



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0048(COD)**

Brussels, 04 December 2019

WK 13897/2019 INIT

LIMITE

CODEC

ECOFIN

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WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services (Crowdfunding) Financial Services Attachés
N° Cion doc.:	7049/18
Subject:	Proposal for a Regulation of the European Parliament and of the Council on European Crowdfunding Service Providers (ECSP) for Business - 4CT after technical meetings of 20 and 29 November 2019

Proposal for a Regulation of the European Parliament and of the Council on European Crowdfunding Service Providers (ECSP) for Business
(Text with EEA relevance)
2018/0048(COD)

Document dated: **29 November 2019 – V4**

Key	
Green	<i>Text agreed in principle and/or identical</i>
GREY	<i>Text subjected to technical discussion</i>
BLUE	<i>Text agreed at trilogue discussion of...</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
1.		Proposal for a Regulation of the European Parliament and of the Council	Proposal for a Regulation of the European Parliament and of the Council	Proposal for Regulation of the European Parliament and of the Council	Proposal for a Regulation of the European Parliament and of the Council
2.		on European Crowdfunding Service Providers (ECSP) for Business	on European Crowdfunding Service Providers (ECSP) for Business <u>and amending Regulation (EU) No 2017/1129</u>	on European Crowdfunding Service Providers (ECSP) for Business	on European crowdfunding service providers for business <u>and amending Regulation (EU) No 2017/1129</u> GREY - Technical Meeting (TM) 7/11/19
3.		(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)
4.		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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5.	Cit. 1	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,
6.	Cit. 2	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
7.	Cit. 3	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
8.	Cit. 4	Having regard to the opinion of the European Central Bank ¹ ,	Having regard to the opinion of the European Central Bank ² ,	Having regard to the opinion of the European Central Bank ³ ,	Having regard to the opinion of the European Central Bank ⁴ ,
9.	Cit. 5	Having regard to the opinion of the European Economic and Social Committee ⁵ ,	Having regard to the opinion of the European Economic and Social Committee ⁶ ,	Having regard to the opinion of the European Economic and Social Committee ⁷ ,	Having regard to the opinion of the European Economic and Social Committee ⁸ ,
10.	Cit. 6	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,
11.		Whereas:	Whereas:	Whereas:	Whereas:
12.	Rec. 1	(1) Crowdfunding is increasingly an established form of alternative finance for small and medium enterprises (SMEs) at an early stage of company growth, typically relying on small investments. Crowdfunding represents a new type of intermediation where a crowdfunding service provider	1) Crowdfunding is increasingly an established form of alternative finance for small and medium enterprises (SMEs) at an early stage of company growth, typically relying on small investments. Crowdfunding represents a new type of intermediation where a crowdfunding service provider	(1) Crowdfunding is increasingly an established form of <u>alternative finance</u> for start-ups, as well as for small and medium enterprises (SMEs) at an early stage of company growth, typically relying on small investments. Crowdfunding represents an increasingly important type of intermediation	<u>Pending political agreement</u> <u>LL suggested wording:</u> “...in order to match or facilitate the matching of prospective investors or lenders with businesses that seek funding, without the crowdfunding service provider taking on own risk.

1 OJ C [...], [...], p. [...].
2 OJ C **195, 2.6.2016, p. 1.**
3 OJ C [...], [...], p. [...].
4 OJ C [...], [...], p. [...].
5 OJ C **177, 18.5.2016, p. 9.**
6 OJ C , , p. .
7 OJ C , , p. .
8 OJ C , , p. .

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		interacts with its clients through a digital platform without taking on own risk in order to match prospective investors with businesses that seek funding, irrespective of whether that funding leads to a loan agreement, to an equity stake or to another transferable security based stake. It is therefore appropriate to include in the scope of this Regulation both lending-based crowdfunding and investment-based crowdfunding, since they are comparable business funding alternatives.	interacts with its clients through a digital platform without taking on own risk in order to match prospective investors with businesses that seek funding, irrespective of whether that funding leads to a loan agreement, to an equity stake or to another <u>agreements, the acquisition of transferable security based stakes securities or of other admitted instruments for crowdfunding purposes</u> . It is therefore appropriate to include in the scope of this Regulation both lending-based crowdfunding and investment-based crowdfunding, since they are comparable business funding alternatives	where a crowdfunding service provider <i>operates</i> a digital platform <i>open to the public</i> in order to match <i>or facilitate the matching of</i> prospective investors <i>or lenders</i> with businesses that seek funding, irrespective of whether that funding leads to a loan agreement, to an equity stake or to another transferable security based stake, <i>without the crowdfunding service provider taking on own risk</i> . It is therefore appropriate to include in the scope of this Regulation both lending-based crowdfunding and investment-based crowdfunding .	<i>Such funding could take the form of a loan, an equity stake, or another transferable security based stake. It is therefore appropriate....”</i>
13.	Rec. 2	(2) Obtaining finance is challenging for small and nascent firms, particularly when they move from a start-up into the expansion phase. Crowdfunding can contribute to provide access to finance for such firms and so to complete the Capital Markets Union (CMU). Lack of access to finance for such firms constitutes a problem even in Member States where access to bank finance has remained stable throughout the financial crisis. Crowdfunding has emerged as an established practice of funding a project or a venture, typically by a large number of people or	(2) Obtaining finance is challenging for small and nascent firms, particularly when they move from a start-up into the expansion phase. Crowdfunding can contribute to provide access to finance for such firms and so to complete the Capital Markets Union (CMU). Lack of access to finance for such firms constitutes a problem even in Member States where access to bank finance has remained stable throughout the financial crisis. Crowdfunding has emerged as an established practice of funding a project or a venture, typically by a large number of people or	(2) Crowdfunding can contribute to provide access to finance for SMEs and complete the Capital Markets Union (CMU). Lack of access to finance for such firms constitutes a problem even in Member States where access to bank finance has remained stable throughout the financial crisis. Crowdfunding has emerged as an established practice of funding a project or business , typically by a large number of people or organisations, through online platforms on which private individuals , organisations and businesses, including business start-	(2) Crowdfunding can contribute to providing access to finance for SMEs and completing the Capital Markets Union (CMU). Lack of access to finance for such firms constitutes a problem even in Member States where access to bank finance has remained stable throughout the financial crisis. Crowdfunding has emerged and become an established practice of funding a project or , through online platforms and typically by a large number of people or organisations, business activities of natural persons private individuals , organisations and businesses,

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		organisations, through online platforms on which citizens, organisations and businesses, including business start-ups, raise relatively small amounts of money.	organisations, through online platforms on which citizens, organisations and businesses, including business start-ups, raise relatively small amounts of money.	ups, raise relatively small amounts of money.	including business start-ups, raise relatively small amounts of money. GREY - Technical Meeting (TM) 7/11/19
14.	Rec. 3	(3) The provision of crowdfunding services generally relies on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments, and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform.	3) The provision of crowdfunding services generally relies on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments, and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform.	(3) The provision of crowdfunding services generally relies on three types of actors: the project owner, that proposes the project <i>or the business loans</i> to be funded, investors who fund the proposed project, generally by limited investments <i>or loans</i> , and an intermediating organisation in the form of a service provider that brings together project owners and investors <i>or lenders</i> through an online platform.	3) The provision of crowdfunding services generally relies on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments, and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform. <i>Deleted, moved to line 26</i> GREY - Technical Meeting (TM) 7/11/19
15.	Rec. 4	(4) In addition to providing an alternative source of financing, including venture capital, crowdfunding can offer other benefits to firms. It can provide concept and idea validation to the project owner, give access to a large number of people providing the entrepreneur with insights and information and be a marketing tool if a crowdfunding campaign is successful.	(4) In addition to providing an alternative source of financing, including venture capital, crowdfunding can offer other benefits to firms. It can provide concept and idea validation to the project owner, give access to a large number of people providing the entrepreneur with insights and information and be a marketing tool if a crowdfunding campaign is successful.	(4) In addition to providing an alternative source of financing, including venture capital, crowdfunding can offer other benefits to firms. It can provide concept and idea validation to the project <i>or business</i> , give access to a large number of people providing the entrepreneur with insights and information and be a marketing tool. ■	(4) In addition to providing an alternative source of financing, including venture capital, crowdfunding can offer other benefits to firms. It can provide concept and idea validation <i>of their business activities</i> , give <i>entrepreneurs</i> access to a large number of people providing insights and information, and be a marketing tool. ■

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					GREY - Technical Meeting (TM) 20/11/19
16.	Rec. 5	(5) Several Member States have already introduced domestic bespoke regimes on crowdfunding. Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the existing national rules diverge as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.	(5) Several Member States have already introduced domestic bespoke regimes on crowdfunding. Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the existing national rules diverge as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.	(5) Several Member States have already introduced domestic bespoke regimes on crowdfunding. Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the existing national rules diverge as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.	(5) Several Member States have already introduced domestic bespoke regimes on crowdfunding. Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the existing national rules diverge as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.
17.	Rec. 6	(6) The differences between the existing national rules are such as to obstruct the cross-border provision of crowdfunding services and thus have a direct effect on the functioning of the internal market in such services. In particular, the fact that the legal framework is fragmented along national borders creates substantial legal compliance costs for retail investors who often face difficulties which are disproportional to the size of their investment in determining the rules applicable to cross-border crowdfunding services. Therefore, such investors are often discouraged from investing cross-border via crowdfunding platforms. For the same reasons crowdfunding service	(6) The differences between the existing national rules are such as to obstruct the cross-border provision of crowdfunding services and thus have a direct effect on the functioning of the internal market in such services. In particular, the fact that the legal framework is fragmented along national borders creates substantial legal compliance costs for retail investors who often face difficulties which are disproportional to the size of their investment in determining the rules applicable to cross-border crowdfunding services. Therefore, such investors are often discouraged from investing cross-border via crowdfunding platforms. For the same reasons crowdfunding service	(6) The differences between the existing national rules are such as to obstruct the cross-border provision of crowdfunding services and thus have a direct effect on the functioning of the internal market in such services. In particular, the fact that the legal framework is fragmented along national borders creates substantial legal compliance costs for retail investors who often face difficulties which are disproportional to the size of their investment in determining the rules applicable to cross-border crowdfunding services. Therefore, such investors are often discouraged from investing cross-border via crowdfunding platforms. For the same reasons crowdfunding service	(6) The differences between the existing national rules are such that they obstruct the cross-border provision of crowdfunding services and thus have a direct effect on the functioning of the internal market in such services. In particular, the fact that the legal framework is fragmented along national borders creates substantial legal compliance costs for retail investors who often face difficulties which are disproportionate to the size of their investment in determining the rules applicable to cross-border crowdfunding services. Therefore, such investors are often discouraged from investing cross-border via crowdfunding platforms. For the same reasons, crowdfunding service

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		providers operating such platforms are discouraged from offering their services in a Member State other than the one in which they are established. As a result, crowdfunding activities have remained hitherto largely national to the detriment of a Union-wide crowdfunding market, thus depriving businesses of access to crowdfunding services.	providers operating such platforms are discouraged from offering their services in a Member State other than the one in which they are established. As a result, crowdfunding activities have remained hitherto largely national to the detriment of a Union-wide crowdfunding market, thus depriving businesses of access to crowdfunding services.	providers operating such platforms are discouraged from offering their services in a Member State other than the one in which they are established. As a result, crowdfunding activities have remained hitherto largely national to the detriment of a Union-wide crowdfunding market, thus depriving businesses of access to crowdfunding services, <i>especially in cases where a business operates in a Member State lacking access to crowd because of its comparatively smaller population.</i>	providers operating such platforms are discouraged from offering their services in a Member State other than the one in which they are established. As a result, crowdfunding activities have remained hitherto largely national to the detriment of a Union-wide crowdfunding market, thus depriving businesses of access to crowdfunding services, <i>especially in cases where those businesses operate in a Member State smaller national markets lacking access to crowd because of its comparatively smaller population.</i> GREY - Technical Meeting (TM) 7/11/19
18.	Rec. 7	(7) In order to foster cross border crowdfunding activities and to facilitate the exercise of the freedom to provide and receive such services in the internal market for crowdfunding providers it is therefore necessary to address the existing obstacles to the proper functioning of the internal market in crowdfunding services., Providing for a single set of rules on the provision of crowdfunding services giving crowdfunding service providers the option to apply for a single Union-wide authorisation to exercise their activity under those rules is a suitable first step for	(7) In order to foster cross border crowdfunding activities and to facilitate the exercise of the freedom to provide and receive such services in the internal market for crowdfunding providers it is therefore necessary to address the existing obstacles to the proper functioning of the internal market in crowdfunding services., Providing for a single set of rules on the provision of crowdfunding services giving crowdfunding service providers the option to apply for a single Union-wide authorisation to exercise their activity under those rules is a	(7) In order to foster cross border crowdfunding activities and to facilitate the exercise of the freedom to provide and receive such services in the internal market for crowdfunding providers it is therefore necessary to address the existing obstacles to the proper functioning of the internal market in crowdfunding services. Providing for a single set of rules on the provision of crowdfunding services giving crowdfunding service providers the option to apply for a single Union-wide authorisation to exercise their activity under those rules is a suitable first step for	

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		fostering cross border crowdfunding activities and thus enhance the operation of the Single Market.	suitable first step for fostering cross border crowdfunding activities and thus enhance the operation of the Single Market. , <u>and to ensure a high level of investor protection by laying down a regulatory framework at Union level.</u>	fostering cross border crowdfunding activities and thus enhance the operation of the Single Market.	
19.	Rec. 8	(8) By addressing the obstacles to the functioning of the internal market in crowdfunding services, this Regulation aims to foster cross-border business funding. Crowdfunding services in relation to lending to consumers, as defined in Article 3(a) of Directive 2008/48/EC of the European Parliament and of the Council ⁹ , should therefore not fall within the scope of this Regulation.	(8) By addressing the obstacles to the functioning of the internal market in crowdfunding services, this Regulation aims to foster cross-border business funding. Crowdfunding services in relation to lending to consumers, as defined in Article 3(a) of Directive 2008/48/EC of the European Parliament and of the Council ¹⁰ , should therefore not fall within the scope of this Regulation.	(8) By addressing the obstacles to the functioning of the internal market in crowdfunding services, this Regulation aims to foster cross-border business funding. Crowdfunding services in relation to lending to consumers, as defined in Article 3(a) of Directive 2008/48/EC of the European Parliament and of the Council ¹¹ , should therefore not fall within the scope of this Regulation.	(8) By addressing the obstacles to the functioning of the internal market in crowdfunding services, this Regulation aims to foster cross-border business funding. Crowdfunding services in relation to lending to consumers, as defined in Article 3(a) of Directive 2008/48/EC of the European Parliament and of the Council ¹² , should therefore not fall within the scope of this Regulation.
20.	Rec. 8a (new)		<u>(8a) Given the risks associated with crowdfunding investments, it is appropriate, to protect investors, to impose a threshold for a maximum consideration for each crowdfunding offer. That threshold should be set at EUR 8 000 000, which corresponds to the</u>		

⁹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

¹⁰ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

¹¹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

¹² Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

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			<u>maximum threshold under which offers of securities to the public can be exempted from the obligation to publish a prospectus in line with Regulation (EU) 2017/1129¹³.</u> <u>Where Member States have decided to set the threshold for crowdfunding offers below EUR 8 000 000, they should have the possibility to prohibit the raising of capital for crowdfunding projects from its residents for amounts exceeding that national threshold</u>		
21.	Rec. 8b (new)		<u>(8b) In order to facilitate the operation of crowdfunding service providers and ensure a level playing field with other financial institutions, crowdfunding services for offers with a consideration above EUR 8 000 000 or above the national threshold notified under this Regulation will remain subject to applicable national or EU legislation.</u>		
22.	Rec. 8c (new)		<u>(8c) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from</u>		<u>(8c) To avoid regulatory arbitrage and to ensure their effective supervision, crowdfunding service providers should be prohibited from accepting deposits or other</u>

¹³ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

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			<p><u>accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council¹⁴. However, Member States should ensure that their national laws do not require a credit institution licence or any other individual exemption, authorisation or dispensation for project owners or investors where they accept funds or grant loans for the purposes of offering or investing into crowdfunding projects.</u></p>		<p><u>repayable funds from the public, unless they are <i>also</i> authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council¹⁵. However, Member States should ensure that their national laws do not require a credit institution licence or any other individual exemption, authorisation or dispensation for project owners or investors where they accept funds or grant loans for the purposes of offering or investing into crowdfunding projects.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p> <p><i>Related to line 32 and 115, tentatively agreed</i></p>
23.	Rec. 9	(9) In order to avoid that the same activity is subject to different authorisations within the Union, crowdfunding service provided by persons that have been authorised under Directive 2014/65/EU of the	(9) In order to avoid that the same activity is subject to different authorisations within the Union, crowdfunding service provided by persons that have been authorised under Directive 2014/65/EU of the	(9) In order to avoid that the same activity is subject to different authorisations within the Union, crowdfunding service provided by persons that have been authorised under Directive 2014/65/EU of the	

¹⁴ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

¹⁵ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

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		European Parliament and of the Council ¹⁶ or provided in accordance with national law should be excluded from the scope of this Regulation.	European Parliament and of the Council <u>(9)The provision of crowdfunding services aims to facilitate the funding of a project by raising capital from a large number of people who each contribute relatively small investment amounts through a publicly accessible internet-based electronic information system. Crowdfunding services are thus open to an unrestricted pool of investors who receive investment propositions at the same time and involve the raising of funds predominantly from natural persons, including those that are not high-net worth individuals. The joint provision of reception and transmission of investor orders and placement of transferable securities without firm commitment, on a public platform that provides unrestricted access to investors are the key features of crowdfunding services in relation with certain investment services provided under Directive 2014/65/EU, even though individually, the mentioned services match those covered by</u>	European Parliament and of the Council or provided in accordance with national law should be excluded from the scope of this Regulation.	

