facilitate communication, competent authorities and ESMA should designate a contact point to deal with the the cooperation and exchange of information referred to in Article 32(1) of Regulation (EU) 2020/1503.
- (3) To ensure that the competent authorities process requests for cooperation or information efficiently and expeditiously each request should clearly set out the reasons for such request. The procedures for cooperation and exchange of information should facilitate the interaction between the competent authorities and ESMA throughout the process.
- (4) As competent authorities can request ESMA to coordinate an on-site inspection or investigation with cross-border effect, it is appropriate to set out a standard form to be used by competent authorities when making such requests.
- (5) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.
- (6) The requirements of this Regulation concern competent authorities and ESMA and not market participants. Therefore, ESMA considered highly disproportionate, in relation to the scope and impact of the draft implementing standards in this Regulation, to conduct public consultations on these standards or and to analyse the potential costs and benefits.
- (7) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Contact points

1. Competent authorities and ESMA shall each designate contact points for the purposes of the communication of requests for cooperation and exchange of information made pursuant to Article 32 of Regulation (EU) 2020/1503.
2. Competent authorities shall notify ESMA of the details of their contact points referred to in paragraph 1 and keep ESMA informed of any changes to those details.
3. ESMA shall maintain and keep up-to-date a list of all contact points designated in accordance with paragraph 1.

Article 2

Request for cooperation or exchange of information

1. When ESMA or a competent authority makes a request for cooperation and exchange of information pursuant to Article 32 of Regulation (EU) 2020/1503 the requesting competent authority and ESMA shall use the standard form set out in Annex I to this Regulation. The requesting party shall address the request to the contact point of the requested competent authority or ESMA, as appropriate.
2. When making a request for information, the requesting competent authority or ESMA shall specify the details of the relevant information sought and identify, where appropriate, issues relating to the confidentiality of the information sought.
3. In urgent cases, the requesting competent authority or ESMA may make the request for cooperation or exchange of information verbally, provided that subsequent confirmation of the request is made in writing within a reasonable timeframe, unless the requested competent authority or ESMA agrees otherwise.

Article 3

Acknowledgement of receipt of requests

1. Within 10 working days of receipt of a request made pursuant to Article 2, the requested competent authority or ESMA, as appropriate, shall send an acknowledgement of receipt to the requesting competent authority or ESMA, as appropriate, using the form set out in Annex II, and, where possible, indicate an estimated date of response.
2. Where a requested competent authority or ESMA, as appropriate, has any doubt in relation to the content of cooperation or information requested pursuant to Article 32(1) of Regulation (EU) 2020/1503, for the purpose of Regulation (EU) No 1095/2010 and in accordance with Regulation (EU) No 1095/2010, it shall request further clarifications as soon as possible using any appropriate means, whether oral or written. The authority to which such request is addressed shall provide a prompt response.

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 4***Reply to requests**

1. When responding to a request made pursuant to Article 2, the requested competent authority or ESMA, as appropriate, shall:
 - (a) use the standard form set out in Annex III;
 - (b) take all reasonable steps within its powers to provide the requested cooperation or information;
 - (c) act without undue delay, taking into account the complexity of the request and any need to involve third parties.
2. In urgent cases, the requested competent authority or ESMA, as appropriate, may reply to a request for cooperation or exchange of information orally, provided that the response is subsequently given in writing within a reasonable timeframe using the form set out in Annex III, unless the requesting competent authority or ESMA, as appropriate, agrees otherwise.

*Article 5***Means of communication**

1. Without prejudice to Article 2(3) and Article 4(2), standard forms shall be transmitted in writing.
2. In determining the most appropriate means of communication, due account shall be taken of confidentiality considerations, the time necessary for correspondence, the volume of material to be communicated, and the ease of access to the information by the requesting competent authority or ESMA, as appropriate.
3. Any means of communication shall ensure the completeness, integrity and confidentiality of the information subject matter of the exchange are maintained during the transmission.

*Article 6***Procedures for processing a request for cooperation or exchange of information**

1. The requested authority shall notify the requesting competent authority or ESMA, as appropriate, where it becomes aware of circumstances that may lead to a delay of more than five working days beyond the estimated date of response specified in accordance with Article 3(1).
2. Where the request has been qualified as urgent by the requesting competent authority or ESMA, as appropriate, the requested competent authority or ESMA, as appropriate, shall agree on the frequency with which it will update the requesting party on any progress made regarding the processing of the request and about the estimated date of response.
3. Competent authorities and ESMA shall cooperate to resolve any difficulties that may arise in processing a request.
4. Competent authorities and ESMA shall provide, where appropriate, feedback to each other on the usefulness of assistance received, the outcome of the case in relation to which the assistance was sought and any problems encountered in providing such assistance.

