

#19 - Diversified regulatory system & legal framework

Definition

Crowdfunding can be of different types - donation, rewards, equity or lending. The first two dynamics do not embody a financial return vis-à-vis the initial investment and, normally, end with “thanks” and/or a minor material gift, gadget or sample.

Instead, the other two forms are monetary in their nature (based on investments and lending, respectively) and imply transfer of money and longer financial relations. Therefore, the users’ and supporters’ activity largely vary in function of the national regulations in terms of investment limitation and taxation.

Diverging legislation across the EU makes operating on across-borders platforms and initiatives cumbersome, complicated and even not permitted.

Such restrictions hinder the possibility of scalability to the sustainable operation of a crowdfunding platform. In other words, limited activities imply that crowdfunding service providers (“CSPs”) must incur a meaningful level of capital expenditure and ongoing costs in order to build and maintain the legal, financial and technological infrastructure required to operate in a highly professional and compliant manner.

By this meaning, uneven regulatory measures undermine the health and viability of the crowdfunding market as a whole.

Mitigation strategy

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 authorising 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 within the three institutions. The law is expected to come into effect in 2021 - still, this accomplishment will largely ease the crowdfunding process for all the involved actors, thus ensuring great benefits to European startups, SMEs and investors.