¹⁶ 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).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			that directive. ¹⁷ or provided in accordance with national law should be excluded from the scope of this Regulation.		
24.	Rec. 10	(10) In relation to lending-based crowdfunding, the facilitation of granting of loans, including services such as presenting crowdfunding offers to clients or rating the creditworthiness of project owners, should accommodate different business models enabling a loan agreement to be concluded through a crowdfunding platform between one or more clients and one or more project owners.	(10) In relation to lending-based crowdfunding, the facilitation of granting of loans, including services such as presenting crowdfunding offers to clients, <u>pricing or ratings</u> scoring the creditworthiness of <u>crowdfunding projects or</u> project owners, should accommodate different business models enabling a loan agreement to be concluded through a crowdfunding platform between one or more clients and one or more project owners. <u>investors and one or more project owners. Loans included in the scope of this Regulation should be loans with unconditional repayment claims, whereby lending-based crowdfunding platforms merely facilitate investors and project owners to conclude loan agreements without at any moment acting as a creditor of the project owner. The facilitation of granting of loans within the scope of this Regulation is to be distinguished from the activity of a credit institution, which grants</u>	(10) In relation to lending-based crowdfunding, the facilitation of granting of loans, including services such as presenting crowdfunding offers to clients or rating the creditworthiness of project owners, should accommodate different business models enabling a loan agreement to be concluded through a crowdfunding platform between one or more clients and one or more project owners.	

¹⁷ 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)

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			credits for its own account and takes deposits or other repayable funds from the public.		
25.	Rec. 10a (new)		<u>(10a) In order to deliver their services crowdfunding service providers operate internet-based electronic information systems that are publicly accessible and these systems may or may not enable their clients to register as a user</u>		<p><u>(10a) In order to deliver their services, crowdfunding service providers operate publicly accessible internet-based electronic information systems that are publicly accessible, including those systems that require user registration and these systems may or may not enable their clients to register as a user</u></p> <p><i>Discuss at next technical meeting - check existing legislations</i></p>
26.	Rec. 10b (new)		<u>(10b) The provision of crowdfunding services generally relies on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments, and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform.</u>		<p><u>(10b) The provision of crowdfunding services generally involves on three types of actors: the project owner that proposes the project to be funded, investors who fund the proposed project, generally by limited investments and an intermediating organisation in the form of a service provider that brings together project owners and investors through an online platform.</u></p> <p>GREY - Technical Meeting (TM) 7/11/19</p>
27.	Rec. 11	(11) In relation to investment-based crowdfunding, the transferability of a security is an important safeguard	(11) In relation to investment-based crowdfunding, the transferability of a security is an important safeguard	(11) In relation to investment-based crowdfunding, the transferability of a security is an important safeguard	

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		for investors to be able to exit their investment since it provides them with the legal possibility to dispose of their interest on the capital markets. This Regulation therefore only covers and permits investment-based crowdfunding services in relation to transferable securities. Financial instruments other than transferable securities should however be excluded from the scope of this Regulation because those securities entail risks for investors that cannot be properly managed within this legal framework.	for investors to be able to exit their investment since it provides them with the legal possibility to dispose of their interest on the capital markets. This Regulation therefore only covers and permits investment-based crowdfunding services in relation <u>related</u> to transferable securities. Financial <u>The scope and definition of admitted instruments other than for crowdfunding purposes shall not prevent them from being included in the definition of ‘transferable securities</u> should however be excluded from the scope of this Regulation because those securities entail risks for investors that cannot be properly managed within this legal framework. <u>securities’ as established by Union law.</u>	for investors to be able to exit their investment since it provides them with the legal possibility to dispose of their interest on the capital markets. This Regulation therefore only covers and permits investment-based crowdfunding services in relation to transferable securities. Financial instruments other than transferable securities should however be excluded from the scope of this Regulation because those securities entail risks for investors that cannot be properly managed within this legal framework.	
28.	Rec. 11a (new)			<i>(11a) The characteristics of initial coin offerings (ICOs) differ considerably from crowdfunding regulated in this Regulation. Among others, ICOs typically do not use intermediaries, such as crowdfunding platforms, and often raise funds in excess of EUR 1 000 000. The inclusion of ICOs in this Regulation would not tackle the problems associated with ICOs as a whole.</i>	
29.	Rec. 11b (new)		<u>(11b) Certain instruments offered on crowdfunding platforms may be subject to national law</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>governing their transferability, such as the requirement for the transfer to be authenticated by a notary. This Regulation should apply without prejudice to national law governing the transfer of these instruments.</u>		
30.	Rec. 12	(12) Given the risks associated with crowdfunding investments, it is appropriate, in the interest of the effective protection of investors, to impose a threshold for a maximum consideration for each crowdfunding offer. That threshold should be set at EUR 1 000 000, because that threshold corresponds to the threshold set out in Regulation (EU) 2017/1129 of the European Parliament and of the Council ¹⁸ for the mandatory drawing up and approval of a prospectus above that threshold.	(12) — Given the risks associated with crowdfunding investments, it is appropriate, in the interest of the effective protection of investors, to impose a threshold for a maximum consideration for each crowdfunding offer. That threshold should be set at EUR 1 000 000, because that threshold corresponds to the threshold set out in Regulation (EU) 2017/1129 of the European Parliament and of the Council¹⁹ for the mandatory drawing up and approval of a prospectus above that threshold.	(12) Given the risks associated with crowdfunding investments, it is appropriate, in the interest of the effective protection of investors and of the provision of a mechanism of market discipline , to impose a threshold for a maximum consideration for each crowdfunding offer. That threshold should be set at EUR 8 000 000 , which is the maximum threshold up to which Member States are able to exempt offers of securities to the public from the obligation to publish a prospectus in accordance with Regulation (EU) 2017/1129 of the European Parliament and of the Council ²⁰ . Notwithstanding the high standard of investor protection needed, that threshold should be set in accordance with practices on national markets to	

¹⁸ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

¹⁹ ~~Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12)~~

²⁰ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>make the Union platform attractive for cross-border business funding.</i>	
31.	Rec. 12a (new)			<i>(12a) This Regulation lays down the content of a key investment information sheet to be supplied to potential investors for every crowdfunding offer. As the key investment information sheet is designed to be tailored to the specific features of a crowdfunding offer and the information needs of investors, it should replace the prospectus required by Regulation (EU) 2017/1129 when securities are offered to the public. Crowdfunding offers under this Regulation should therefore be excluded from the scope of Regulation (EU) 2017/1129 and that Regulation should be amended accordingly.</i>	
32.	Rec. 13	(13) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council ²¹ .	(13) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU	(13) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council .	(13) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive

²¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			of the European Parliament and of the Council ²² .		2013/36/EU of the European Parliament and of the Council ²³ . <i>See line 115, 22</i> GREY - Technical Meeting (TM) 29/11/19
33.	Rec. 14	(14) In order to achieve that purpose, crowdfunding service providers should be given the option to apply for a single Union-wide authorisation and to exercise their activity in accordance with those uniform requirements. However, to preserve the broad availability of crowdfunding offers targeted solely at national markets, where crowdfunding service providers choose to provide their services under the applicable national law, they should remain able to do so. Accordingly, the uniform requirements laid down in this Regulation should be optional and therefore not apply to such crowdfunding service providers choosing to remain active on national basis only.	(14) In order to achieve that purpose, crowdfunding service providers should be given the option to apply for a single Union-wide authorisation and to exercise their activity in accordance with those uniform requirements. However, to preserve the broad availability of crowdfunding offers targeted solely at national markets, where crowdfunding service providers choose to provide their services under the applicable national law, they should remain able to do so. Accordingly, the uniform requirements laid down in this Regulation should be optional and therefore not apply to such crowdfunding service providers choosing to remain active on national basis only.	(14) In order to achieve that purpose, crowdfunding service providers should be given the option to apply for a single Union-wide authorisation and to exercise their activity in accordance with those uniform requirements. However, to preserve the broad availability of crowdfunding offers targeted solely at national markets, where crowdfunding service providers choose to provide their services under the applicable national law, they should remain able to do so. Accordingly, the uniform requirements laid down in this Regulation should be optional and therefore not apply to such crowdfunding service providers choosing to remain active on national basis only.	
33a	Rec. 14a				<i>14a. The existence of filtering tools on a crowdfunding platform operated by a crowdfunding</i>

²² Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338)

²³ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338)

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><i>service provider that is authorised under this Regulation should not be regarded as investment advice as defined in Directive 2014/65/EU as long as those tools provide information to customers in a neutral manner that does not constitute a recommendation. That should include filtering tools that display results based on criteria relating to purely objective product features. Objective product features in the context of a crowdfunding platform could be pre-defined project criteria such as economic sector, instrument used, interest rate or risk category, where sufficient information regarding the calculation method is disclosed. Similarly, key financial figures calculated without any margin of discretion should also be considered to be objective product features.</i></p> <p><u>LL Comment to be checked:</u> It doesn't seem clear to what exactly does the last part of the sentence "...where sufficient information regarding the calculation method is disclosed" refer to? Calculation of what is in question? The interest rate/risk factor?</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<i>Pending political agreement</i> GREY - Technical Meeting (TM) 29/11/19
34.	Rec. 15	(15) In order to maintain a high standard of investor protection, to reduce the risks associated with crowdfunding and to ensure fair treatment of all clients, crowdfunding service providers should have in place a policy designed to ensure that projects are selected in a professional, fair and transparent way and that crowdfunding services are provided in the same manner.	(15) In order to maintain a high standard of investor protection, to reduce the risks associated with crowdfunding and to ensure fair treatment of all clients, crowdfunding service providers should have in place a policy designed to ensure that projects are selected in a professional, fair and transparent way and that crowdfunding services are provided in the same manner.	(15) In order to maintain a high standard of investor protection, to reduce the risks associated with crowdfunding and to ensure fair treatment of all clients, crowdfunding service providers should have in place a policy designed to ensure that projects are selected in a professional, fair and transparent way and that crowdfunding services are provided in the same manner.	(15) In order to maintain a high standard of investor protection, to reduce the risks associated with crowdfunding and to ensure fair treatment of all clients, crowdfunding service providers should have in place a policy designed to ensure that projects are selected in a professional, fair and transparent way and that crowdfunding services are provided in the same manner.
35.	Rec. 15a (new)			<i>(15a) For the same reasons, crowdfunding service providers that use ICOs on their platform should be excluded from this Regulation. To achieve efficient regulation on the emerging ICO technology, the Commission could in future propose a comprehensive Union-level legislative framework based on a thorough impact assessment.</i>	
36.	Rec. 15b (new)			<i>(15b) Alternative investment instruments, such as ICOs, have potential in funding SMEs, innovative start-ups and scale-ups, can accelerate technology transfer, and can be an essential part of the capital markets union. The Commission should assess the need to propose a separate, Union</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>legislative framework for ICOs. Increased legal certainty across the board could be instrumental in increasing investor and consumer protection and reducing risks stemming from asymmetric information, fraudulent behaviour and illegal activities.</i>	
37.	Rec. 16	(16) In order to improve the service to their clients, crowdfunding service providers should be able to exercise discretion on behalf of clients with respect to the parameters of the clients' orders, provided that they take all necessary steps to obtain the best possible result for their clients and that they disclose the exact method and parameters of the discretion. In order to ensure that prospective investors are offered investment opportunities on a neutral basis, crowdfunding service providers should not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular offer provided on their platform or to a particular offer provided on a third party platform.	(16) In order to improve the service to their <u>investors</u> , crowdfunding service providers should be able to exercise discretion <u>propose crowdfunding projects to individual investors based on behalf one or more specific parameter, such as the type or sector of clients with respect to the parameters of business activity or a credit rating which have been communicated to the clients' orders, provided that they take all necessary steps to obtain crowdfunding service provider by the best possible result for their clients and that they disclose investor in advance.</u> <u>However, the exact method and parameters of authorisation obtained under this Regulation shall not grant crowdfunding service providers the discretion right to carry out individual or collective asset management services. The investor should be required to explicitly approve each project.</u> In	(16) In order to improve the service to their clients, <i>who can be prospective or actual investor or project owner</i> , crowdfunding service providers should be able to exercise discretion on behalf of clients with respect to the parameters of the clients' orders, provided that they take all necessary steps to obtain the best possible result for their clients and that they disclose the exact method and parameters of the discretion. In order to ensure that prospective investors are offered investment opportunities on a neutral basis, crowdfunding service providers should not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular offer provided on their platform or to a particular offer provided on a third party platform.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			order to ensure that prospective investors are offered investment opportunities on a neutral basis, crowdfunding service providers should not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular offer provided on their platform or to a particular offer provided on a third party platform.		
38.	Rec. 17	(17) This Regulation aims to facilitate direct investment and to avoid creating regulatory arbitrage opportunities for financial intermediaries regulated under other Union legislation, in particular Union rules governing asset managers. The use of legal structures, including special purpose vehicles, to interpose between the crowdfunding project and investors, should therefore be strictly regulated and permitted only where it is justified.	(17) This Regulation aims to facilitate direct investment and to avoid creating regulatory arbitrage opportunities for financial intermediaries regulated under other Union legislation, in particular Union rules governing asset managers. The use of legal structures, including special purpose vehicles, to interpose between the crowdfunding project and investors, should therefore be strictly regulated and permitted only where it is justified— <u>by enabling an investor to acquire an interest, for example, in an illiquid or indivisible asset through issuance of transferable securities by a special purpose vehicle.</u>	(17) This Regulation aims to facilitate direct investment and to avoid creating regulatory arbitrage opportunities for financial intermediaries regulated under other Union legislation, in particular Union rules governing asset managers. The use of legal structures, including special purpose vehicles, to interpose between the crowdfunding project <i>or business</i> and investors, should therefore be strictly regulated and permitted only <i>to eligible counterparties or elective professional investors as defined in Directive 2014/65/EU.</i>	
39.	Rec. 18	(18) Ensuring an effective system of governance is essential for the proper management of risk and for preventing any conflict of interest. Crowdfunding service providers should therefore have governance	(18) Ensuring an effective system of governance is essential for the proper management of risk and for preventing any conflict of interest. Crowdfunding service providers should therefore have governance	(18) Ensuring an effective system of governance is essential for the proper management of risk and for preventing any conflict of interest. Crowdfunding service providers should therefore have governance	(18) Ensuring an effective system of governance is essential for the proper management of risk and for preventing any conflict of interest. Crowdfunding service providers should therefore have in place