*Article 7***Request to ESMA for coordination of an on-site inspection or investigation with cross-border effect**

1. When requesting ESMA to coordinate an on-site inspection or investigation with cross-border effect in accordance with Article 32(2) of Regulation (EU) 2020/1503 competent authorities shall use the standard form set out in Annex IV to this Regulation.

2. Competent authorities shall without delay provide ESMA with all information necessary to carry out its duties.
3. Where ESMA is requested under Article 32(2) of Regulation (EU) 2020/1503 to coordinate an on-site inspection or an investigation with cross-border effect, ESMA may establish a temporary group on an *ad hoc* basis to include the competent authorities of the Member States affected by that inspection or investigation.

Article 8

Unsolicited transmission of information

1. Where a competent authority or ESMA has information that it believes would assist ESMA or a competent authority respectively, in carrying out their duties under Regulation (EU) 2020/1503, it shall transmit that information using the standard form set out in Annex III to this Regulation.
2. By way of derogation from paragraph 1, if the competent authority or ESMA sending the information believes that the information should be sent urgently, it may initially communicate the information verbally. In such case, subsequent transmission of information shall be made using the standard form set out in Annex III, unless the competent authority or ESMA receiving the information agrees otherwise.

Article 9

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Form for a request for cooperation or exchange of information pursuant to Article 32 of Regulation (EU) 2020/1503

Request for cooperation or exchange of information

Reference number:

Date:

General information

FROM:

<input type="checkbox"/> National competent authority	<input type="checkbox"/> ESMA
Member State: Requesting competent Authority: Address:	Address

(Contact details of the contact point):

Name:

Telephone:

Email:

TO:

Member State (if applicable):

Recipient:

Address:

(Contact details of the contact point):

Name:

Telephone:

Email:

Dear [insert appropriate name],

In accordance with Article 32 of Regulation (EU) 2020/1503, your input is sought in relation to the matter(s) set out in further detail below.

I would be grateful to receive a response to the above request by [insert indicative date for the reply or in case of an urgent request insert deadline for the information to be provided by] or, if that is not possible, for an indication as to when you anticipate being in a position to provide the assistance which is sought.

Type of request

Please tick the appropriate box(es):

- ☐ Investigatory and supervisory powers of competent authorities
- ☐ Cooperation between competent authorities
- ☐ Precautionary measures
- ☐ Other

If other, please specify:

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.....

Reasons for the request

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.....

[insert provision(s) of the sectoral legislation under which the requesting authority is competent to deal with the matter]

The request concerns cooperation or exchange of information on

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.....
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[insert description of the subject-matter of the request, the purpose for which the cooperation or exchange of information is sought, facts underlying any investigation which form the basis of the request and an explanation for its helpfulness]

Further to

.....

.....

.....

[if applicable, please insert the details of the previous request on which the present request is based]

In case of an urgent request and the setting of any deadlines, please provide full explanation of the urgency of the request and an explanation of any deadlines that the requesting authority has asked for the information to be provided by:

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Additional information:

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The information included in this request shall be kept confidential in accordance with Article 35 of Regulation (EU) 2020/1503. Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX II

Form for the acknowledgement of receipt

Acknowledgement of receipt

Reference number:

Date:

<input type="checkbox"/> National competent authority	<input type="checkbox"/> ESMA
Member State: Requesting competent authority: Address:	Address

(Contact details of the contact point)

Name:

Telephone:

Email:

TO:

Member State (if applicable):

Recipient:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

Following your request *[insert reference to request]* we hereby acknowledge receipt thereof on *[insert date when the request for cooperation or request for information was received]*.

Estimated date of response:

Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX III

Form to reply to a request for cooperation or exchange of information and for the unsolicited exchange of information

Reply to a request for cooperation or exchange of information

Reference number:

Date:

General information

<input type="checkbox"/> National competent authority	<input type="checkbox"/> ESMA
Member State: Requesting competent authority: Address:	Address

(Contact details of the contact point):

Name:

Telephone:

Email:

TO:

Member State:

Recipient:

Address:

(Contact point details):

Name:

Telephone:

Email:

Dear [insert appropriate name],

We confirm that your request dated [dd.mm.yyyy] with reference [insert request reference number] has been processed by us [not applicable in case of an unsolicited exchange of information].

Information gathered

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[if the information has been gathered, please set out the information here or provide an explanation of how it will be provided].

