

#7 - Uneven or unclear regulatory system

Definition

Launching a project on a foreign platform might be attractive as it opens up to broader markets. Nonetheless, the lack of an international or EU-wide common crowdfunding regulation makes it unclear which law is to apply: the one of the SME's seat? Or does it depend on the platform? Or, even, on the supporter's location?

Same confusion might arise in relation to taxes. The latter, in fact, most of time depend on the national regulation, thus the fiscal impact or absorption of the investment may vary and not be clear in case of cross-border activity.

Lack of coordination between legislations in different countries and a scarce guidance on applicable fiscal regulation could result in market fragmentation and law-breach, even unintentionally.

Respecting the platform's fundraising terms and conditions is also key. Campaigns that run afoul of these rules may have their campaign suspended. Alternatively, they may face difficulties in accessing their funds, even if the campaign meets its targets. Either scenario represents a monetary and reputational distress.

Mitigation strategy

Ensuring a deep and careful review of the business and legal plan against the chosen platform's rules is essential before launching any campaign. Make sure the platform displays:

- legal framework
- the authority of reference
- division of responsibilities
- contractual details / obligations

Such information are an indicator of reliability, as they prevent future fiscal or legal issues: ensuring a fair campaign development towards supporters and firm is essential to protect brand, product, money and crowd.

Focus on: the European Crowdfunding Service Providers (ECSP)

In order to better coordinate and make the diverse national legislation uniform, a new legislation has been proposed and is being adopted by the European highest institutions. It is the European Crowdfunding Service Providers (ECSP) for Business Regulation - COM(2018)0113 - C8_0103/2018 - 2018/0048(COD), which has the potential to make **pan-European crowdfunding** a reality.

- Such regulation will harmonize the legal framework for the sector, offering a well-defined and structured legal skeleton for the activities of crowdfunding for business (lending and equity) all over Europe. The main innovations will be :
 - A **single set of rules** will apply to crowdfunding services in the EU, up to € 5 000 000
 - Strict rules to **protect investors** from financial losses
 - **Member states responsible** for authorizing and supervising crowdfunding providers

At the present, the regulation's details are still to be finetuned and technical work on the text is under way. The law is expected to come into effect in 2021. This accomplishment will largely ease the crowdfunding process for all the involved actors, thus largely benefit European startups and SMEs and to European investors.