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		arrangements that ensure effective and prudent management and their management should be of good repute and have adequate knowledge and experience. Crowdfunding service providers should also establish procedures to receive and handle complaints from clients.	arrangements that ensure effective and prudent management and their management should be of good repute and have adequate knowledge and experience. Crowdfunding service providers should also establish procedures to receive and handle complaints from clients.	arrangements that ensure effective and prudent management and their management should be of good repute and have adequate knowledge and experience. Crowdfunding service providers should also establish procedures to receive and handle complaints from clients.	governance arrangements that ensure <i>their</i> effective and prudent management. <i>The persons responsible</i> for their management should be of good repute and have <i>appropriate</i> knowledge and experience. Crowdfunding service providers should also establish procedures to receive and handle complaints from clients. <i>LL changes</i>
40.	Rec. 18a (new)		<u>(18a) Clients are exposed to potential risks related to the crowdfunding service providers, in particular operational risks. In order to protect clients against these risks, crowdfunding service providers should be subject to prudential requirements.</u>		
41.	Rec. 18b (new)		<u>(18b) Crowdfunding service providers should be required to develop business continuity plans addressing the risks associated with platform failure. Such continuity plans should include provisions for the handling of critical functions, which, depending on the business model of the crowdfunding service provider, could include provisions for the continued servicing of outstanding loans, client notification and handover of asset safekeeping arrangements. The business continuity plans shall be</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>reviewed periodically by the management of the crowdfunding service providers.</u>		
42.	Rec. 19	(19) Crowdfunding service providers should operate as neutral intermediaries between clients on their crowdfunding platform. In order to prevent conflicts of interests, certain requirements should be laid down with respect to crowdfunding service providers and managers and employees, or any person directly or indirectly controlling them. In particular, crowdfunding service providers should be prevented from having any financial participation in the crowdfunding offers on their crowdfunding platforms. Furthermore, shareholders holding 20 % or more of share capital or voting rights, managers and employees, or any person directly or indirectly controlling crowdfunding platforms, should not act as clients, in relation to the crowdfunding services offered on that crowdfunding platform.	(19) Crowdfunding service providers should operate as neutral intermediaries between clients on their crowdfunding platform. In order to prevent conflicts of interests, certain requirements should be laid down with respect to crowdfunding service providers and , <u>shareholders</u> , managers and employees, or any person directly or indirectly controlling them. In particular, crowdfunding service providers should be prevented from having any financial participation in the crowdfunding offers on their crowdfunding platforms. Furthermore, shareholders holding 20 % or more of share capital or voting rights <u>Shareholders</u> , managers and employees, or any person directly or indirectly controlling crowdfunding platforms them , should not act as clients <u>project owners</u> in relation to the crowdfunding services offered on that <u>their</u> crowdfunding platform. <u>However, these persons should not be prohibited from acting as investors in the projects offered on their crowdfunding platform, provided that appropriate safeguards against conflicts of interest are in place.</u>	(19) Crowdfunding service providers should operate as neutral intermediaries between clients on their crowdfunding platform. In order to prevent conflicts of interests, certain requirements should be laid down with respect to crowdfunding service providers and managers and employees, or any person directly or indirectly controlling them. <i>Unless financial interests in projects or offers are disclosed in advance on their website</i> , crowdfunding service providers should be prevented from having any financial participation in the crowdfunding offers on their crowdfunding platforms. <i>That will allow crowdfunding service providers to align their interests with the interests of the investors.</i> Furthermore, shareholders holding 20 % or more of share capital or voting rights, <i>and</i> managers, or any person directly controlling crowdfunding platforms, should not act as clients, in relation to the crowdfunding services offered on that crowdfunding platform.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
43.	Rec. 20	(20) In the interest of an efficient and smooth provision of crowdfunding services, crowdfunding service providers should be allowed to entrust any operational function, in whole or in part, to service providers provided that the outsourcing does not impair materially the quality of crowdfunding services providers' internal controls and effective supervision.. Crowdfunding service providers should however remain fully responsible for compliance with this Regulation.	(20) In the interest of an efficient and smooth provision of crowdfunding services, crowdfunding service providers should be allowed to entrust any operational function, in whole or in part, to service providers provided that the outsourcing does not impair materially —the quality of crowdfunding services providers' internal controls and effective supervision.. Crowdfunding service providers should however remain fully responsible for compliance with this Regulation.	(20) In the interest of an efficient and smooth provision of crowdfunding services, crowdfunding service providers should be allowed to entrust any operational function, in whole or in part, to other service providers provided that the outsourcing does not impair materially the quality of crowdfunding services providers' internal controls and effective supervision.. Crowdfunding service providers should however remain fully responsible for compliance with this Regulation.	(20) In the interest of the efficient and smooth provision of crowdfunding services, crowdfunding service providers should be allowed to entrust any operational function, in whole or in part, to other service providers provided that such outsourcing does not impair materially —the quality of crowdfunding service providers' internal controls nor effective supervision of the crowdfunding service providers .. Crowdfunding service providers should however remain fully responsible for compliance with this Regulation. GREY - Technical Meeting (TM) 29/11/19
44.	Rec. 20a (new)		<u>(20a) The requirements concerning safekeeping of assets are crucial for the protection of investors receiving crowdfunding services. Transferable securities or admitted instruments for crowdfunding purposes which can be registered in a financial instruments account or which can be physically delivered to the custodian should be safe-kept by a qualified custodian, which is authorised in accordance with Directive 2014/65/EC or Directive CRD [exact reference to be added]. Depending on the type of assets to be safe-kept, assets are</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>either (i) to be held in custody, as with transferable securities which can be registered in a financial instruments account or which can be physically delivered, or (ii) to be subject to ownership verification and record-keeping. Those transferable securities or admitted instruments for crowdfunding purposes that in accordance with applicable national law are only registered with the project owner or its agent, such as investments in non-listed companies, or loan agreements should not be held in custody. The safekeeping of loan agreements is regulated by national law.</u></p>		
45.	Rec. 21	<p>(21) The holding of clients' funds and the provision of payment services require an authorisation as a payment service provider in accordance with Directive (EU) 2015/2366 of the European Parliament and of the Council²⁴. That mandatory authorisation requirement cannot be satisfied by an authorisation as a crowdfunding</p>	<p>(21) The holding of clients' funds and the provision of Only payment service providers are permitted to provide payment services require an authorisation as a payment service provider defined in accordance with Directive (EU) 2015/2366 of the European Parliament and of the Council²⁵. That mandatory authorisation requirement cannot be</p>	<p>(21) The holding of clients' funds and the provision of payment services require an authorisation as a payment service provider in accordance with Directive (EU) 2015/2366 of the European Parliament and of the Council²⁶. That mandatory authorisation requirement cannot be satisfied by an authorisation as a crowdfunding</p>	<p>(21) The holding of clients' funds and the provision of Since only payment service providers are permitted to provide payment services require an authorisation as a payment service provider defined in accordance with Directive (EU) 2015/2366 of the European Parliament and of the</p>

²⁴ 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).

²⁵ 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).

²⁶ 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).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		<p>service provider. Therefore, it is appropriate to clarify that where a crowdfunding service provider carries out such payment services in connection with its crowdfunding services, it needs to be authorised also as a payment institution in accordance with Directive (EU) 2015/2366. In order to enable a proper supervision of such activities, the European Securities and Markets Authority (ESMA) should be informed about whether the crowdfunding service provider intends to carry out payment services itself with the appropriate authorisation, or whether such services will be outsourced to an authorised third party.</p>	<p>satisfied by an authorisation as a crowdfunding service provider. Therefore, it is appropriate to clarify that where a crowdfunding service provider carries out such payment services in connection with its crowdfunding services, it needs to be authorised also as a payment institution services provider as defined in accordance with Directive (EU) 2015/2366. <u>This requirement is without prejudice to entities authorised under Directive 2014/65/EU where they comply with the specific requirements stipulated under Article 3 of Directive (EU) 2015/2366 and consequently with the notification requirement set out in Article 37 of Directive (EU) 2015/2366.</u> In order to enable a proper supervision of such activities, the European Securities and Markets Authority (ESMA) competent authorities should be informed about whether the crowdfunding service provider intends to carry out payment services itself with the appropriate authorisation, or whether such services will be outsourced to an authorised third party.</p>	<p>service provider. Therefore, it is appropriate to clarify that where a crowdfunding service provider carries out such payment services in connection with its crowdfunding services, it needs to be authorised also as a payment institution in accordance with Directive (EU) 2015/2366. In order to enable a proper supervision of such activities, the <i>national competent authority</i> should be informed about whether the crowdfunding service provider intends to carry out payment services itself with the appropriate authorisation, or whether such services will be outsourced to an authorised third party.</p>	<p>Council²⁷; an authorisation to provide crowdfunding services does not equate to an authorisation also to provide payment services. Therefore, it is appropriate to clarify that where a crowdfunding service provider carries out such payment services in connection with its crowdfunding services, it also needs to be authorised also as a payment institution services provider as defined in accordance with Directive (EU) 2015/2366. <u>That requirement is without prejudice to entities authorised under Directive 2014/65/EU that carry out an activity referred to in Article 3 of Directive (EU) 2015/2366 and that is also subject to the notification requirement set out in Article 37 of that Directive</u> In order to enable a proper supervision of such activities, the European Securities and Markets Authority (ESMA) competent authorities should be informed about whether the crowdfunding service provider intends to carry out payment services itself with the appropriate authorisation, or whether such</p>

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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).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p>services will be outsourced to an authorised third party.</p> <p>GREY - Technical Meeting (TM) 29/11/19</p> <p><i>Pending Political agreement</i></p>
46.	Rec. 22	(22) The growth and smooth functioning of cross-border crowdfunding services requires a sufficient scale and public confidence in those services. It is therefore necessary to lay down uniform, proportionate and directly applicable requirements for authorisation and a single point of supervision.	(22) The growth and smooth functioning of cross-border crowdfunding services requires a sufficient scale and public confidence in those services. It is therefore necessary to lay down uniform harmonised , proportionate and directly applicable requirements for authorisation and a single point of supervision.	(22) The growth and smooth functioning of cross-border crowdfunding services requires a sufficient scale and public confidence in those services. It is therefore necessary to lay down uniform, proportionate and directly applicable requirements for authorisation and a single point of supervision.	<p>(22) The growth and smooth functioning of cross-border crowdfunding services require a sufficient scale and public confidence in those services. It is therefore necessary to lay down uniform, proportionate and directly applicable requirements for authorisation of crowdfunding service providers. and a single point of supervision.</p> <p>GREY - Technical Meeting (TM) 7/11/19</p>
47.	Rec. 23	(23) A high level of investor confidence contributes to the growth of crowdfunding services. Requirements for crowdfunding services should therefore facilitate cross-border provision of those services, reduce operational risks and ensure a high degree of transparency and investor protection.	(23) A high level of investor confidence contributes to the growth of crowdfunding services. Requirements for crowdfunding services should therefore facilitate cross-border provision of those services, reduce operational risks and ensure a high degree of transparency and investor protection.	(23) A high level of investor confidence contributes to the growth of crowdfunding services. Requirements for crowdfunding services should therefore facilitate cross-border provision of those services, reduce operational risks and ensure a high degree of transparency and investor protection.	(23) A high level of investor confidence contributes to the growth of crowdfunding services. Requirements for crowdfunding services should therefore facilitate cross-border provision of those services, reduce operational risks and ensure a high degree of transparency and investor protection.
48.	Rec. 24	(24) Crowdfunding services can be exposed to money laundering and terrorist financing risks, as underlined in the Commission's	(24) Crowdfunding services can be exposed to money laundering and terrorist financing risks, as underlined in the Commission's	(24) Crowdfunding services can be exposed to money laundering and terrorist financing risks, as underlined in the Commission's	(24) Crowdfunding services can be exposed to money laundering and terrorist financing risks, as underlined in the Commission's

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		Report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations ²⁸ . Safeguards should therefore be envisaged when meeting conditions for authorisation, assessing the good repute of the management, providing payment services only through licensed entities subject to anti-money laundering and terrorist financing requirements. With a view to further ensuring financial stability by preventing risks of money laundering and terrorism financing, the Commission should assess the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of	Report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations ²⁹ . Safeguards should therefore be envisaged when meeting conditions for authorisation, assessing the good repute of the management, providing payment services only through licensed entities subject to anti-money laundering and terrorist financing requirements. With a view to further ensuring financial stability by preventing risks of money laundering laundering and terrorism financing, the Commission should assess the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the	Report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations ³⁰ . Safeguards should therefore be envisaged when meeting conditions for authorisation, assessing the good repute of the management, providing payment services only through licensed entities subject to anti-money laundering and terrorist financing requirements. With a view to further ensuring financial stability by preventing risks of money laundering laundering and terrorism financing, and taking into account the maximum threshold of funds that can be raised by a crowdfunding offer in accordance with this Regulation , the Commission should assess the necessity and proportionality of subjecting crowdfunding service providers, authorised under this Regulation to some or all of the obligations for compliance with the national	Report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations ³¹ . Safeguards should therefore be envisaged when setting out the conditions for authorisation of crowdfunding services providers and for assessing the good repute of their management as well as by restricting the provision of payment services to licensed entities subject to anti-money laundering and terrorist financing requirements. With a view to further ensuring financial stability market integrity by preventing risks of money laundering laundering and terrorist financing, and taking into account the amount of maximum threshold of funds that can be raised by a crowdfunding offer in accordance with this Regulation , the Commission should assess the necessity and proportionality of subjecting crowdfunding service

²⁸ COM(2017) 340 final, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

²⁹ COM (2017) 340 final, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

³⁰ COM(2017) 340 final, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

³¹ COM(2017) 340 final, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

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		obliged entities for the purposes of Directive (EU) 2015/849.	purposes of Directive (EU) 2015/849.	provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849.	providers, authorised under this Regulation to some or all of the obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorist financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of <i>that</i> Directive. GREY - Technical Meeting (TM) 7/11/19
49.	Rec. 25	(25) To enable crowdfunding service providers to operate cross-border without facing divergent rules and thereby facilitating the funding of projects across the Union by investors from different Member States, Member States should not be allowed to impose additional requirements on crowdfunding service providers that are authorised by ESMA.	(25) To enable crowdfunding service providers to operate cross-border without facing divergent rules and thereby facilitating the funding of projects across the Union by investors from different Member States, Member States should not be allowed to impose additional requirements on crowdfunding service providers that are authorised by ESMA.	(25) To enable crowdfunding service providers to operate cross-border without facing divergent rules and thereby facilitating the funding of projects across the Union by investors from different Member States, Member States should not be allowed to impose additional requirements on crowdfunding service providers that are authorised <i>under this Regulation</i> .	
50.	Rec. 26	(26) The authorisation process should enable ESMA to be informed about the services that the prospective crowdfunding service providers intend to provide, to assess the quality of their management, and to assess the internal organisation and procedures set up by the prospective crowdfunding service providers to ensure compliance with the	(26) The authorisation process should enable ESMA <u>competent authorities</u> to be informed about the services that the prospective crowdfunding service providers intend to provide, <u>also in the light of similar or related activities that prospective crowdfunding service providers may be permitted to pursue in accordance with Directive 2014/65/EU, as well as</u> to assess the quality of their	(26) The authorisation process should enable <i>the national competent authority</i> to be informed about the services that the prospective crowdfunding service providers intend to provide <i>and the crowdfunding platforms that they intend to operate</i> , to assess the quality of their management, and to assess the internal organisation and procedures set up by the prospective crowdfunding service providers to	(26) The authorisation process should enable ESMA <u>competent authorities</u> to be informed about the services that the prospective crowdfunding service providers intend to provide and, including <i>the crowdfunding platforms that they intend to operate</i> , to assess the quality of their management, and to assess the internal organisation and procedures set up by the prospective crowdfunding service