[in case of unsolicited exchange of information, please set out the information which is provided on an unsolicited basis].

[The information provided is confidential and is disclosed to [insert name of the requesting authority] pursuant to [insert provision of Regulation (EU) 2020/1503] and on the basis that the information shall remain confidential in accordance with Article 35 of Regulation (EU) 2020/1503.] [or] [The information provided is permitted to be disclosed pursuant to Article 35(1) of Regulation (EU) 2020/1503.]

Where relevant, please explain any clarification you may require in relation to the precise information requested:

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Please provide, on your own initiative, any essential information that could further assist the cooperation or exchange of information for the purposes of the request:

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Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX IV

Form for a request for ESMA to coordinate an on-site inspection or investigation with cross-border effect pursuant to Article 32(2) of Regulation (EU) 2020/1503

Request for coordination of an on-site inspection or investigation with cross-border effect

Reference number:

Date:

General information

FROM:

Member State:

Requesting competent authority:

Address:

(Contact details of the contact point):

Name:

Telephone:

Email:

TO:

European Securities and Markets Authority (ESMA)

(Contact details of the contact point):

Name:

Telephone:

Email:

Information on the request for coordination**Reasons for the request**

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.....
[insert provision(s) of the sectoral legislation under which the requesting authority is competent to deal with the matter]

The request concerns the coordination of an on-site inspection or investigation with cross-border effect on

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.....
[insert description of the subject-matter of the request, the purpose for which the coordination of an on-site inspection or investigation with cross-border effect is sought, facts underlying the investigation which form the basis of the request and explanation for its helpfulness]

Further to

.....
.....
.....
[if applicable, please insert the details of the previous request on which the present request is based]

In case of an urgent request and the setting of any deadlines, please provide full explanation of the urgency of the request and an explanation of any deadlines that the requesting authority has asked for the information to be provided by:

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Additional information:

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The information included in this request shall be kept confidential in accordance with Article 35 of Regulation (EU) 2020/1503. Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2122**of 13 July 2022****laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities concerning European crowdfunding service providers for business****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 31(9), third subparagraph, thereof,

Whereas:

- (1) To facilitate communication and cooperation between competent authorities for the purposes of Regulation (EU) 2020/1503, each competent authority should designate and communicate to the European Securities and Markets Authority (ESMA) a contact point.
- (2) For reasons of transparency and to ensure good cooperation between different competent authorities, it is important to lay down that competent authorities that refuse to act on a request for information or a request to cooperate with an investigation, as referred to in Article 31(2) of Regulation (EU) 2020/1503, notifies the requesting competent authority of such refusal and informs that competent authority of the reasons of that refusal.
- (3) Competent authorities should be able to cooperate in an efficient manner when performing supervision, investigation and enforcement activities for the purposes of Regulation (EU) 2020/1503. For that purpose, it is necessary to set out common and uniform procedures in case the requested cooperation involves the taking of statements. Those procedures should set out the elements which competent authorities are to consider, in accordance with applicable national and Union law, when cooperating on the taking of a statement from any person. Those elements should include the rights of the person from whom the statement is to be taken and the arrangements enabling competent authorities' staff to proceed efficiently with the cooperation. In particular, competent authorities should ensure the protection of the right to an effective remedy and to a fair trial and the right to a presumption of innocence and right of defence, enshrined in Articles 47 and 48 of the Charter of fundamental rights of the European Union.
- (4) It is important to ensure that competent authorities engage efficiently in requests for cooperation on an on-site inspection or an investigation, including on the appropriateness to carry out a joint on-site inspection or investigation. It is therefore necessary to lay down common and uniform procedures to facilitate the communication between, consultations of, and interactions between the requesting competent authority and the requested competent authority, as well as to ensure the effective protection of the rights of the persons who are subject to on-site inspection or investigation.
- (5) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

- (6) ESMA did not conduct public consultations on the draft implementing technical standards on which this Regulation is based, nor did it analyse the potential related costs and benefits, as this would have been highly disproportionate in relation to the scope and impact of those standards, taking into account the fact that they principally concern competent authorities.
- (7) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Contact points

- 1. Competent authorities shall designate contact points for the purposes of cooperating and exchanging information pursuant to Article 31 of Regulation (EU) 2020/1503.
- 2. Competent authorities shall communicate the details of the contact points to the European Securities and Markets Authority (ESMA) and inform ESMA of any changes to those details.
- 3. ESMA shall maintain an up-to-date list of all contact points designated in accordance with paragraph 1 and update that list as necessary for use by the competent authorities.

