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## Becoming a crowdfunding service provider

**In which cases can you apply to the AMF for authorisation to become a crowdfunding service provider? How do you obtain this authorisation? Find all the useful information here.**

### Background

Regulation (EU) 2020/1503 on European crowdfunding service providers for business (the "Regulation") entered into force on 10 November 2021. It will be supplemented by delegated and implementing regulations.

According to this Regulation, only **crowdfunding service providers are authorised to carry out the crowdfunding services** that fall within its scope, whether they concern crowdlending (excluding free loans) or equity crowdfunding.

The Regulation defines a crowdfunding service as *"the matching of business funding interests of investors and project owners through the use of a crowdfunding platform and which consists of any of the following activities:*

*i) the facilitation of granting of loans;*

*ii) the placing [without guarantee] of transferable securities and admitted instruments for crowdfunding purposes issued by project owners or a special purpose vehicle, and the reception and transmission of client orders (...)"*.

The Regulation only covers offers proposed on the crowdfunding platform for activities of a commercial nature and for an amount of less than 5 million euros over 12 months.

Although it requires that these service providers obtain prior authorisation and comply with organisational and investor protection rules, the Regulation allows the provision of crowdfunding services in the European Union.

## **The new crowdfunding regulatory framework in France**

Order 2021-1735 of 22 December 2021 modernising the crowdfunding framework, supplemented by Decree 2022-110 of 1 February 2022, addresses the consequences of this regulation by adapting the French crowdfunding framework.

On the one hand, these instruments abolish the French regime for crowdfunding investment advisers (CIAs) and investment services providers authorised to provide the advisory service of offering financial securities via a website under the terms defined in Article L. 533-22-3 of the Monetary and Financial Code as it stood prior to the entry into force of the aforementioned order (crowdfunding ISPs). The crowdfunding intermediary regime will remain in place only for activities involving interest-free loans and donations.

On the other hand, this order designates the AMF as the authority for authorising, supervising, sanctioning and withdrawing the authorisation of crowdfunding service providers. Where the applicant's programme of operations includes facilitating the granting of loans, the AMF will not grant the crowdfunding service provider authorisation until it has received a favourable opinion from the ACPR, which will work with the AMF to supervise and monitor this type of player.

## **Transitional period from the national regime for crowdfunding advisers, crowdfunding ISPs and crowdfunding intermediaries to the European regime for crowdfunding service providers**

Any person wishing to develop a crowdfunding services activity within the scope of the Regulation must apply for a crowdfunding service provider authorisation before engaging in this activity.

However, as from the entry into force of the Regulation on 10 November 2021, there will be a transitional 12-month period during which the European regime will exist alongside national regimes for platforms existing on 10 November 2021. Thus, crowdfunding advisers or intermediaries registered with ORIAS as at 10 November 2021 and crowdfunding ISPs authorised as at 10 November 2021 will be able to continue to provide their services,

including, in the case of crowdfunding advisers and crowdfunding ISPs, offers involving mini-bonds, **until 10 November 2022** or until they have obtained their authorisation as crowdfunding service providers. The mini-bond scheme is discontinued and can no longer be used.

After this date of 10 November 2022, only service providers authorised as crowdfunding service providers will be able to provide the crowdfunding services covered by the Regulation. The illegal exercise of this activity without authorisation is punishable under criminal law (Articles L. 573-12 et seq. of the Monetary and Financial Code).



## Authorisation process

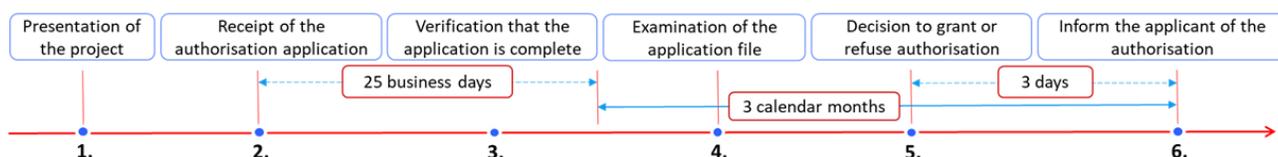
The provision of the crowdfunding services covered by the Regulation requires prior authorisation from the AMF, which may be granted within three months of the submission

of a full application file.

The six stages of the authorisation process:

- 1 • Presentation of the project to the AMF (recommended)
- 2 • Filing of an authorisation application
- 3 • Verification that the application is complete. The AMF brings in the ACPR when the applicant's programme of operations includes the facilitation of lending
- 4 • Examination of the application
- 5 • Decision to grant or refuse authorisation
- 6 • The AMF's decision, if applicable, after the approval of the ACPR if the applicant's programme of operations includes the facilitation of lending

The diagram below explains the accreditation process.



### Contact the AMF to present the project

The applicant contacts the AMF at [psfp@amf-france.org](mailto:psfp@amf-france.org) URL = [mailto:psfp@amf-france.org] to present its project to it and, if necessary, to the ACPR, before the authorisation application is formally filed. This stage is recommended to allow prior discussion of any difficulties and complexities in the file, and then to allow for optimal processing.

The AMF and ACPR strongly suggest that you seek advice when preparing your application.

### Submit the authorisation application

Your application must be officially submitted on the ROSA extranet. This will trigger the application completion and examination deadlines. Based on the draft technical regulatory standards proposed by ESMA, which may be adopted by the Commission in 2022, the AMF has prepared a standardised form and a standard authorisation application letter. You are strongly advised to attach these documents to the application, in order to reduce the risk of an incomplete application, which will be rejected, and to facilitate its examination.

## Communicate with the AMF and, where applicable, the ACPR, during the application examination phase

Once the application is complete, the AMF examines it and decides whether or not to approve the applicant. If the applicant's programme of operations includes the facilitation of lending, the authorisation can only be issued once the ACPR has given its assent. In this connection, during this phase, the AMF and ACPR may need to discuss the information in the application with the company. The quality and timeliness of the response has an impact on the time taken to process the application.

The authorisation request may be processed more quickly for crowdfunding advisers, crowdfunding intermediaries and crowdfunding ISPs than for new players, given the requirements that already applied to them under the previous regime.

### Read more

- ✚ Regulation (EU) 2020/1503 of the European Parliament
- ✚ Order 2021-1735 of 22 December 2021 (in french only)  
Decree 2022-110 of 1 February 2022 modernising the framework applicable to
- ✚ crowdfunding (in french only)
- ✚ AMF General Regulation, books II and III
- ✚ Standard form
- ✚ Standard authorisation application letter (in french only)

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