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		requirements set out in this Regulation.	management, and to assess the internal organisation and procedures set up by the prospective crowdfunding service providers to ensure compliance with the requirements set out in this Regulation.	ensure compliance with the requirements set out in this Regulation.	providers to ensure compliance with this Regulation. GREY - Technical Meeting (TM) 29/11/19 <i>Pending Political agreement</i>
51.	Rec. 26a (new)		<u>(26a) In order to ensure proper supervision and to avoid disproportionate administrative burdens, it should be possible for entities that have been authorised under Directive 2014/65/EU, Directive 2015/2366/EU, Directive 2009/110/EU or Directive 2013/36/EU and wishing to provide crowdfunding services to hold both an authorisation under those directives and this Regulation. In that case, the competent authorities shall not require submission of documents or proofs that are already at their disposal and may thus provide a simplified authorisation procedure.</u>		<u>(26a) In order to ensure proper supervision and to avoid disproportionate administrative burdens, it should be possible for entities that have been authorised under Directive 2014/65/EU, Directive 2015/2366/EU, Directive 2009/110/EU or Directive 2013/36/EU and that wish to provide crowdfunding services, to hold an authorisation both under one of those Directives and under this Regulation. In that case, the competent authorities <i>should</i> shall not require submission of documents or proofs that are already at their disposal, thereby and may thus resulting in a simplified authorisation procedure.</u> <i>Pending Political agreement</i> GREY - Technical Meeting (TM) 29/11/19
52.	Rec. 27	(27) To facilitate transparency for retail investors as regards the	(27) To facilitate transparency for retail investors as regards the	(27) To facilitate transparency for retail investors as regards the	(27) To facilitate transparency for retail investors as regards the

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		provision of crowdfunding services, ESMA should establish a public and up-to-date register of all crowdfunding services operating in the Union in accordance with this Regulation.	provision of crowdfunding services, ESMA should establish a public and up-to-date register of all crowdfunding services service providers operating in the Union in accordance with this Regulation.	provision of crowdfunding services, ESMA should establish a public and up-to-date register of all crowdfunding services providers authorised and operating crowdfunding platforms in the Union in accordance with this Regulation.	provision of crowdfunding services, ESMA should establish a public and up-to-date register of all crowdfunding services providers authorised and of all operating crowdfunding platforms in the Union in accordance with this Regulation. GREY - Technical Meeting (TM) 29/11/19
53.	Rec. 28	(28) The authorisation should be withdrawn where the conditions for its issuance are no longer met. In particular, ESMA should be able to assess whether the good reputation of the management has been affected or whether the internal procedures and systems have seriously failed. To enable ESMA to assess whether the authorisation as a crowdfunding service provider should be withdrawn, national competent authorities should inform ESMA whenever a crowdfunding service provider, or a third party acting on its behalf, has lost its authorisation as a payment institution, or has been found to be in breach of Directive (EU) 2015/849 of the European Parliament and of the Council ³² .	(28) The authorisation should be withdrawn where the conditions for its issuance are no longer met. In particular, ESMA should be able to assess whether the good reputation of the management has been affected or whether the internal procedures and systems have seriously failed. To enable ESMA to assess whether Competent authorities should also have seriously failed. To enable ESMA to assess whether the power to withdraw the authorisation as a crowdfunding service provider should be withdrawn, national competent authorities should inform ESMA under this Regulation whenever a crowdfunding service provider, or a third party acting on its behalf, has lost its the authorisation as allowing for the provision of payment services	(28) The authorisation should be withdrawn where the conditions for its issuance are no longer met. In particular, the national competent authority should be able to assess whether the good reputation of the management has been affected or whether the internal procedures and systems have seriously failed. To enable the national competent authority to assess whether the authorisation as a crowdfunding service provider should be withdrawn, the national competent authority should be informed whenever a crowdfunding service provider, or a third party acting on its behalf, has lost its authorisation as a payment institution, or has been found to be in breach of Directive	<u>Pending political agreement</u>

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Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

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			<u>under Directive (EU) 2015/2366, or whenever a crowdfunding service provider that is also a payment institutions services provider, or has its managers, employees or a third party acting on its behalf, has</u> been found to be in breach of Directive (EU) 2015/849 of the European Parliament and of the Council ³³ .	(EU) 2015/849 of the European Parliament and of the Council ³⁴ .	
54.	Rec. 28a (new)		<u>(28a) In order to provide a broad range of services to their clients, a crowdfunding service provider authorised under this Regulation should be allowed to engage in other activities than those covered by the authorisation referred to in Article 10. When doing so, the competent authorities designated under this Regulation should ensure that crowdfunding service providers comply with the requirements of this Regulation.</u>		
55.	Rec. 29	(29) In order for prospective investors to have a clear understanding of the nature, risks, costs and charges of crowdfunding services, crowdfunding service	(29) In order for prospective investors to have a clear understanding of the nature, risks, costs and charges of crowdfunding services, crowdfunding service	(29) In order for prospective investors to have a clear understanding of the nature, risks, costs and charges of crowdfunding services, crowdfunding service	(29) In order for prospective investors to ensure a clear understanding of the nature, risks, costs and charges of crowdfunding services, crowdfunding service

³³ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

³⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		providers should provide their clients with appropriate information.	providers should provide their clients with appropriate information.	providers should provide their clients with <i>clear and disaggregated</i> information.	providers should provide their clients with information that is <i>clear and disaggregated</i> <i>fair, clear, and not misleading</i> . GREY - Technical Meeting (TM) 29/11/19
56.	Rec. 29a (new)		<u>(29a) Crowdfunding service providers who provide crowdfunding services consisting of the facilitation of granting of loans should make available to all clients and potential clients certain relevant information, such as default rates of loans.</u>		
57.	Rec. 29b (new)		<u>(29b) Crowdfunding service providers that determine credit score or pricing shall disclose key elements of their methodology. The level of detail concerning methods to calculate credit scores or to determine the price or the interest rate should not reveal sensitive business information or impede innovation.</u>		
58.	Rec. 29c (new)		<u>(29c) To ensure adequate investor protection of different categories of investors participating in crowdfunding projects while facilitating investment flows, this Regulation distinguishes between sophisticated and non-sophisticated investors and introduces different levels of investor protection safeguards adapted to each of these categories</u>		

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			<p><u>of investors. The distinction between sophisticated and non-sophisticated investors should build on the distinction between professional clients and retail clients established in Directive 2014/65/EU. However, the distinction should take into account the characteristics of the crowdfunding market. Notably, the distinction between sophisticated and non-sophisticated investors in this Regulation shall also consider experience and knowledge of potential investors in crowdfunding, which shall be re-assessed every two years.</u></p>		
59.	Rec. 30	<p>(30) Investments in products marketed on crowdfunding platforms are not comparable to traditional investments products or savings products and should not be marketed as such. However, to ensure that prospective investors understand the level of risk associated with crowdfunding investments, crowdfunding service providers should run an entry knowledge test of their prospective investors to establish their knowledge of investment. Crowdfunding service providers should explicitly warn prospective investors whenever the</p>	<p>(30) Investments in products marketed on crowdfunding platforms are not comparable to traditional investments products or savings products and should not be marketed as such. However, to ensure that prospective <u>non-sophisticated</u> investors understand the level of risk associated with crowdfunding investments, crowdfunding service providers should run an entry knowledge test of their prospective <u>non-sophisticated</u> investors to establish their knowledge of investment. Crowdfunding service providers should explicitly warn prospective <u>non-sophisticated</u> investors</p>	<p>(30) Investments in products marketed on crowdfunding platforms are not comparable to traditional investments products or savings products and should not be marketed as such. However, to ensure that prospective investors understand the level of risk associated with crowdfunding investments, crowdfunding service providers <i>is mandatory to</i> run an entry knowledge test of their prospective investors to establish their <i>understanding of the</i> investment. Crowdfunding service providers should explicitly warn prospective investors whenever the</p>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		crowdfunding services provided are deemed as inappropriate for them.	whenever the crowdfunding services provided are deemed as inappropriate for them.	crowdfunding services provided are deemed as inappropriate for them.	
60.	Rec. 30a (new)		<u>(30a) Given that sophisticated investors, by definition, are aware of the risks associated with investments in crowdfunding projects, there is no merit in applying an entry knowledge test. Similarly, crowdfunding service providers should not be required to issue risk warnings or require sophisticated investors to acknowledge any warnings before making investments into crowdfunding projects available to them.</u>		
61.	Rec. 30b (new)		<u>(30b) In order to ensure that non-sophisticated investors have read and understood the explicit risk warnings issued to them by the crowdfunding service provider, they should expressly accept the risks that they engage in when investing in a crowdfunding project. Given that an absence of such acknowledgement indicates a lack of understanding of the risks involved, crowdfunding service providers should only accept investments from non-sophisticated investors following the acknowledgement of the said warnings, so as to maintain a high level of investor protection.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
62.	Rec. 30c (new)		<p><u>(30c) Given the riskiness of crowdfunding projects, non-sophisticated investors should avoid overexposure to them. There is a significant risk to lose large amounts of the initially invested sums or even experience a total loss. It is therefore appropriate to provide Member States with the possibility to impose restrictions for non-sophisticated investors on the maximum amount that they can invest in an individual project, either in the form of an absolute monetary amount or as a percentage of net investible assets not lower than 10 percent of the non-sophisticated investor, but in any event not lower than EUR 1000 per crowdfunding project to preserve the integrity of the Single Market. Investors who have the necessary experience, knowledge or financial capacity, or a combination thereof, should not be subject to such limits, and the limit should accordingly not apply to sophisticated investors.</u></p>		
63.	Rec. 30d (new)		<p><u>(30d) In order to strengthen the protection for non-sophisticated investors, and without prejudice to the right of withdrawal provided for in Directive 2002/65/EC concerning the distance marketing of consumer</u></p>		

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			<p><u>financial services, it is necessary to make provisions for a reflection period in which the prospective non-sophisticated investor can revoke an expression of interest to invest into a particular crowdfunding offer without penalty and with no obligation to provide a justification. This is necessary to avoid that a prospective non-sophisticated investor, by accepting a crowdfunding offer, binds him or herself to a contract without any possibility of retraction during an adequate period of time. The period of reflection is not necessary when the prospective non-sophisticated investor can express an interest for a particular crowdfunding offer without binding him or herself to a contract, except in the situation when such expression of interest is effected at a moment close to the scheduled closing date of the offer or to the date of reaching the funding target. Crowdfunding services providers should ensure that no money is collected from the investor or transferred to the</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>project owner before the contract is concluded.</u>		
64.	Rec. 30e (new)		<p><u>(30e) Directive 97/9/EC covers claims arising out of an investment firm's inability to (a) repay money owed to or belonging to investors and held on their behalf in connection with investment business or (b) return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with investment business. Considering that the safekeeping of assets connected with crowdfunding services provided by an investment firm also authorised pursuant to Directive 2014/65/EU does not involve the provision of investment services in the meaning of Article 4(2) of Directive 2014/65/EU, non-sophisticated investors should be informed in the key investment information sheet that the investor compensation scheme protection does not apply to the transferable securities acquired through their crowdfunding platform. Moreover, the provision of crowdfunding services by the crowdfunding service provider should not involve the taking of deposits in the meaning of Article 2(1)(3) of Directive 2014/49/EU.</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
65.	Rec. 31	(31) In order to enable investors to make an informed investment decision, crowdfunding service providers should provide prospective investors with a key investment information sheet. The key investment information sheet should warn prospective investors that the investing environment they have entered into entails risks and is covered neither by the deposit compensation scheme, nor by the investor compensation guarantees.	(31) In order to enable investors to make an informed investment decision, crowdfunding service providers should provide prospective investors with a key investment information sheet. The key investment information sheet should warn prospective investors that the investing environment they have entered into entails risks and is that are covered neither by the deposit compensation guarantee scheme, nor by the investor compensation guarantees . <u>The harmonisation of the information contained in the key investment information sheet should provide investor protection at Union level.</u>	(31) In order to enable investors to make an informed investment decision, crowdfunding service providers should provide prospective investors with a key investment information sheet. The key investment information sheet should warn prospective investors that the investing environment they have entered into entails risks and is covered neither by the deposit compensation scheme, nor by the investor compensation guarantees.	(31) In order to enable prospective investors to make an informed investment decision, crowdfunding service providers should provide them with a key investment information sheet. The key investment information sheet should warn prospective investors that the investing environment they have entered into entails risks that are covered neither by the deposit compensation guarantee schemes established in accordance with Directive 2014/49/EU, nor by the investor compensation guarantees . <u>schemes established in accordance with Directive 97/9/EC. The harmonisation of the information contained in the key investment information sheet should provide investor protection at Union level.</u> GREY - Technical Meeting (TM) 29/11/19
66.	Rec. 32	(32) The key investment information sheet should also take into account the specific features and risks associated with early stage companies, and focus on material information about the project owners, the investors' rights and fees, and the type of securities offered and loan agreements. Because the project owner concerned is in the best position to	(32) <u>(32) The key investment information sheet should reflect the specific features of lending-based and investment-based crowdfunding. In order to ensure this, specific and relevant indicators should be required.</u> The key investment information sheet should also take into account the specific features and risks associated with early	(32) The key investment information sheet should also take into account the specific features and risks associated with early stage companies, and focus on material information about the project owners, the investors' rights and fees, and the type of securities offered and loan agreements. Because the project owner concerned is in the best position to	

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		provide that information, the key investment information sheet should be drawn up by that project owner. However, since crowdfunding service providers are responsible for informing their prospective investors, they should ensure that the key investment information sheet is complete.	stage companies project owners , and focus on material information about the project owners, the investors' rights and fees, and the type of <u>transferable</u> securities offered , <u>admitted instruments for crowdfunding purposes</u> and loan agreements offered . Because the project owner concerned is in the best position to provide that information, the key investment information sheet should be drawn up by that project owner. However, since crowdfunding service providers are responsible for informing their prospective investors, they should ensure that the key investment information sheet is complete <u>clear and complete. If whilst verifying the completeness and clarity of the key investment information sheet, or in different circumstances, crowdfunding service providers identify gross omissions, mistakes or inaccuracies, they shall contact the project owners and request rectification. Crowdfunding service providers should suspend or even cancel crowdfunding offers until the project owners introduce the necessary amendments to the key investment information sheets.</u>	provide that information, the key investment information sheet should be drawn up by that project owner. However, since crowdfunding service providers are responsible for informing their prospective investors, they <i>are responsible for the completeness of</i> the key investment information sheet .	
67.	Rec. 33	(33) To ensure seamless and expedient access to capital markets	(33) To ensure seamless and expedient access to capital markets	(33) To ensure seamless and expedient access to capital markets	(33) To ensure seamless and expedient access to capital markets