Article 2

Request for cooperation or exchange of information

- 1. Competent authorities shall make a request for cooperation or exchange of information in writing, using the form set out in Annex I.
- 2. When making a request for cooperation or exchange of information, requesting competent authorities shall:
 - (a) specify the details of the information that the requesting competent authority is seeking from the requested competent authority;
 - (b) identify, where appropriate, issues relating to the confidentiality of the information sought.
- 3. In urgent cases, requesting competent authorities may make the request for cooperation or exchange of information orally, provided that a subsequent confirmation of the request is made in writing within a reasonable timeframe using the form set out in Annex I, unless the requested competent authority agrees otherwise.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 3***Acknowledgement of receipt of a request for cooperation or exchange of information**

1. Within 10 working days of receipt of a request made pursuant to Article 2, the requested competent authority shall send an acknowledgement of receipt to the requesting competent authority using the form set out in Annex II and, where possible, shall indicate an estimate date for response.
2. Where the requested competent authority has any doubt about the precise content of the cooperation or exchange of information requested, it shall request further clarifications as soon as possible using any means appropriate, whether oral or written.

*Article 4***Reply to a request for cooperation or exchange of information**

1. When responding to a request made pursuant to Article 2, the requested competent authority shall:
 - (a) respond in writing, using the form set out in Annex III;
 - (b) take all reasonable steps within its powers to provide the requested cooperation or information;
 - (c) act without undue delay and in a manner which ensures that any necessary regulatory action can proceed expediently, taking into account the complexity of the request and the need to involve third parties or another competent authority.
2. In urgent cases, the requested competent authority may reply to a request for cooperation or exchange of information orally, provided that the response is subsequently given in writing within a reasonable timeframe using the form set out in Annex III, unless the requesting competent authority agrees otherwise.

*Article 5***Means of communications**

1. Except where otherwise stated in this Regulation, any forms to be used under this Regulation shall be transmitted in writing by post or by electronic means.
2. In determining the most appropriate means of communication in any particular case, due account shall be taken of confidentiality considerations, the time necessary for correspondence, the volume of material to be communicated, and the ease of access to the information by the requesting competent authority.
3. Competent authorities shall ensure that the completeness, integrity and confidentiality of the information subject matter of the exchange are maintained during the transmission.

*Article 6***Procedures for processing and executing a request for cooperation or exchange of information**

1. The requesting competent authority shall respond promptly to any request for clarifications as referred to in Article 3(2) from the requested competent authority.
2. The requested competent authority shall notify the requesting competent authority where it anticipates a delay of more than 5 working days beyond the estimated date of response specified in the acknowledgement of receipt referred to in Article 3(1).

3. Where the request has been qualified by the requesting competent authority as urgent, the requested competent authority and the requesting competent authority shall agree on the frequency with which the requested competent authority will update the requesting competent authority on its handling of the request and on the date when it expects to provide a response.
4. The requested competent authority and the requesting competent authority shall cooperate to resolve any difficulties that arise in executing the request.
5. Competent authorities shall provide, where appropriate, feedback to each other on the usefulness of the assistance received, the outcome of the case in relation to which the assistance was sought and any problems encountered in providing such assistance.

Article 7

Notification of refusal to act on the request for cooperation or exchange of information

Where, in accordance with Article 31(2) of Regulation (EU) 2020/1503, the requested competent authority refuses to act, in full or in part, on a request as referred to in Article 2 of this Regulation, it shall, within 15 working days of receipt of the request, notify the requesting competent authority in writing of its refusal to act, using the form set out in Annex IV.

Article 8

Procedures for a request for cooperation concerning the taking of a statement

1. Where a request for cooperation as referred to in Article 2 includes the taking of a statement from any person, the requesting competent authority and the requested competent authority shall, in accordance with the applicable national law, assess and take into account all of the following:
 - (a) the rights of the person from whom the statement is to be taken, in accordance with applicable national and Union Law, including the Charter of Fundamental Rights of the European Union;
 - (b) the rights of the person related to the language of the statement, and possible translations schemes;
 - (c) the role of the staff of the requesting competent authority and the requested competent authority in the taking of the statement;
 - (d) whether the person from whom the statement is to be taken has the right to be assisted by a legal representative and, if so, the scope of the legal representative's assistance during the taking of the statement, including in relation to any record or report of the statement;
 - (e) whether the statement is to be taken on a voluntary or compulsory basis;
 - (f) whether, based on the information that is available at the time of the request, the person from whom the statement is to be taken is a witness in or subject to an administrative or judicial investigation;
 - (g) whether, based on the information that is available at the time of the request, the statement could be or is intended to be used in legal proceedings;
 - (h) the recording of the statement and the applicable procedures, including whether it will be contemporaneous or summarised in written minutes or in an audio or audiovisual recording;
 - (i) procedures for the certification or confirmation of the statement by the person providing the statement, including whether that takes place after the statement is taken;

- (j) the delivery procedures of the statement to the requesting competent authority, including the requested format and time period.

