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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 July 2022
To:	General Secretariat of the Council
No. Cion doc.:	C(2022) 4835 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.7.2022 extending the transitional period for continuing to provide crowdfunding services in accordance with national law as referred to in Article 48(1) of Regulation (EU) 2020/1503 of the European Parliament and of the Council

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Delegations will find attached document C(2022) 4835 final.

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Encl.: C(2022) 4835 final



Brussels, 12.7.2022  
C(2022) 4835 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.7.2022**

**extending the transitional period for continuing to provide crowdfunding services in  
accordance with national law as referred to in Article 48(1) of Regulation (EU)  
2020/1503 of the European Parliament and of the Council**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Article 48(1) of Regulation (EU) 2020/1503 on European Crowdfunding Service Providers for business ('the Regulation') provides for a transitional period with respect to crowdfunding services provided in accordance with national law. The transitional period ends on 10 November 2022.

According to article 48(3) of the Regulation, an extension of the transitional period by 12 months (i.e. until 10 November 2023) can be granted, after having considered the application of the Regulation to crowdfunding service providers that provide crowdfunding services only on a national basis, and the impact of the Regulation on the development of national markets and on access to finance. The Regulation does not allow further extensions after 10 November 2023, and crowdfunding service providers that have not received authorisation by 10 November 2023 will have to put operations on hold until such authorisation is granted.

The Commission is proposing to prolong the transitional period for crowdfunding services provided in accordance with national law (i.e. authorised before 10 November 2021) until 10 November 2023, by means of this Delegated Act.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

In line with article 48(3) of the Regulation, the Commission requested on 29 March 2022 a technical advice to the European Securities and Markets Authority (ESMA). The scope of the advice was:

1. The application of the Regulation to crowdfunding service providers that provide crowdfunding services only on a national basis;
2. The impact of the Regulation on the development of national crowdfunding markets and on access to finance; and
3. The relevance of extending the transitional period.

The Commission received the technical advice from ESMA on 19 May 2022. To inform its advice, ESMA undertook a number of targeted consultations with National Competent Authorities and selected market operators.

The technical advice, confirmed by the outcome of the consultations, concluded that:

1. It is not possible to assess the impact of the Regulation, as there are only few cases of platforms originally authorised under national law that are now operating under the Regulation;
2. The application of the Regulation for existing platforms as of 10 November 2022 may result in disruptions for some large national markets due to the inability to re-authorise all the existing platforms on time and for crowdfunding platforms to adapt their business operations to a broader and more granular framework (compared to the national one), leading to serious risks of

interruption in the provision of crowdfunding services by large operators, with consequences also for investors on those platforms and for the integrity of those markets;

3. An extension of the transitional period is warranted, but only for platforms that have asked re-authorisation under the new ECSPR regime before 1 October 2022.

Building on the ESMA's technical advice, the Commission undertook its assessment, which concluded that the risk of disruptions for some large national markets is indeed high and hence an extension of the transitional period for crowdfunding services provided in accordance with national law is necessary. This extension is granted to all the providers of crowdfunding services currently operating under national law.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The right to adopt a delegated act is provided for under Article 44 of the Regulation.

The transitional period, provided for in article 48(1) of the Regulation, is extended by a 12-month period, until 10 November 2023, in accordance with article 48(3) of the Regulation.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.7.2022**

**extending the transitional period for continuing to provide crowdfunding services in accordance with national law as referred to in Article 48(1) of Regulation (EU) 2020/1503 of the European Parliament and of the Council**

(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<sup>1</sup>, and in particular Article 48(3) thereof,

Whereas:

- (1) According to Article 48(1) of Regulation (EU) 2020/1503, crowdfunding service providers that have been authorised under national law before 10 November 2021 may continue to offer crowdfunding services in accordance with that national law until 10 November 2022. That transitional period was introduced to provide sufficient time for crowdfunding service providers already operating to adapt their business activities to the new legal regime and to have sufficient time to apply for an authorisation thereunder, and for competent authorities to gather sufficient information and resources to ensure a transition without market disruption.
- (2) Article 48(3) of Regulation (EU) 2020/1503 requires the Commission to assess the application of Regulation (EU) 2020/1503 to crowdfunding service providers that provide crowdfunding services only on a national basis and the impact of that Regulation on the development of national crowdfunding markets and on access to finance. On the basis of that assessment, the Commission may extend the transitional period referred to in Article 48(1) of that Regulation once, by a 12-month period.
- (3) Following its assessment, which considered the technical advice prepared by ESMA and received on 19 May 2022, the Commission concluded that the extension of the transitional period by 12 months is necessary to avoid disruptions in large national crowdfunding markets. The disruption would be caused by the inability of certain competent authorities to complete authorisation procedures by 10 November 2022 and by the inability for crowdfunding platforms operating under national law to adapt to a more comprehensive framework in time.

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<sup>1</sup> OJ L 347, 20.10.2020, p.1.

- (4) Due to the high risk of market disruptions, it is thus appropriate to extend the transitional period referred to in Article 48(1) of Regulation (EU) 2020/1503 by 12 months, until 10 November 2023, to allow crowdfunding platforms operating under national law and competent authorities sufficient time to adapt to the new regime.
- (5) In order for the existing transitional period to be extended prior to its expiry or as soon as possible after its expiry, this Regulation should enter into force as a matter of urgency and be applicable no later than 11 November 2022.

HAS ADOPTED THIS REGULATION:

*Article 1*

The transitional period referred to in Article 48(1) of Regulation (EU) 2020/1503 is extended until 10 November 2023.

*Article 2*

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

This Regulation shall apply from 11 November 2022.

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

Done at Brussels, 12.7.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*