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		for start-ups and SMEs, to reduce their costs of financing and to avoid delays and costs for crowdfunding service providers, the key investment information document should not be approved by a competent authority.	for start-ups and SMEs, to reduce their costs of financing and to avoid delays and costs for crowdfunding service providers, the key investment information documents sheet should not be approved by a competent authority.	for start-ups and SMEs, to reduce their costs of financing and to avoid delays and costs for crowdfunding service providers, the key investment information document should not be approved by a competent authority.	for start-ups and SMEs, to reduce their costs of financing and to avoid delays and costs for crowdfunding service providers, the key investment information documents sheet should not be required to be approved by a competent authority. GREY - Technical Meeting (TM) 29/11/19
68.	Rec. 33a (new)		<u>(33a) Crowdfunding service providers should be allowed to present more information than required in the key investment information sheet drawn up by the project owner. Such information should, however, be complementary and consistent with the information provided in the key investment information sheet and shall not affect its content and format as required by this Regulation. Where such information is contrary to the information in the key investment information sheet, the key investment information sheet shall be updated in accordance.</u>		<u>(33a) Crowdfunding service providers should be allowed to present more information than required in the key investment information sheet drawn up by the project owner. Such information should, however, be complementary and consistent with the information provided in the key investment information sheet. and shall not affect its content and format as required by this Regulation. Where such information is contrary to the information in the key investment information sheet, the key investment information sheet shall be updated in accordance.</u> GREY - Technical Meeting (TM) 29/11/19
69.	Rec. 34	(34) To avoid unnecessary costs and administrative burden on the cross-border provision of crowdfunding	(34) To avoid unnecessary costs and administrative burden on the cross border provision of	(34) To avoid unnecessary costs and administrative burden on the cross-border provision of	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		services, marketing communications should not be subject to translation requirements where they are provided in a language customary in the sphere of finance.	crowdfunding services, marketing communications should not be subject to translation requirements where they are provided in a language customary in the sphere of finance.	crowdfunding services, marketing communications should not be subject to translation requirements.	
70.	Rec. 35	(35) Crowdfunding service providers should not be able to provide any discretionary or non-discretionary matching of buying and selling interest, because that activity requires an authorisation as an investment firm in accordance with Article 5 of Directive 2014/65/EU, or as a regulated market in accordance with Article 44 of that Directive. Crowdfunding service providers should, in the interest of transparency and flow of information, be able to allow investors who have made investments through their platform to contact, and transact with, each other over their platforms in relation to investments originally made on their platform. Crowdfunding service provider should however inform their clients that they does not operate a trading system and that any buying and selling activity on their platforms is at the client's discretion and responsibility.	(35) Crowdfunding Where this is permitted by national legislation, a crowdfunding service providers provider should not be able to provide any discretionary or non-discretionary matching modify the owner of buying and selling interest, because that activity requires an authorisation as an investment firm in accordance with Article 5 of Directive 2014/65/EU, or as a regulated market in accordance with Article 44 of that Directive. Crowdfundings shares in an investment-based crowdfunding project in its information system. A crowdfunding service providers provider should <u>also</u> , in the interest of transparency and flow of information, be able to allow investors clients who have made investments through their its platform to contact, and transact with, each other over their platforms advertise on a bulletin board on its platform interest to buy or sell contracts in relation to investments originally made on their platform. Crowdfunding that	(35) Crowdfunding service providers should not be able to provide any discretionary or non-discretionary matching of buying and selling interest, because that activity requires an authorisation as an investment firm in accordance with Article 5 of Directive 2014/65/EU, or as a regulated market in accordance with Article 44 of that Directive. Crowdfunding service providers should, in the interest of transparency and flow of information, be able to allow investors who have made investments through their platform to contact, and transact with, each other over their platforms in relation to investments originally made on their platform. Crowdfunding service providers should however inform their clients that they do not operate a trading system and that any buying and selling activity on their platforms is at the client's discretion and responsibility.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>platform, without however entering into an activity consisting of bringing together multiple third-party buying and selling interests in financial instruments in a way that results in a contract in relation to such advertisements. The bulletin board provided by a crowdfunding service provider should however—therefore not consist of an internal matching system which executes client orders on a multilateral basis, unless, in relation to transferable securities, the crowdfunding service provider also has a separate authorisation as an investment firm in accordance with Article 5 of Directive 2014/65/EU, or as a regulated market in accordance with Article 44 of that Directive. Where they do not hold such authorisation in relation to transferable securities, crowdfunding service providers should therefore clearly inform their clients that they does not operate a trading system and investors that they do not accept the reception of orders for the purposes of buying or selling contracts in relation to investments originally made on the platform, that any buying and selling activity on their</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			platforms crowdfunding platform is at the client's <u>investor's</u> discretion and responsibility, <u>and that they do not operate a trading venue in accordance with Directive 2014/65/EU.</u>		
71.	Rec. 36	(36) To facilitate transparency and to ensure proper documentation of communications with the client, crowdfunding service providers should keep all appropriate records related to their services and transactions.	(36) To facilitate transparency and to ensure proper documentation of communications with the client, crowdfunding service providers should keep all appropriate records related to their services and transactions.	(36) To facilitate transparency and to ensure proper documentation of communications with the client, crowdfunding service providers should keep all appropriate records related to their services and transactions.	(36) To facilitate transparency and to ensure proper documentation of communications with clients, crowdfunding service providers should keep all appropriate records related to their services and transactions.
72.	Rec. 37	(37) To ensure fair and non-discriminatory treatment of investors, crowdfunding service providers that are promoting their services through marketing communications should not treat any particular project more favourably by singling it out from other projects offered on their platform. Any open or planned projects should therefore not feature in marketing communications of a crowdfunding platform. Crowdfunding service providers should however not be prevented from mentioning successfully closed offers in which investments through the platform are no longer possible.	(37) To ensure fair and non-discriminatory treatment of investors, crowdfunding service providers that are promoting their services through marketing communications should not treat any particular project more favourably by singling it out from other projects offered on their platform. Any open or planned projects should therefore not feature in marketing communications of a crowdfunding platform. Crowdfunding service providers should however not be prevented from mentioning successfully closed offers in which investments through the platform are no longer possible. <u>shall provide fair, clear and not misleading information.</u>	(37) To ensure fair and non-discriminatory treatment of investors <i>and project owners</i> , crowdfunding service providers that are promoting their services through marketing communications should not treat any particular project more favourably than other projects offered on their platform, <i>unless there is an objective reason to do so such as specific requirements of the investor or in the light of an investor's predetermined risk profile.</i> Crowdfunding service providers should however not be prevented from mentioning successfully closed offers in which investments through the platform are no longer possible <i>and are encouraged to allow for comparability of the performance of their closed projects.</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
73.	Rec. 38	(38) To provide for more legal certainty to crowdfunding service providers operating across the Union and to ensure easier market access, complete information about the laws, regulations and administrative provisions applicable in the Member States, and summaries thereof, which specifically govern marketing communications of crowdfunding service providers, should be published electronically in a language customary in the sphere of international finance. For that purpose, competent authorities and ESMA should maintain central databases.	(38) To provide for more legal certainty to crowdfunding service providers operating across the Union and to ensure easier market access, complete information about the laws, regulations and administrative provisions applicable in the Member States, and summaries thereof, which <u>specifically govern to the</u> marketing communications of crowdfunding service providers, should be published electronically, <u>as well as and summaries thereof</u> in a language customary in the sphere of international finance. For that purpose, competent authorities and ESMA should maintain central databases.	(38) To provide for more legal certainty to crowdfunding service providers operating across the Union and to ensure easier market access, complete information about the laws, regulations and administrative provisions applicable in the Member States, and summaries thereof, which specifically govern marketing communications of crowdfunding service providers, should be published electronically. For that purpose, competent authorities and ESMA should maintain central databases.	
74.	Rec. 39	(39) To develop a better understanding of the extent of regulatory divergences existing among the Member States regarding the requirements applicable to marketing communications, competent authorities should provide ESMA annually with a detailed report on their enforcement activities in this area.	(39) To develop a better understanding of the extent of regulatory divergences existing among the Member States regarding the requirements applicable to marketing communications, competent authorities should provide ESMA annually with a detailed report on their enforcement activities in this area.	(39) To develop a better understanding of the extent of regulatory divergences existing among the Member States regarding the requirements applicable to marketing communications, competent authorities should provide ESMA annually with a detailed report on their enforcement activities in this area.	<i><u>Pending political agreement</u></i>
75.	Rec. 39a (new)			<i>(39a) In order to ensure the consistent application of the authorisations of, and requirements for, crowdfunding services providers operating across the Union, regulatory technical standards should be developed by</i>	<i><u>Pending political agreement</u></i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>ESMA for submission to the Commission.</i>	
76.	Rec. 40	(40) It is important to effectively and efficiently ensure compliance with the requirements for authorisation and for the provision of crowdfunding services, in accordance with this Regulation. ESMA should therefore be conferred competences to grant authorisation and exercise oversight. To enable ESMA to fulfil that supervisory mandate, it should be given the power to request information, carry out general investigations and on-site inspections, issue public notices and warnings and impose sanctions. ESMA should make use of its oversight and sanctioning competences in a proportionate manner.	(40) It is important to effectively and efficiently ensure compliance with the requirements for authorisation and for the provision of crowdfunding services, in accordance with this Regulation. ESMA should therefore be conferred competences to grant authorisation and exercise oversight. To enable ESMA to fulfil that supervisory mandate, it should be given the power to request information, carry out general investigations and on-site inspections, issue public notices and warnings and impose sanctions. ESMA should make use of its oversight and sanctioning competences in a proportionate manner.	(40) It is important to effectively and efficiently ensure compliance with the requirements for authorisation and for the provision of crowdfunding services, in accordance with this Regulation. The national competent authority should grant authorisation and exercise oversight. The national competent authority should have the power to request information, carry out general investigations and on-site inspections, issue public notices and warnings and impose sanctions. The national competent authority should make use of its oversight and sanctioning competences in a proportionate manner.	<u>Pending political agreement</u>
77.	Rec. 41	(41) Granting those competences to ESMA allows for a more efficient and centrally managed authorisation and oversight, generating economies of scale. Such a central supervisory regime is beneficial to the market participants in terms of greater transparency, investor protection and market efficiency.	(41) Granting those competences to ESMA allows for a more efficient and centrally managed authorisation and oversight, generating economies of scale. Such a central supervisory regime is beneficial to the market participants in terms of greater transparency, investor protection and market efficiency.		<u>Pending political agreement</u>
78.	Rec. 42	(42) ESMA should charge fees on directly supervised entities to cover its costs, including overheads. The level of the fee should be proportionate to the size of a directly	(42) ESMA should charge fees on directly supervised entities to cover its costs, including overheads. The level of the fee should be proportionate to the size of a directly	(42) The national competent authority should charge fees on directly supervised entities to cover its costs, including overheads. The level of the fee should be	<u>Pending political agreement</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		supervised entity, having regard to the early stage of development of the crowdfunding industry.	supervised entity, having regard to the early stage of development of the crowdfunding industry.	proportionate to the size of a directly supervised entity, having regard to the early stage of development of the crowdfunding industry.	
79.	Rec. 42a (new)		<u>(42a) To ensure an efficient supervision and authorisation procedure, Member States should delineate the duties and functions pursuant to this Regulation to be carried out by the competent authorities. Member States should designate a single point of contact to manage communication with ESMA and competent authorities across the Union, which would provide for effective cross-border administrative cooperation.</u>		
80.	Rec. 42b (new)		<u>(42b) A set of effective tools and powers and resources for the competent authorities of Member States guarantees supervisory effectiveness. This Regulation should therefore in particular provide for a minimum set of supervisory and investigative powers with which competent authorities of Member States should be entrusted in accordance with national law. Those powers should be exercised, where the national law so requires, by application to the competent judicial authorities. When exercising their powers under this Regulation, competent authorities and ESMA should act</u>		<u>(42b) Since effective tools, powers and resources of the competent authorities guarantee supervisory effectiveness, this Regulation should provide for a minimum set of supervisory and investigative powers to be entrusted to competent authorities in accordance with national law. Those powers should be exercised, where the national law so requires, by application to the competent judicial authorities. When exercising their powers under this Regulation, competent authorities and ESMA should act objectively and impartially and</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>objectively and impartially and remain autonomous in their decision-making.</u>		<u>remain autonomous in their decision-making.</u> GREY - Technical Meeting (TM) 29/11/19
81.	Rec. 42c (new)		<u>(42c) For the purpose of detecting infringements of this Regulation, it is necessary for competent authorities to be able to access sites other than the private residences of natural persons in order to seize documents. Access to such premises is necessary when there is reasonable suspicion that documents and other data related to the subject matter of an inspection or investigation exist and might be relevant to prove an infringement of this Regulation. Additionally, access to such premises is necessary where the person to whom a demand for information has already been made fails to comply with it, or where there are reasonable grounds for believing that, if a demand were to be made, it would not be complied with or that the documents or information to which the information requirement relates would be removed, tampered with or destroyed.</u>		<u>Pending political agreement, line 661 (ref. to prior judicial authorisation?)</u>
82.	Rec. 42d (new)		<u>(42d) In line with the Communication of the Commission of 8 December 2010</u>		<u>(42d) In order to ensure that the requirements of this Regulation are fulfilled, it is important that</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>on Reinforcing sanctioning regimes in the financial services sector and in order to ensure that the requirements of this Regulation are fulfilled, it is important that Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative sanctions and other administrative measures. Those sanctions and measures should be effective, proportionate and dissuasive and ensure a common approach in Member States and a deterrent effect. This Regulation should not limit Member States in their ability to provide for higher levels of administrative sanctions.</u></p>		<p><u>Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative penalties and other administrative measures. Those penalties and measures should be effective, proportionate and dissuasive and ensure a common approach in Member States and a deterrent effect. This Regulation should not limit Member States in their ability to provide for higher levels of administrative penalties.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p>
83.	Rec. 42e (new)		<p><u>(42e) In order to ensure that decisions imposing administrative sanctions or other administrative measures taken by competent authorities have a deterrent effect on the public at large, they should normally be published unless the competent authority in accordance with this Regulation deems it necessary to opt for a publication on an anonymous basis, to delay the publication or not to publish.</u></p>		<p><u>(42e) In order to ensure that decisions imposing administrative penalties or other administrative measures taken by competent authorities have a deterrent effect on the public at large, they should be published unless the competent authority in accordance with this Regulation deems it necessary to opt for a publication on an anonymous basis, or to delay the publication or not to publish.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
84.	Rec. 42f (new)		<p>(42f) <u>Although Member States should be able to lay down rules for administrative and criminal sanctions for the same infringements, Member States should not be required to lay down rules for administrative sanctions for the infringements of this Regulation which are subject to criminal sanctions in their national law. In accordance with national law, Member States are not obliged to impose both administrative and criminal sanctions for the same offence, but they should be able to do so if their national law so permits. However, the maintenance of criminal sanctions instead of administrative sanctions for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.</u></p>		<p>(42f) <u>Although Member States can lay down rules for administrative and criminal penalties for the same infringements, Member States should not be required to lay down rules for administrative penalties for infringements of this Regulation which are subject to national criminal law. In accordance with national law, Member States are not obliged to impose both administrative and criminal sanctionspenalties for the same offence, but they should be able to do so if their national law so permits. However, the maintenance of criminal penalties instead of administrative penalties for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
85.	Rec. 42g (new)		<u>(42g) Whistleblowers might bring new information to the attention of competent authorities which assists them in detecting and imposing sanctions in cases of infringements of this Regulation. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation.</u>		<u>(42g) Whistleblowers might bring new information to the attention of competent authorities which helps them in detecting infringements of this Regulation and imposing penalties thereon. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation.</u> GREY - Technical Meeting (TM) 29/11/19
86.	Rec. 42h (new)		<u>(42h) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission with regard to specific provisions of this Regulation. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on</u>		<u>(42h) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of ... [content and scope]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>Better Law-Making³⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</u></p>		<p><u>Better Law-Making³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p> <p><i>Pending finalisation, whether DAs included</i></p>
87.	Rec. 42i (new)		<p><u>(42i) Technical standards in financial services should ensure adequate protection of investors and consumers across the Union. As bodies with highly specialised expertise, it would be efficient and appropriate to entrust ESMA and EBA with the elaboration of draft regulatory technical standards which do not involve policy choices, for submission to the Commission.</u></p>		<p><u>42i) Technical standards in financial services should ensure [adequate protection of investors and consumers across the Union + other RTSs]. As bodies with highly specialised expertise, it would be efficient and appropriate to entrust ESMA and EBA with the elaboration drawing up of draft regulatory technical standards which do not involve policy choices, for submission to the Commission.</u></p>

³⁵ OJ L 123, 12.5.2016, p. 1.

³⁶ OJ L 123, 12.5.2016, p. 1.