2. The requested competent authority and the requesting competent authority shall ensure that arrangements are in place for their staff to proceed efficiently and to be able to agree on any additional information that may be necessary, including on the following:

- (a) planning of dates;
- (b) the list of questions to be asked to the person from which the statement is to be taken and its review;
- (c) travelling or video conference arrangements, including ensuring that, where necessary, the competent authorities concerned are able to meet to discuss the matter prior to the taking of the statement;
- (d) translation arrangements.

Article 9

Procedures for a request for cooperation on an on-site inspection or an investigation

1. Where a request for cooperation as referred to in Article 2 concerns the carrying out of an on-site inspection or an investigation, the requesting competent authority and the requested competent authority shall consult each other on the best way to give effect to that request, including on the merits of conducting a joint on-site inspection or a joint investigation.

2. For the purposes of the consultation referred to in paragraph 1, the competent authorities shall take into account all of the following:

- (a) the content of the request, including the appropriateness to carry out the investigation or the on-site inspection jointly;
- (b) whether the competent authorities are conducting their own inquiries into a matter with cross-border implications separately, and whether that matter would be more suitably dealt with by joint collaboration;
- (c) the legal and regulatory framework applicable in each of the competent authorities' jurisdictions, ensuring that both competent authorities have a good understanding of the potential constraints and legal limitations on their conduct and on any proceedings that may follow, including any issues relating to the principle of *ne bis in idem* and the protection of the rights of the persons subject to the on-site inspection or the investigation;
- (d) the management and direction needed for the investigation or the on-site inspection;
- (e) the allocation of resources and appointment of staff in charge of carrying out the investigation or the on-site inspection;
- (f) the possibility to establish a joint action plan and timings of work;
- (g) the actions to be taken, jointly or individually, by the competent authorities;
- (h) the mutual sharing of the information gathered and reporting on the outcomes of the individual actions taken.

3. Where the requested competent authority carries out the on-site inspection or the investigation itself as referred to in Article 31(4), point (a), of Regulation (EU) 2020/1503, it shall keep the requesting competent authority informed of the progress of the inspection or investigation and shall deliver its findings in good time.

- (a) Competent authorities that decide to carry out a joint investigation or a joint on-site inspection as referred to in Article 31(4), point (b), of Regulation (EU) 2020/1503 shall:
 - (b) engage in ongoing dialogue to coordinate the information gathering process and the finding of facts;

- (c) work closely and cooperate with each other when conducting the investigation or the on-site inspection;
- (d) identify the specific legal requirements that form the subject matter of the investigation or the on-site inspection;
- (e) provide mutual assistance on subsequent enforcement proceedings to the extent legally permitted, including coordinating in respect of any proceedings or other enforcement action related to the outcome of the investigation or the on-site inspection or, where appropriate, the prospects of a settlement;
- (f) where relevant, agree upon all of the following:
- (g) the drawing up of a joint action plan specifying the substance, nature and timing of the actions to be taken, including the allocation of responsibilities in delivering the outcome of the work and taking into account each competent authority's respective priorities;
- (h) the identification and assessment of any applicable legal limitations or constraints and any differences in procedures with respect to investigative or enforcement action or any other proceedings, including the rights of any person subject to investigation;
- (i) the identification and assessment of specific legal professional privileges that may have an impact on the investigation proceedings as well as the enforcement proceedings, including self-incrimination;
- (j) the public and press strategy;
- (k) the intended use of the information exchanged during the joint investigation or joint on-site inspection.

Article 10

Unsolicited exchange of information

1. A competent authority that has information that it believes would assist another competent authority in carrying out its duties under Regulation (EU) 2020/1503 shall transmit that information in writing using the form set out in Annex III.
2. By way of derogation from paragraph 1, if the competent authority sending the information believes that the information should be sent urgently, it may initially communicate the information orally, provided that it is subsequently transmitted within a reasonable timeframe using the form set out in Annex III, unless the competent authority receiving the information agrees otherwise.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Form for requests for cooperation or exchange of information**Request for cooperation or exchange of information**

Reference number:

Date:

General information

FROM:

Member State:

Requesting competent authority:

Address:

(Contact point details)

Name:

Telephone:

Email:

TO:

Member State:

Recipient:

Address:

(Contact point details)

Name:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with Article 31 of Regulation (EU) 2020/1503 of the European Parliament and of the Council ⁽¹⁾, your input is sought in relation to the matter(s) set out in further detail below.

⁽¹⁾ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

I would be grateful to receive a response to the above request by *[insert indicative date for the reply and in case of an urgent request insert deadline for the information to be provided by]* or, if that is not possible, for an indication as to when you anticipate being in a position to provide the assistance which is sought.

Type of request

Please tick the appropriate box(es)

- ☐ Supervisory activities (provision of information, taking of a statement, other)
- ☐ Investigation or on-site inspections
- ☐ Enforcement
- ☐ Authorisation procedure

Reasons for the request

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.....

[Insert provision(s) of the sectoral legislation under which the requesting competent authority is competent to deal with the matter]

The request concerns [cooperation] or [exchange of information] on

.....
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.....
.....

[Insert description of the subject matter of the request, the purpose for which the cooperation or exchange of information is sought, the facts underlying any investigation which form the basis of the request and an explanation of their helpfulness]

Further to
.....
.....
.....

[If applicable, insert details of the previous request in order to enable it to be identified]

Supervisory Activities (provision of information, taking of a statement)

Provision of information

- (a) Please provide a detailed description of the specific information sought with reasons why that information will be of assistance and, if known, a list of the persons considered as possessing the information sought and/or the places where such information may be obtained.

.....

- (b) If the request concerns cooperation or exchange of information relating to a specific transferable security, an admitted instrument for crowdfunding purposes or a loan of a crowdfunding offer, please provide the following information:

Crowdfunding offer ID:

[Insert precise description of the crowdfunding offer, including the identifier referred to in Article 3 of Commission Delegated Regulation (EU) 2022/2119 ⁽²⁾]

Personal ID:

[Insert the identity of any person connected with the crowdfunding offer and/or the relevant crowdfunding service provider]

Date:

[Insert the date of when the crowdfunding offer was provided on the crowdfunding platform]

- (c) If the request concerns information relating to the business or activities of a person, please provide information as precise as possible to enable that person to be identified.

.....

- (d) If there are special considerations on the sensitivity of the information sought (including due to investigatory considerations), please provide an indication of such sensitivity and any special precautions that have to be taken in collecting the information.

.....

⁽²⁾ Commission Delegated Regulation (EU) 2022/2119 of 13 July 2022 supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards for the key investment information sheet (see page 63 of this Official Journal)..

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(e) Please provide any additional information.

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.....

[Specify whether the requesting competent authority has been or will be in contact with any other authority or law enforcement agency in its Member State in relation to the subject matter of the request or whether there is any other authority which the requesting authority is aware that has an active interest in the subject matter of the request]

(f) In case of an urgent request and the setting of any deadline, please provide full explanation of the urgency of the request and an explanation of any deadline that the requesting competent authority has asked for the information to be provided by.

Taking of a statement

Please indicate:

(a) Statement under: oath ☐/affirmation ☐ where permissible, neither ☐

(b) Need and purpose of the taking of the statement:

.....
.....
.....

(c) Name of person(s) from whom the statement is to be obtained:

.....
.....
.....

[Insert details of the persons from which the statement is to be taken to enable the requested competent authority to begin the summoning process where applicable]

(d) Detailed description of the information sought, including a preliminary list of questions (if available at the time of the request).

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(e) Any additional information which may be useful:
.....
.....

[Whether the requesting competent authority requests its staff to participate in the taking of the statement, insert details of the participating officials of the requesting competent authority, and, where appropriate, a description of any legal and procedural requirements that must be complied with to ensure the admissibility of the statement in the jurisdiction of the requesting's competent authority]

On-site inspection or investigation

If the request concerns an on-site inspection or investigation, please provide information to enable the recipient to assess which of the actions set out in Article 31(4), second subparagraph, points (a) to (e), of Regulation (EU) 2020/1503 it may take and whether it may have an interest in entering into a joint on-site inspection or investigation. Please also provide information on the requesting competent authority's proposal for the inspection or investigation, its reasoning and the benefits to the recipient.

.....
[Include all relevant information to enable the recipient of the request to provide the necessary assistance, as appropriate]
.....

Enforcement

(a) Please provide a detailed description of the specific information sought with reasons why that information will be of assistance.
.....
.....
.....
.....