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
88.	Rec. 42j (new)		<u>(42j) The Commission should be empowered to adopt regulatory technical standards developed by ESMA and EBA with regard to specific provisions of this Regulation. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u>		<u>(42j) The Commission should be empowered to adopt regulatory technical standards developed by ESMA and EBA with regard to ...[specific provisions of this Regulation]. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u> GREY - Technical Meeting (TM) 29/11/19
89.	Rec. 42k (new)		<u>(42k) The Commission should also be empowered to adopt implementing technical standards developed by ESMA with regard to specific provisions of this Regulation. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.</u>		<u>(42k) The Commission should also be empowered to adopt implementing technical standards developed by ESMA with regard to specific provisions [+ add content ITSs]. of this Regulation. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.</u> GREY - Technical Meeting (TM) 29/11/19
90.	Rec. 42l (new)		<u>(42l) Any processing of personal data carried out within the</u>		<u>(42l) Any processing of personal data carried out within the</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EU) 2018/1725.</u>		<u>framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EU) 2018/1725.</u> GREY - Technical Meeting (TM) 7/11/19
91.	Rec. 43	(43) Since the objectives of this Regulation, namely to address the fragmentation of the legal framework applicable to crowdfunding services in order to ensure the proper functioning of the internal market in such services while enhancing investor protection as well as market efficiency and contributing to establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what	(43) Since the objectives of this Regulation, namely to address the fragmentation of the legal framework applicable to crowdfunding services in order to ensure the proper functioning of the internal market in such services while enhancing investor protection as well as market efficiency and contributing to establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go	(43) Since the objectives of this Regulation, namely to address the fragmentation of the legal framework applicable to crowdfunding services in order to ensure the proper functioning of the internal market in such services while enhancing investor protection as well as market efficiency and contributing to establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what	(43) Since the objectives of this Regulation, namely to address the fragmentation of the legal framework applicable to crowdfunding services in order to ensure the proper functioning of the internal market in such services while enhancing investor protection as well as market efficiency and contributing to establishing the CMU , cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		is necessary in order to achieve those objectives.	beyond what is necessary in order to achieve those objectives.	is necessary in order to achieve those objectives.	what is necessary in order to achieve those objectives. <i>LL Changes</i>
92.	Rec. 44	(44) The application of this Regulation should be deferred to align it with the application of the national rules transposing Directive XXX/XXXX/EU (Directive (EU) .../... of of the European Parliament and of the Council), which exempts crowdfunding service providers falling under the scope of this Regulation from the application of Directive 2014/65/EU.	(44) The application of this Regulation should be deferred to align it aligned with the application of the national rules transposing Directive XXX/XXXX/EU (Directive (EU) .../... of of the European Parliament and of the Council), which exempts crowdfunding service providers falling under the scope of this Regulation from the application of Directive 2014/65/EU.	(44) The application of this Regulation should be deferred to align it with the application of the national rules transposing Directive XXX/XXXX/EU (Directive (EU) .../... of of the European Parliament and of the Council), which exempts crowdfunding service providers falling under the scope of this Regulation from the application of Directive 2014/65/EU.	(44) The application of this Regulation should be deferred to align it with the date of application of the national rules transposing Directive XXX/XXXX/EU (Directive (EU) .../... of of the European Parliament and of the Council), which exempts crowdfunding service providers falling under the scope of this Regulation from the application of Directive 2014/65/EU. <i>To be checked in the end</i> <i>Line 25 of the MiFID amendment says that the date of application of national measures transposing that Directive should be the date of application of the Regulation.</i> <i>Line 25 of that table should set a date at 12 months after entry into force, in line with the application date under the Regulation.</i> GREY - Technical Meeting (TM) 7/11/19
93.	Rec. 44a (new)		<u>(44a) In the interest of legal certainty and in view of the replacement of national rules by</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>the rules of this Regulation insofar as types of crowdfunding services are concerned which are now included within the scope of this Regulation, it is appropriate to make transitional arrangements allowing persons who are providing such crowdfunding services in accordance with national laws preceding this Regulation to adapt their business operations to the rules provided by this Regulation and to have sufficient time to apply for an authorisation under this Regulation. Therefore, such persons should be able to continue to carry out crowdfunding services which are now included within the scope of this Regulation in accordance with the applicable national law until X of Month 20xx. Member States can during this transitional period put in place special procedures which enable persons authorised under national law to carry out crowdfunding services which are now included within the scope of this Regulation to convert their national authorisations into authorisations under this Regulation, provided that the crowdfunding service providers meet the requirements of this Regulation.</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
94.	Rec. 44b (new)		<p><u>(44b) After X of Month 20xx, crowdfunding service providers who have failed to obtain authorisation in accordance with this Regulation, should not issue any new crowdfunding offers. To avoid the situation whereby the raising of target capital in relation to a particular crowdfunding project is not completed by X of Month 20xx, the calls for funding should be closed before that date. However, after X of Month 20xx servicing of the existing contracts, including collecting and transferring receivables, providing asset safe-keeping services or processing corporate actions, may be continued in accordance with the applicable national laws.</u></p>		
95.	Rec. 44c (new)		<p><u>(44c) To accommodate divergent levels of development in crowdfunding markets across the Member States and where crowdfunding service providers do not engage with clients in other Member States, Member States should have the possibility to grant their competent authorities the power to extend the duration of the transition period at the request of the crowdfunding service provider.</u></p>		
96.	Rec. 45	(45) This Regulation respects the fundamental rights and observes the	(45) This Regulation respects the fundamental rights and observes the	(45) This Regulation respects the fundamental rights and observes the	(45) This Regulation respects the fundamental rights and observes the

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		principles recognised by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.	principles recognised by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.	principles recognised by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.	principles recognised by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.
97.	Rec. 46	(46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ³⁷ ,	(46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ³⁸ ,	(46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ³⁹ ,	(46) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) No 2018/1725 ⁴⁰ , <i>LL changes</i>
98.		HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:
99.	Chapter 1 - title	Chapter I Subject matter, scope and definitions	CHAPTER I Subject matter, scope and definitions GENERAL PROVISIONS	Chapter I Subject matter, scope and definitions	
100.	Art. 1 - title	<i>Article 1</i> Subject matter	Article 1 Subject matter, scope and exemptions	<i>Article 1</i> Subject matter	<i>Pending political agreement</i>
101.	Art. 1 - para 1	This Regulation establishes uniform requirements for the following:	This Regulation establishes uniform requirements for the following:	This Regulation establishes uniform requirements for the following:	This Regulation establishes uniform requirements for the following: GREY - Technical Meeting (TM) 7/11/19

³⁷ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

³⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

³⁹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁴⁰ **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).**

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
102.	Art. 1 - para 1 - point a	(a) the operation and organisation of crowdfunding service providers;	the operation and organisation of crowdfunding service providers;	(a) the operation and organisation of crowdfunding service providers;	the operation and organisation of crowdfunding service providers; GREY - Technical Meeting (TM) 7/11/19
103.	Art. 1 - para 1 - point b	(b) the authorisation and supervision of crowdfunding service providers;	the authorisation and supervision of crowdfunding service providers;	(b) the authorisation and supervision of crowdfunding service providers;	the authorisation and supervision of crowdfunding service providers; GREY - Technical Meeting (TM) 7/11/19
104.	Art. 1 - para 1 - point c	(c) transparency and marketing communications in relation to the provision of crowdfunding services in the Union.	transparency and marketing communications in relation to the provision of crowdfunding services in the Union	(c) transparency and marketing communications in relation to the provision of crowdfunding services in the Union.	transparency and marketing communications in relation to the provision of crowdfunding services in the Union GREY - Technical Meeting (TM) 7/11/19
105.	Art. 1 - para 1 (new)		<u>1. This Regulation lays down requirements for the operation, organisation, authorisation and supervision of crowdfunding service providers and on the transparency and marketing communications in relation to the provision of crowdfunding services in the Union.</u>		<u>1. This Regulation lays down <i>uniform</i> requirements for the operation, organisation, authorisation and supervision of crowdfunding service providers, as well as for transparency and marketing communications in relation to the provision of crowdfunding services in the Union.</u> GREY - Technical Meeting (TM) 7/11/19
106.	Art. 1 - para 2 (new)		<u>2. This Regulation shall not apply to:</u>		
107.	Art. 1 - para 2 - point a (new)		<u>(a) crowdfunding services that are provided to project owners that are consumers, as</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>defined in Article 3(a) of Directive 2008/48/EC;</u>		
108.	Art. 1 - para 2 - point b (new)		<u>(b) other services related to those defined in Article 3(1)(a) that are provided in accordance with national law;</u>		
109.	Art. 1 - para 2 - point d (new)		<u>(d) crowdfunding offers with a total consideration in the Union of more than EUR 8 000 000, which shall be calculated over a period of 12 months as the sum of:</u>		
110.	Art. 1 - para 2 - point d - point i (new)		<u>(i) the total consideration of offers of transferable securities and admitted instruments for crowdfunding purposes as per Article 3(1)(i) and 3(1)(ia) and amounts raised via loan agreements through a crowdfunding platform by a particular project owner; and</u>		
111.	Art. 1 - para 2 - point d - point ii		<u>(ii) the total consideration of offers to the public of transferable securities made by the project owner referred to in point (i) in its capacity as an offeror pursuant to the exemption under Article 1(3) or Article 3(2) of Regulation (EU) 2017/1129.</u>		
112.	Art. 1 - para 2a (new)		<u>2a. A Member State may decide to prohibit the raising of capital for crowdfunding projects from its residents for the amount that exceeds the total consideration under which that Member State exempts offers of securities to the public from the</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>obligation to publish a prospectus in accordance with Regulation (EU) 2017/1129.</u>		
113.	Art. 1 - para 2a1 (new)		<u>2a1. Where a Member State decides to provide for the prohibition referred to in paragraph 2a of this Article it may in addition decide to prohibit the raising of capital for crowdfunding offers above EUR 5 000 000 from its residents.</u>		
114.	Art. 1 - para 2b (new)		<u>2b. Member States shall notify the decision to align the threshold for capital raising referred to in paragraph 2a of this Article with the applicable total consideration under Regulation (EU) 2017/1129 and the decisions referred to in paragraphs 2a and 2a1 of this Article to the European Commission and ESMA before their entry into force. ESMA shall disclose this information without delay on its website.</u>		
115.	Art. 1 - para 3 (new)		<u>3. Unless a crowdfunding service provider, a project owner or an investor is authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU, Member States shall not apply national requirements implementing Article 9(1) of Directive 2013/36/EU and ensure that their national laws do not require a</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>credit institution license or any other individual exemption, authorisation or dispensation in connection with the provision of crowdfunding services in the following situations:</u>		
116.	Art. 1 - para 3 - point i (new)		<u>(i) for project owners that in respect of the loans facilitated by the crowdfunding service provider accept funds from investors; or</u>		
117.	Art. 1 - para 3 - point ii (new)		<u>(ii) for investors that grant loans to project owners facilitated by the crowdfunding service provider.</u>		
118.	Art. 2 - title	<i>Article 2</i> Scope	<i>Article 2</i> Scope	<i>Article 2</i> Scope	
119.	Art. 2 - para 1	1. This Regulation shall apply to legal persons who choose to seek authorisation in accordance with Article 10 and to crowdfunding service providers authorised in accordance with that Article, in relation to the provision of crowdfunding services.	1. This Regulation shall apply to legal persons who choose to seek authorisation in accordance with Article 10 and to crowdfunding service providers authorised in accordance with that Article, in relation to the provision of crowdfunding services.	1. This Regulation shall apply to legal persons who choose to seek authorisation in accordance with Article 10 and to crowdfunding service providers authorised in accordance with that Article, in relation to the provision of crowdfunding services. <i>Those legal persons shall have an effective and stable establishment in a Member State in order to be eligible to apply for authorisation.</i>	
120.	Art. 2 - para 2	2. This Regulation shall not apply to:	2. This Regulation shall not apply to:	2. This Regulation shall not apply to:	
121.	Art. 2 - para 2 - point a	(a) crowdfunding services that are provided to project owners that are consumers, as defined in Article 3(a) of Directive 2008/48/EC;	(a) crowdfunding services that are provided to project owners that are consumers, as defined in Article 3(a) of Directive 2008/48/EC;	(a) crowdfunding services that are provided to project owners that are consumers, as defined in Article 3(a) of Directive 2008/48/EC;	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
122.	Art. 2 - para 2 - point b	(b) crowdfunding services that are provided by natural or legal persons that have been authorised as an investment firm in accordance with Article 7 of Directive 2014/65/EU;	(b) crowdfunding services that are provided by natural or legal persons that have been authorised as an investment firm in accordance with Article 7 of Directive 2014/65/EU;	(b) crowdfunding services that are provided by natural or legal persons that have been authorised as an investment firm in accordance with Article 7 of Directive 2014/65/EU;	
123.	Art. 2 - para 2 - point c	(c) crowdfunding services that are provided by natural or legal persons in accordance with national law;	(c) crowdfunding services that are provided by natural or legal persons in accordance with national law;	(c) crowdfunding services that are provided by natural or legal persons in accordance with national law;	
124.	Art. 2 - para 2 - point d	(d) crowdfunding offers with a consideration of more than EUR 1 000 000 per crowdfunding offer, which shall be calculated over a period of 12 months with in regard to a particular crowdfunding project.	(d) crowdfunding offers with a consideration of more than EUR 1 000 000 per crowdfunding offer, which shall be calculated over a period of 12 months with in regard to a particular crowdfunding project.	(d) crowdfunding offers with a consideration of more than EUR 8 000 000 per crowdfunding offer, which shall be calculated over a period of 12 months with in regard to a particular crowdfunding project.	
125.	Art. 2 - para 2a (new)			<i>2a. National laws on licence requirements relating to project owners or investors shall not prevent those project owners or investors from using crowdfunding services provided by crowdfunding service providers pursuant to, and authorised by, this Regulation.</i>	
126.	Art. 3 - title	<i>Article 3</i> Definitions	<i>Article 3</i> Definitions	<i>Article 3</i> Definitions	<i>Article 3</i> Definitions
127.	Art. 3 - para 1	1. For the purposes of this Regulation, the following definitions shall apply:	1. For the purposes of this Regulation, the following definitions shall apply:	1. For the purposes of this Regulation, the following definitions shall apply:	1. For the purposes of this Regulation, the following definitions LL apply: <i>LL changes</i>
128.	Art. 3 - para 1 - point a	(a) ‘crowdfunding service’ means the matching of business funding interest of investors and project owners through the use of a crowdfunding platform and which consist of any of the following:	(a) ‘crowdfunding service’ means the matching of business funding interest of investors and project owners through the use of a crowdfunding platform and which consist of any of	(a) ‘crowdfunding service’ means the provision of a crowdfunding platform which enables either of LL the following:	(a) ‘crowdfunding service’ means the matching of business funding interest of investors and project owners through the use of a crowdfunding platform and which consist of any of