(b) If the request concerns cooperation or exchange of information relating to a specific transferable security, an admitted instrument for crowdfunding purposes or a loan of a crowdfunding offer, please provide the following information

Crowdfunding offer ID:

[Insert precise description of the crowdfunding offer, including the identifier referred to in Article 3 of Delegated Regulation (EU) 2022/2119]

Personal ID:

[Insert the identity of any person connected with the crowdfunding offer and/or the relevant crowdfunding service provider]

Date:

[Insert the date of when the crowdfunding offer was provided on the crowdfunding platform]

Authorisation procedure

(a) Subject matter:

.....
.....
.....

(b) Information on the authorisation procedure:

.....
.....
.....

(c) Information on any other competent authority involved:

.....
.....
.....

[Please provide information here or make reference to the annexed documentation containing the information]

(d) Information sought:

.....
.....
.....

[Please insert a specific description of the information sought, including any relevant documents requested with reasons why that information is necessary for the review of the application of authorisation]

(e) Any additional information which may be useful:

.....
.....
.....

[Insert any other relevant information. If there are special considerations on the sensitivity of the information sought, please provide an indication of such sensitivity and any special precautions that have to be taken in collecting the information.]

Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX II

Form for the acknowledgement of receipt**Acknowledgement of receipt**

Reference number:

Date:

FROM:

Member State:

Recipient:

Address:

(Contact point details)

Name:

Telephone:

Email:

TO:

Member State:

Requesting competent authority:

Address:

(Contact point details)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

Following your request *[insert reference to request]*, we hereby acknowledge receipt thereof on *[insert date when the request for cooperation or request for information was received]*.

Estimated date of response:

Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX III

Form to reply to a request for cooperation or exchange of information and for the unsolicited exchange of information**[Reply to a request for cooperation or exchange of information] [Unsolicited exchange of information]**

Reference number:

Date:

General information

FROM:

Member State:

Requesting competent authority:

Address:

(Contact point details)

Name:

Telephone:

Email:

TO:

Member State:

Recipient:

Address:

(Contact point details)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

We confirm that your request dated *[dd.mm.yyyy]* with reference *[insert request reference number]* has been processed by us *[not applicable in case of an unsolicited exchange of information]*.

Information gathered

.....

.....

.....
.....
[If the information has been gathered, please set out the information here or provide an explanation of how it will be provided].

[In case of unsolicited exchange of information, please set out the information which is provided on an unsolicited basis].

[The information provided is confidential and is disclosed to [insert name of the requesting competent authority] pursuant to Article 31 of Regulation (EU) 2020/1503 of the European Parliament and of the Council ⁽¹⁾ and on the basis that the information shall remain confidential in accordance with Article 35(1) of Regulation (EU) 2020/1503.] [or] [The information provided is permitted to be disclosed pursuant to Article 35(1) of Regulation (EU) 2020/1503.]

The [insert name of the requesting or receiving competent authority] shall observe the requirements set out in Article 35 of Regulation (EU) 2020/1503.

Where relevant, please explain any clarification you may require in relation to the precise information requested:

.....
.....
.....
.....

Please provide, on your own initiative, any essential information that could further assist the cooperation or exchange of information for the purposes of the request:

.....
.....
.....
.....

Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

⁽¹⁾ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

ANNEX IV

Form for the notification of refusal

Notification of refusal

Reference number:

Date:

FROM:

Member State:

Requesting competent authority:

Address:

(Contact point details)

Name:

Telephone:

Email:

TO:

Member State:

Recipient:

Address:

(Contact point details)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

Following your request *[insert reference to request]*, we hereby notify you that we refuse to act thereon due to exceptional circumstances in accordance with Article 31(2) of Regulation (EU) 2020/1503 of the European Parliament and of the Council ⁽¹⁾.

We relied upon the following exceptional circumstance for this refusal to act on your request

.....
[Insert description of the relevant circumstance in accordance with of Article 31(2), points (a), (b) and (c), of Regulation (EU) 2020/1503].

⁽¹⁾ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

Our decision to refuse to act on your request relied upon the following reason(s)

.....
.....