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			the following:		the following: BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
129.	Art. 3 - para 1 - point a - point i	(i) the facilitation of granting of loans;	(i) the facilitation of granting of loans;	(i) <i>direct crowdfunding service, comprising the facilitation of matching a specific investor with a specific project owner and of matching a specific project owner with a specific investor,</i>	(i) the facilitation of granting of loans; BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
130.	Art. 3 - para 1 - point a - point ii	(ii) the placing without firm commitment, as referred to in point 7 of Section A of Annex I to Directive 2014/65/EU, of transferable securities issued by project owners and the reception and transmission of client orders, as referred to in point 1 of Section A to Annex I to Directive 2014/65, with regard to those transferable securities;	(ii) the placing without firm commitment, as referred to in point 7 of Section A of Annex I to Directive 2014/65/EU, of transferable securities <u>and admitted instruments for crowdfunding purposes</u> issued by project owners <u>or a special purpose vehicle</u> and the reception and transmission of client <u>investor</u> orders, as referred to in point 1 of Section A to of Annex I to Directive 2014/65/EU, with regard to those transferable securities; <u>and admitted instruments for crowdfunding purposes;</u>	(ii) <i>intermediated crowdfunding service, comprising the facilitation of matching an investor with a project owner and determining the pricing and packaging of offers in respect thereof, or the facilitation of matching a project owner with an investor and determining pricing of offers in respect thereof, or both;</i>	(ii) the placing without firm commitment, as referred to in point 7 of Section A of Annex I to Directive 2014/65/EU, of transferable securities <u>and admitted instruments for crowdfunding purposes</u> issued by project owners <u>or a special purpose vehicle</u> and the reception and transmission of client <u>investor</u> orders, as referred to in point 1 of Section A to of Annex I to Directive 2014/65/EU, with regard to those transferable securities; <u>and admitted instruments for crowdfunding purposes;</u> <i>Pending political agreement</i>
131.	Art. 3 - para 1 - point aa (new)		<u>(aa) 'loan' means a sum of money borrowed by a project owner under the agreed terms, which together with the accrued interest has to be unconditionally paid back to the investor in</u>	<i>(la) 'loan' means an agreement which obliges an investor to make available to a project owner an agreed sum of money for an agreed period of time and under which the project owner is obliged to repay</i>	<i>(la) 'loan' means an agreement whereby an investor makes available to a project owner an agreed sum amount of money for an agreed period of time and whereby the project owner assumes an unconditional</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>accordance with the instalment payment schedule;</u>	<i>that amount within the agreed time;</i>	<u>obligation to repay that amount to the investor, together with the accrued interest, in accordance with the instalment payment schedule;</u> time and under which the project owner is obliged to repay that amount within the agreed time; GREY - Technical Meeting (TM) 7/11/19
131a.					<i>aab) 'individual portfolio management in loans' means the allocation by the crowdfunding service provider, of a pre-determined amount of funds of an investor, which is an original lender, to one or multiple crowdfunding projects on its crowdfunding platform in accordance with an individual mandate given by the investor on a discretionary investor-by-investor basis;</i> <i>Pending political agreement</i>
132.	Art. 3 - para 1 - point b	(b) 'crowdfunding platform' means an electronic information system operated or managed by a crowdfunding service provider;	(b) 'crowdfunding platform' means ana <u>publicly accessible internet-based</u> electronic information system operated or managed by a crowdfunding service provider;	(b) 'crowdfunding platform' means an electronic system operated or managed by a crowdfunding service provider;	(b) 'crowdfunding platform' means ana <u>publicly accessible internet-based</u> electronic information system operated or managed by a crowdfunding service provider; <i>Discuss at next technical meeting - check existing legislations</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
133.	Art. 3 - para 1 - point c	(c) ‘crowdfunding service provider’ means a legal person who provides crowdfunding services and has been authorised for that purpose by the European Securities and Markets Authority (ESMA) in accordance with Article 11 of this Regulation;	(c) ‘crowdfunding service provider’ means a legal person who provides crowdfunding services and has been authorised for that purpose by the European Securities and Markets Authority (ESMA) in accordance with Article 11 of this Regulation;	(c) ‘crowdfunding service provider’ means a legal person who provides one or more crowdfunding services and has been authorised for that purpose by the relevant national competent authority in accordance with Article 10 of this Regulation;	(c) ‘crowdfunding service provider’ means a legal person who provides crowdfunding services; GREY - Technical Meeting (TM) 7/11/19
134.	Art. 3 - para 1 - point d	(d) ‘crowdfunding offer’ means any communication by crowdfunding service providers that contains information which enables prospective investors to decide on the merits of entering into a crowdfunding transaction;	(d) ‘crowdfunding offer’ means any communication by crowdfunding service providers that contains information which enables prospective investors to decide on the merits of entering investing into a crowdfunding transaction project ;	(d) ‘crowdfunding offer’ means any communication by crowdfunding service providers that contains information which enables prospective investors to decide on the merits of entering into a crowdfunding transaction;	(d) ‘ crowdfunding offer ’ means any communication by a crowdfunding service provider in any form and by any means, presenting sufficient information on the terms of the offer and the crowdfunding project being offered, so as to enable an investor to invest in the crowdfunding project ; GREY - Technical Meeting (TM) 7/11/19
135.	Art. 3 - para 1 - point e	(e) ‘client’ means any prospective or actual investor or project owner to whom a crowdfunding service provider provides or may provide crowdfunding services;	(e) ‘client’ means any prospective or actual investor or project owner to whom a crowdfunding service provider provides or may provide crowdfunding services;	(e) ‘client’ means any prospective or actual investor or project owner to whom a crowdfunding service provider provides or may provide crowdfunding services;	(e) ‘client’ means any prospective or actual investor or project owner to whom a crowdfunding service provider provides or may provide crowdfunding services;
136.	Art. 3 - para 1 - point f	(f) ‘project owner’ means any person that seeks to fund its crowdfunding project through a crowdfunding platform;	(f) ‘project owner’ means any person that seeks to fund its crowdfunding project through a crowdfunding platform;	(f) ‘project owner’ means any person that seeks to obtain funding through a crowdfunding platform;	(f) ‘project owner’ means any person that seeks to obtain funding through a crowdfunding platform; GREY - Technical Meeting (TM) 7/11/19
137.	Art. 3 - para 1 - point g	(g) ‘investor’ means any person that, through a crowdfunding platform,	(g) ‘investor’ means any person that, through a crowdfunding	(g) ‘investor’ means any person that, through a crowdfunding platform,	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		grants loans or acquires transferable securities;	platform, grants loans or acquires transferable securities; <u>or admitted instruments for crowdfunding purposes;</u>	grants loans or acquires transferable securities;	
138.	Art. 3 - para 1 - point ga (new)		<u>(ga) ‘sophisticated investor’ means any person that is a professional client by virtue of points (1), (2), (3) and (4) of Section I of Annex II to Directive 2014/65/EU or any person that has received the approval of the crowdfunding provider in accordance with the criteria and the procedure laid down in Annex II;</u>		
139.	Art. 3 - para 1 - point gb (new)		<u>(gb) ‘non-sophisticated investor’ means an investor who is not a sophisticated investor;</u>		
140.	Art. 3 - para 1 - point h	(h) ‘crowdfunding project’ means the business activity or activities that a project owner funds or seeks to fund through the crowdfunding offer;	(h) ‘crowdfunding project’ means the business activity or activities that a project owner funds or seeks to fund through the crowdfunding offer;	(h) ‘crowdfunding project’ means the <i>purpose for which</i> a project owner funds or seeks to <i>raise funds</i> through the crowdfunding offer;	(h) ‘crowdfunding project’ means the business activity or activities for which a project owner funds or seeks to <i>raise funding</i> through the crowdfunding offer; GREY - Technical Meeting (TM) 7/11/19
141.	Art. 3 - para 1 - point i	(i) ‘transferable securities’ means transferable securities as defined in Article 4(1)(44) of Directive 2014/65/EU;	(i) ‘transferable securities’ means transferable securities as defined in Article 4(1)(44) of Directive 2014/65/EU;	(i) ‘transferable securities’ means transferable securities as defined in Article 4(1)(44) of Directive 2014/65/EU;	(i) ‘transferable securities’ means transferable securities as defined in <i>point (44) of Article 4(1)</i> of Directive 2014/65/EU; LL changes
142.	Art. 3 - para 1 - point ia (new)		<u>(ia) ‘admitted instruments for crowdfunding purposes’ means shares of a limited liability</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>company as listed in Annex III, provided that the transfer of such shares is not subject to restrictions which would effectively prevent the shares from being transferred;</u>		
143.	Art. 3 - para 1 - point j	(j) ‘marketing communications’ means any information or communication from a crowdfunding service provider to a prospective investor or prospective project owner about the services of the crowdfunding service provider, other than investor disclosures required under this Regulation;	(j) ‘marketing communications’ means any information or communication from a crowdfunding service provider to a prospective investor or prospective project owner about the services of the crowdfunding service provider, other than investor disclosures required under this Regulation;	(j) ‘marketing communications’ means any information or communication from a crowdfunding service provider to a prospective investor or prospective project owner about the services of the crowdfunding service provider, other than investor disclosures required under this Regulation;	(j) ‘marketing communications’ means any information or communication from a crowdfunding service provider to a prospective investor or prospective project owner about the services of the crowdfunding service provider, other than investor disclosures required under this Regulation;
144.	Art. 3 - para 1 - point k	(k) ‘durable medium’ means an instrument which enables the storage of information in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows for the unchanged reproduction of the information stored;	(k) ‘durable medium’ means an instrument which enables the storage of information in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows for the unchanged reproduction of the information stored;	(k) ‘durable medium’ means an instrument which enables the storage of information in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows for the unchanged reproduction of the information stored;	(k) ‘durable medium’ means an instrument which enables the storage of information in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows for the unchanged reproduction of the information stored;
145.	Art. 3 - para 1 - point l	(l) ‘special purpose vehicle’ or ‘SPV’ means entities whose sole purpose is to carry on a securitisation within the meaning of Article 1(2) of Regulation (EU) No 1075/2013 of the European Central Bank .	(l) ‘special purpose vehicle’ or ‘SPV’ means entities whose sole purpose is to carry on <u>out</u> a securitisation within the meaning of Article 1(2) of Regulation (EU) No 1075/2013 of the European Central Bank ⁴¹ ;	(l) ‘special purpose vehicle’ or ‘SPV’ means <i>an entity created solely for, or which solely serves the purpose of</i> , a securitisation within the meaning of Article 1(2) of Regulation (EU) No 1075/2013 of the European Central Bank ⁴² .	
146.	Art. 3 - para 1 - point la (new)			<i>(la) ‘loan’ means an agreement which obliges an investor to make</i>	la) ‘loan’ means an agreement which obliges an investor to make

⁴¹ OJ L 297, 7.11.2013, p. 107.

⁴² OJ L 297, 7.11.2013, p. 107.

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				<i>available to a project owner an agreed sum of money for an agreed period of time and under which the project owner is obliged to repay that amount within the agreed time;</i>	<i>available to a project owner an agreed sum of money for an agreed period of time and under which the project owner is obliged to repay that amount within the agreed time;</i> GREY - Technical Meeting (TM) 7/11/19
147.	Art. 3 - para 1 - point la (new)		<u>(la) ‘competent authority’ means the authority designated by each Member State in accordance with Article 27a.</u>		<u>(la) ‘competent authority’ means the authority, or authorities, designated by a Member State in accordance with Article 27a.</u> GREY - Technical Meeting (TM) 29/11/19
148.	Art. 3 - para 1 - point lb (new)			<i>(lb) ‘national competent authority’ or ‘NCA’ means the national authority, or authorities, designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to the authorisation and supervision of crowdfunding service providers within the scope of this Regulation.</i>	<i>(lb) ‘national competent authority’ or ‘NCA’ means the national authority, or authorities, designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to the authorisation and supervision of crowdfunding service providers within the scope of this Regulation.</i> GREY - Technical Meeting (TM) 29/11/19
149.	Art. 3 - para 2	2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 to specify further technical elements of	2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 to specify further technical elements of		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		the definitions laid down in paragraph 1 to take into account market developments, technological developments and experience in the operation of crowdfunding platforms and provision of crowdfunding services.	the definitions laid down in paragraph 1 to take into account market developments, technological developments and experience in the operation of crowdfunding platforms and provision of crowdfunding services. <u>2.</u> <u>Where Member States decide to add or remove types of private liability companies, the shares of which should be listed in Annex III, they shall, before its entry into force, notify such a decision to the European Commission and ESMA. ESMA shall make the information publicly accessible on its website without undue delay.</u>		
150.	Chapter II - title	Chapter II Provision of crowdfunding services and organisational and operational requirements of crowdfunding service providers	CHAPTER II PROVISION OF CROWDFUNDING SERVICES AND ORGANISATIONAL AND OPERATIONAL REQUIREMENTS OF CROWDFUNDING SERVICE PROVIDERS	Chapter II Provision of crowdfunding services and organisational and operational requirements of crowdfunding service providers	Chapter II Provision of crowdfunding services and organisational and operational requirements of crowdfunding service providers
151.	Art 4 - title	<i>Article 4</i> Provision of crowdfunding services	<i>Article 4</i> Provision of crowdfunding services	<i>Article 4</i> Provision of crowdfunding services	<i>Article 4</i> Provision of crowdfunding services
152.	Art. 4 - para 1	1. Crowdfunding services shall only be provided by legal persons that have an effective and stable establishment in a Member State of	1. Crowdfunding services shall only be provided by legal persons that have an effective and stable establishment in a	1. Crowdfunding services shall only be provided by legal persons that have an effective and stable establishment in a Member State of	1. Crowdfunding services shall only be provided by legal persons that have an effective and stable establishment in a Member State of

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		the Union and that have been authorised as crowdfunding service providers in accordance with Article 11 of this Regulation.	Member State of the Union and that have been authorised as crowdfunding service providers in accordance with Article 11 of this Regulation. 10.	the Union and that have been authorised as crowdfunding service providers in accordance with Article 10 of this Regulation.	the Union and that have been authorised as crowdfunding service providers in accordance with Article 10 of this Regulation. GREY - Technical Meeting (TM) 7/11/19
153.	Art. 4 - para 1 - subpara 1a (new)			<i>Legal persons established in a third country cannot apply for authorisation as crowdfunding service providers under this Regulation.</i>	
154.	Art. 4 - para 2	2. Crowdfunding service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.	2. Crowdfunding service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.	2. Crowdfunding service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.	2. Crowdfunding service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.
155.	Art. 4 - para 3	3. Crowdfunding service providers shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer made on their platform or to a particular crowdfunding offer provided on a third party platform.	3. Crowdfunding service providers shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer made on their their platform or to a particular crowdfunding offer provided on a third party platform.	3. Crowdfunding service providers shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer made on their platform or to a particular crowdfunding offer provided on a third party platform.	3. Crowdfunding service providers shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer made on their their platform or to a particular crowdfunding offer provided on a third party platform. GREY - Technical Meeting (TM) 7/11/19
156.	Art. 4 - para 4	4. Crowdfunding service providers may exercise discretion on behalf of their clients with respect to the parameters of the clients' orders, in which case they shall disclose to their clients the exact method and	4. Crowdfunding service providers may exercise discretion on behalf of their clients with respect to the parameters of the clients' orders, in propose to the parameters of the clients' orders, in individual investors specific crowdfunding	4. Crowdfunding service providers may exercise discretion on behalf of their clients with respect to the parameters of the clients' orders, in which case they shall disclose to their clients the exact method and	4. Crowdfunding service providers may propose to individual investors specific crowdfunding projects which shall correspond to one or more specific parameters or risk indicator chosen by the investor.

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		parameters of that discretion and take all necessary steps to obtain the best possible result for their clients.	projects which ease they shall disclose <u>correspond to their clients one or more specific parameter or risk indicator chosen by the investor. Where the investor wishes to make an investment in the exact methods suggested crowdfunding projects, the investor shall review and parameters of that discretion and expressly take all necessary steps to obtain the best possible result for their clients</u> <u>an investment decision in relation to each individual crowdfunding offer.</u>	parameters of that discretion and take all necessary steps to obtain the best possible result for their clients.	Where the investor wishes to make an investment in the suggested crowdfunding projects, the investor shall review and expressly take an investment decision in relation to each individual crowdfunding offer. <u>Pending political agreement</u>
156a.					<i>4a. By way of derogation from the second subparagraph of paragraph 4 (=explicit approval - check reference), crowdfunding service providers offering individual portfolio management in loans may exercise discretion on behalf of their investors within the agreed parameters without requiring investors to review and take an investment decision in relation to each individual crowdfunding offer.</i> <u>Pending political agreement</u> <u>LL note going forward: at present, para 4 (line 156) comprises only one subpara so it will need to be split out into two subparas if this reference is kept</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
157.	Art. 4 - para 5	5. As regards the use of special purpose vehicles for the provision of crowdfunding services, crowdfunding service providers shall only have the right to transfer one asset to the special purpose vehicle to enable investors to take exposure to that asset by means of acquiring securities. The decision to take exposure to that underlying asset shall exclusively lie with investors.	5. As regards the use of Where a special purpose vehicle is used <u>a special purpose vehicle is used</u> for the provision of crowdfunding services, crowdfunding service providers only <u>one illiquid or indivisible asset can be offered through such a special purpose vehicle. This requirement</u> shall only have the right to <u>apply on a look-through basis</u> to transfer one asset to the special purpose vehicle to enable investors to take exposure to that <u>the underlying illiquid or indivisible</u> asset by means of acquiring securities held by financial or legal structures fully or partially owned or controlled by the special purpose vehicle. The decision to take exposure to that <u>the underlying illiquid or indivisible</u> asset shall exclusively lie with investors.	5. As regards the use of special purpose vehicles for the provision of crowdfunding services <i>for investors who are not eligible counterparties as defined in Directive 2014/65/EU,</i> crowdfunding service providers shall only have the right to transfer one asset to the special purpose vehicle to enable investors to take exposure to that asset by means of acquiring securities. The decision to take exposure to that underlying asset shall exclusively lie with investors.	
158.	Art. 4 - para 6 (new)		<u>6. Crowdfunding service providers shall have in place the necessary procedures to apply customer due diligence measures, including the identification of the residency of the investor and prevent that the total amount raised for a crowdfunding offer from investors resident in a given Member State is above the national threshold notified by that Member State in accordance with Article 2(2a).</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
159.	Art. 4a (new) - title			<i>Article 4a</i> <i>Intermediated crowdfunding services</i>	<i>Article 4a</i> <i>Intermediated crowdfunding services</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
160.	Art. 4a (new) - para 1			<i>For the purposes of this Regulation, intermediated crowdfunding services shall be considered to comprise the following:</i>	<i>For the purposes of this Regulation, intermediated crowdfunding services shall be considered to comprise the following:</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
161.	Art. 4a (new) - para 1 - point a			<i>a. the placing without a firm commitment basis, as referred to in point (7) of Section A of Annex I to Directive 2014/65/EU, of transferable securities or of the facilitation of loans issued by project owners;</i>	<i>a. the placing without a firm commitment basis, as referred to in point (7) of Section A of Annex I to Directive 2014/65/EU, of transferable securities or of the facilitation of loans issued by project owners;</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
162.	Art. 4a (new) - para 1 - point b			<i>b. the offer of investment advice, as referred to in point (5) of Section A to Annex I to Directive 2014/65/EU, with regards to transferable securities or the facilitation of loans issued by project owners; and</i>	<i>b. the offer of investment advice, as referred to in point (5) of Section A to Annex I to Directive 2014/65/EU, with regards to transferable securities or the facilitation of loans issued by project owners; and</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
163.	Art. 4a (new) - para 1 - point c			<i>c. the reception and transmission of client orders, as referred to in point (1) of Section A to Annex I to Directive 2014/65, in relation to transferable securities or the facilitation of loans issued by project owners.</i>	<i>e. the reception and transmission of client orders, as referred to in point (1) of Section A to Annex I to Directive 2014/65, in relation to transferable securities or the facilitation of loans issued by project owners.</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
164.	Art. 5 - title	<i>Article 5</i> Effective and prudent management	<i>Article 5</i> Effective and prudent management	<i>Article 5</i> Effective and prudent management	<i>Article 5</i> Effective and prudent management
165.	Art. 5 - para 1	1. The management of crowdfunding service providers shall establish, and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management, including the segregation of duties, business continuity and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of their clients.	1. The management of crowdfunding service providers shall establish, and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management, including the segregation of duties, business continuity and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of their clients.	1. The management of crowdfunding service providers shall establish, and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management, including the segregation of duties, business continuity and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of their clients. <i>Crowdfunding service providers who offer the services referred to in point (iia) of Article 3(1)(a) shall ensure that they have in place adequate systems and controls for the management of risk and financial modelling for that offer of services.</i>	1. The management of crowdfunding service providers shall establish, and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management, including the segregation of duties, business continuity and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of their clients. <i>Crowdfunding service providers who offer the services referred to in point (iia) of Article 3(1)(a) shall ensure that they have in place adequate systems and controls for the management of risk and financial modelling for that offer of services.</i> In addition, crowdfunding service providers that offer the services referred to in point (aab) (iia) of Article 3(1) (a) shall