[Insert full reasons for the recipient's refusal to act on the requesting competent authority's request for cooperation or request for information, having regard to the exceptional circumstance on which the refusal is based]

Any personal data provided shall be processed by ESMA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, both ESMA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of CHAPTER III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2123**of 13 July 2022****laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to the standard forms, templates and procedures for the notifications of national marketing requirements applicable to crowdfunding service providers by competent authorities to ESMA****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 28(5), third subparagraph, thereof,

Whereas:

- (1) Regulatory divergences between Member States regarding national requirements on marketing communications may create obstacles for crowdfunding service providers operating across the Union. Standard forms, templates and procedures for the notifications by national competent authorities to ESMA ensure that publications to be made by ESMA pursuant to Article 28(6) of Regulation (EU) 2020/1503 are clear and reduce legal uncertainty. To ease the processing of those notifications and facilitate ESMA in meeting the publication requirements laid down in Article 28(6) of Regulation (EU) 2020/1503, competent authorities should be required to notify ESMA, through a dedicated address, within specific timeframes and using harmonised standard forms and templates.
- (2) To facilitate the processing of notifications by ESMA, competent authorities should use one of the two different templates, depending on whether they make a notification pursuant to Article 28(2) or (3) of Regulation (EU) 2020/1503.
- (3) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.
- (4) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (5) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

HAS ADOPTED THIS REGULATION:

Article 1

Contact point

ESMA shall communicate to competent authorities the contact details, including the electronic address, that shall be used for the notifications under Article 28(2) and (3) of Regulation (EU) 2020/1503.

Article 2

Timeframe

1. Competent authorities shall make the notification referred to in Article 28(2) of Regulation (EU) 2020/1503 within 2 months after 28 November 2022.
2. Competent authorities shall make the notification referred to in Article 28(3) of Regulation (EU) 2020/1503 before the date of application in the relevant Member State of the change being notified.

Article 3

Templates and submission

1. When making a notification in accordance with 28(2) of Regulation (EU) 2020/1503, competent authorities shall use the template set out in Annex I to this Regulation.
2. When making a notification in accordance with Article 28(3) of Regulation (EU) 2020/1503, competent authorities shall use the template set out in Annex II to this Regulation.
3. Competent authorities shall submit the templates referred to in paragraphs 1 and 2 using the electronic address provided by ESMA pursuant to Article 1.

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Template for the notifications referred to in Article 28(2) of Regulation (EU) 2020/1503

SECTION A

General information

Date of notification:

FROM:

Member State:

Competent authority:

Legal address:

Details of the person in charge of the notification:

Name:

Telephone:

Email:

SECTION B

Information concerning the notified national laws, regulations and administrative provisions applicable to marketing communications

Field	Subfield		Description
1	<i>In case a notification involves multiple national measures, subfields 1 to 7 shall be repeated and completed for each notified national measure.</i>		
	1	Type of national measure	Explain whether the notified national measure is a law, regulation or administrative provision.
	2	Official title in original language of the notified national law, regulation or administrative provision applicable to marketing communications of crowdfunding service providers	
	3	Translation of the official title of the law, regulation or administrative provision provided under point 2 in a language customary in the sphere of international finance	
	4	Date of entry into application in the national legal system of the notified law, regulation or administrative provision	
	5	Hyperlink to the relevant section of the Member State's official website containing the full text of the national law, regulation or administrative provision	
	6	Summary of the notified national law, regulation or administrative provision (in a language customary in the sphere of international finance)	
	7	Additional information (optional)	

ANNEX II

Template for the notifications referred to in Article 28(3) of Regulation (EU) 2020/1503

SECTION A

General information

Date of notification:

FROM:

Member State:

Competent authority:

Legal Address:

Details of the person in charge of the notification:

Name:

Telephone:

Email:

SECTION B

Information concerning the changes in the national laws, regulations or administrative provisions applicable to marketing communications

Field	Subfield	Description
1	<p><i>In case a notification involves multiple changes to a single national law, regulation or administrative provision, subfields 1 to 8 shall be completed once and include all changes made to such national measure.</i></p> <p><i>In case the notification involves changes to multiple national measures, subfields 1 to 8 shall be repeated and completed for each modified national measure.</i></p>	
1	Type of national measure	<i>Explain whether the notified national measure that changes the national law, regulation or administrative provision is a law, regulation or administrative provision.</i>
2	Official title in original language of the notified national law, regulation or administrative provision applicable to marketing communications of crowdfunding service providers	
3	Translation of the official title of the law, regulation or administrative provision provided under point 2 in a language customary in the sphere of international finance	
4	Date of adoption of the notified law, regulation, administrative provision or other act that change the information initially provided pursuant to Article 28(2) of Regulation (EU) 2020/1503	
5	Date of entry into application of the notified law, regulation, administrative provision or other act that change the information initially provided under Article 28(2) of Regulation (EU) 2020/1503	
6	Hyperlink to the relevant section of the Member State's official website containing the full text of the notified national law, regulation, administrative provision or other act	
7	Summary of the national law, regulation or administrative provision notified pursuant to Article 28(2) of Regulation (EU) 2020/1503 as updated further to the changes notified in this form (in a language customary in the sphere of international finance)	
8	Additional information (optional)	

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