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p>ensure that they have in place adequate systems and controls for the management of risk and financial modelling for that offer of services and comply with the requirements of Article 5b(1) to (3).</p> <p><i>Pending political decision</i></p> <p><i>LL note going forward: check cross-reference</i></p>
166.	Art. 5 - para 1a (new)		<u>1a. Crowdfunding service providers shall have in place appropriate systems and controls to assess the risks related to the loans intermediated on the platform.</u>		
167.	Art. 5 - para 2 (new)		<u>2. The management of crowdfunding service providers shall review periodically, taking into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider, the prudential safeguards referred to in Article 10(2)(fb) and the business continuity plan referred to in Article 10(2)(g).</u>		
168.	Art. 5 - para 2a (new)		<u>2a. Where a crowdfunding service provider determines the price of a crowdfunding offer, it must:</u>		
169.	Art. 5 - para 2a - point a (new)		<u>(a) undertake a reasonable assessment of the credit risk of the</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>crowdfunding project or project owner before the crowdfunding offer is made, including by considering the risk that the crowdfunding project or project owner will not make one or more repayments in case of a loan, bond or other form of securitised debt by the due date;</u>		
170.	Art. 5 - para 2a - point b (new)		<u>(b) base its credit risk assessment on sufficient information, including audited accounts covering the two latest financial years, if available;</u>		
171.	Art. 5 - para 2a - point b - point a (new)		<u>a. of which it is aware at the time the credit risk assessment is carried out;</u>		
172.	Art. 5 - para 2a - point b - point b (new)		<u>b. obtained, where appropriate, from the crowdfunding project or project owner, and, where necessary, any other relevant sources of information; and</u>		
173.	Art. 5 - para 2a - point b - point c (new)		<u>c. which enables the crowdfunding service provider to carry out a reasonable credit risk assessment;</u>		
174.	Art. 5 - para 2a - point c - (new)		<u>(c) establish, implement and maintain clear and effective policies and procedures to enable it to carry out credit risk assessments, and publish those policies and procedures;</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
175.	Art. 5 - para 2a - point d - (new)		<u>(d) ensure that the price is fair and appropriate;</u>		
176.	Art. 5 - para 2a - point e - (new)		<u>(e) have and use a risk management framework that is designed to achieve compliance with the requirements in points (a) to (d) of this paragraph;</u>		
177.	Art. 5 - para 2a - point f - (new)		<u>(f) maintain a record of each facilitated crowdfunding offer sufficient to demonstrate that:</u>		
178.	Art. 5 - para 2a - point f - point a (new)		<u>a. a credit risk assessment was carried out when required and in compliance with points (a) and (b) of this paragraph; and</u>		
179.	Art. 5 - para 2a - point f - point b (new)		<u>b. the price of the crowdfunding offer was fair and appropriate in line with the risk management framework.</u>		
180.	Art. 5a (new) - title			<i>Article 5a</i> <i>Due diligence requirements</i>	
181.	Art. 5a (new) - para 1			<i>1a. Crowdfunding service providers shall undertake at least a minimum level of due diligence in respect of project owners that propose their project to be funded by the crowdfunding platform of a crowdfunding service provider.</i>	
182.	Art. 5a (new) - para 2			<i>2a. The minimum level of due diligence referred to in paragraph 1 shall comprise all of the following:</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
183.	Art. 5a (new) - para 2 - point a			<i>(a) evidence that the project owner has no criminal record regarding infringements of national commercial law, national insolvency law, national financial services law, anti-money laundering law, national fraud law or national professional liability obligations;</i>	
184.	Art. 5a (new) - para 2 - point b			<i>(b) evidence that the project owner that seeks to be funded through the crowdfunding platform:</i>	
185.	Art. 5a (new) - para 2 - point b - point i			<i>(i) is not established in a non-cooperative jurisdiction, as recognised by the relevant Union policy, or in a high-risk third country pursuant to Article 9(2) of Directive (EU) 2015/849; or</i>	
186.	Art. 5a (new) - para 2 - point b - point ii			<i>(ii) effectively complies with Union or internationally agreed tax standards on transparency and exchange of information.</i>	
186a.					<p><i>Article 5b</i></p> <p><i>Individual portfolio management of loans</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
186b.					<i>1. Where a crowdfunding service provider offers individual portfolio management of loans, an investor shall give the mandate, which shall include at least one of the following criteria that every loan</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<i>in the portfolio will have to comply with:</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
186c.					(a) <i>the minimum and maximum interest rate that will be payable under any loan that may be facilitated for the investor;</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
186d.					(b) <i>the minimum and maximum maturity date of any loan that may be facilitated for the investor;</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
186e.					(c) <i>the range and distribution of risk categories that the loans may fall into; and</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19
186f.					(d) <i>if an annual target rate of return on investment is offered, the likelihood that the selected loans will enable with reasonable certainty the investor to achieve the target rate.</i> BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
186g.					<p><i>2. To be able to comply with paragraph (1), a crowdfunding service provider must have in place robust internal processes and methodologies and use appropriate data. The data may be the crowdfunding service provider's own data, or may be sourced from third parties.</i></p> <p><i>On the basis of sound and well-defined criteria and taking into account all the relevant factors, which may have unfavourable effects on the performance of the loans, the crowdfunding service provider shall assess:</i></p> <p><i>(a) the credit risk of individual crowdfunding projects selected for the investor's portfolio;</i></p> <p><i>(b) the credit risk at the investor's portfolio level; and</i></p> <p><i>(c) the creditworthiness of the owners of crowdfunding projects selected for the investor's portfolio verifying the prospect of the obligors' meeting their obligations under the loan agreements.</i></p> <p><i>The crowdfunding service provider shall also provide a description of the method used for the</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><i>assessments in points (a) to (c) to the investor.</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
186h.					<p><i>3. Where a crowdfunding service provider offers individual portfolio management of loans, it shall keep records of the given mandate and on every investment in an individual portfolio. The crowdfunding service provider shall keep records on every investment for at least 3 years after its maturity on a durable medium.</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
186i.					<p><i>4. A crowdfunding service provider shall on a continuous basis, upon the request by an investor, provide via electronic means at least the following information on each individual portfolio:</i></p> <p>(a) <i>the list of individual loans of which a portfolio is composed of;</i></p> <p>(b) <i>the weighted average annual interest rate on loans in a portfolio;</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p>(c) <i>the distribution of loans according to risk category, in percentage and absolute numbers;</i></p> <p>(d) <i>on every loan of which a portfolio is composed of, key information, including at least an interest rate, maturity date, risk category, compliance of a borrower with the a loan repayment schedule.</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
186j.					<p>5. <i>EBA shall develop draft regulatory technical standards to specify the elements, including the format, that shall be included in the description of the methods referred to in the third subparagraph of paragraph 2 of this Article.</i></p> <p><i>EBA shall submit those draft regulatory technical standards to the Commission by [Publications Office please insert date 12 months from entry into force].</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
186k.					<p>6. <i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in subparagraph 4 of</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><i>this Article in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.</i></p> <p>BLUE - TRILOGUE - AGREED IN PRINCIPLE 25/11/19</p>
187.	Art. 6 - title	<i>Article 6</i> Complaints handling	<i>Article 6</i> Complaints handling	<i>Article 6</i> Complaints handling	<i>Article 6</i> Complaints handling
188.	Art. 6 - para 1	1. Crowdfunding service providers shall establish and maintain effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients.	1. Crowdfunding service providers shall establish and maintain effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients.	1. Crowdfunding service providers shall <i>have in place and publish descriptions of</i> effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients.	
189.	Art. 6 - para 2	2. Clients shall be able to file complaints with crowdfunding service providers free of charge.	2. Clients shall be able to file complaints with crowdfunding service providers free of charge.	2. <i>Crowdfunding service providers shall ensure that clients are</i> able to file complaints <i>against them</i> free of charge.	
190.	Art. 6 - para 3	3. Crowdfunding service providers shall keep a record of all complaints received and the measures taken.	3. Crowdfunding service providers shall keep a record of all complaints received and the measures taken.	3. Crowdfunding service providers shall <i>develop and make available to clients a standard template for complaints and shall</i> keep a record of all complaints received and the measures taken.	
191.	Art. 6 - para 3a (new)			<i>3a. Crowdfunding service providers shall investigate all complaints in a timely and fair manner and communicate the outcome within a reasonable period of time to the complainant.</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
192.	Art. 6 - para 4	4. The Commission may adopt delegated acts in accordance with Article 37 to specify the requirements, standard formats and procedures for complaint handling.	4. The Commission may adopt delegated acts in accordance with Article 37 to specify the requirements, standard formats and procedures for complaint handling, <u>taking into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider.</u>	4. <i>ESMA shall develop draft regulatory technical standards</i> to specify the requirements, standard formats and procedures for complaint handling.	
193.	Art. 6 - para 4 - subpara 1a (new)			<i>ESMA shall submit those draft regulatory technical standards to the Commission by ... [XXX (months) from the date of entry into force of this Regulation].</i>	
194.	Art. 6 - para 4 - subpara 1b (new)			<i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
195.	Art. 7 - title	<i>Article 7</i> Conflicts of interest	Article 7 Conflicts of interest	<i>Article 7</i> Conflicts of interest	<i>Article 7</i> Conflicts of interest
196.	Art. 7 - para 1 - subpara 1	1. Crowdfunding service providers shall not have any financial participation in any crowdfunding offer on their crowdfunding platforms.	1. Crowdfunding service providers shall not have any financial participation in any crowdfunding offer on their crowdfunding platforms.	1. Crowdfunding service providers shall not have any financial participation in any crowdfunding offer on their crowdfunding platforms.	
197.	Art. 7 - para 1 - subpara 1a (new)			<i>By way of derogation from the first subparagraph, crowdfunding service providers may hold a financial participation in a crowdfunding offer on their</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>crowdfunding platforms when information on that participation is made clearly available to clients by publishing clear and transparent selection procedures.</i>	
198.	Art. 7 - para 2	2. Crowdfunding service providers shall not accept as their clients any of their shareholders holding 20% or more of share capital or voting rights, any of their managers or employees, or any person directly or indirectly linked to those shareholders, managers and employees by control as defined in Article 4(1)(35)(b) of Directive 2014/65/EU.	2. Crowdfunding service providers shall not accept as their clients any of their shareholders holding 20% or more of share capital or voting rights, any of their managers or employees, or any person directly or indirectly linked to those shareholders, managers and employees by control as defined in Article 4(1)(35)(b) of Directive 2014/65/EU. <u>2014/65/EU acting as project owners in relation to the crowdfunding services offered on their crowdfunding platform. Crowdfunding service providers that accept as investors in the projects offered on their crowdfunding platform any of their shareholders holding 20% or more of share capital or voting rights, any of their managers or employees, or any person directly or indirectly linked to those shareholders, managers or employees by control as defined in Article 4(1)(35)(b) of Directive 2014/65/EU shall fully disclose this on their website, including the specific offers invested in, and shall ensure that these investments are made under the</u>	2. Crowdfunding service providers shall not accept as their clients any of their shareholders holding 20% or more of share capital or voting rights, any of their managers , or any person directly linked to those shareholders and managers by control as defined in Article 4(1)(35)(b) of Directive 2014/65/EU.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>same conditions as those of other investors and that these investors do not enjoy any preferential treatment or privileged access to information.</u>		
199.	Art. 7 - para 3	3. Crowdfunding service providers shall maintain and operate effective internal rules to prevent conflicts of interest.	3. Crowdfunding service providers shall maintain and operate effective internal rules to prevent conflicts of interest.	3. Crowdfunding service providers shall maintain and operate effective internal rules to prevent conflicts of interest <i>and they shall ensure that their employees cannot hold directly or indirectly an influence over projects in which they have a financial participation.</i>	
200.	Art. 7 - para 4	4. Crowdfunding service providers shall take all appropriate steps to prevent, identify, manage and disclose conflicts of interest between the crowdfunding service providers themselves, their shareholders, their managers and employees, or any person directly or indirectly linked to them by control, as defined in Article 4(1)(35)(b) of Directive 2014/65/EU, and their clients, or between one client and another client.	4. Crowdfunding service providers shall take all appropriate steps to prevent, identify, manage and disclose conflicts of interest between the crowdfunding service providers themselves, their shareholders, their managers and/or employees, or any person directly or indirectly linked to them by control, as defined in Article 4(1)(35)(b) of Directive 2014/65/EU, and their clients, or between one client and another client.	4. Crowdfunding service providers shall take all appropriate steps to prevent, identify, manage and disclose conflicts of interest between the crowdfunding service providers themselves, their shareholders, their managers and employees, or any person directly or indirectly linked to them by control, as defined in Article 4(1)(35)(b) of Directive 2014/65/EU, and their clients, or between one client and another client.	
201.	Art. 7 - para 5	5. Crowdfunding service providers shall disclose to their clients and potential clients the general nature and sources of conflicts of interest and the steps taken to mitigate those risks when they consider that this is necessary for the measures taken in accordance with the internal rules referred to in paragraph 3 to be effective.	5. Crowdfunding service providers shall disclose to their clients and potential clients the general nature and sources of conflicts of interest and the steps taken to mitigate those risks when they consider that this is necessary for the measures taken in accordance with the internal rules	5. Crowdfunding service providers shall disclose to their clients the general nature and sources of conflicts of interest and the steps taken to mitigate those.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			referred to in paragraph 3 to be effective.		
202.	Art. 7 - para 6	6. The disclosure referred to in paragraph 5 shall:	6. The disclosure referred to in paragraph 5 shall:	6. The disclosure referred to in paragraph 5 shall:	6. The disclosure referred to in paragraph 5 shall:
203.	Art. 7 - para 6 - point a	(a) be made in a durable medium;	(a) be made in a durable medium;	(a) be made in a durable medium;	(a) be made in a durable medium;
204.	Art. 7 - para 6 - point b	(b) include sufficient detail, taking into account the nature of each client, to enable each client to take an informed decision about the service in the context of which the conflict of interest arises.	(b) include sufficient detail, taking into account the nature of each client, to enable each client to take an informed decision about the service in the context of which the conflict of interest arises.	(b) include sufficient detail, taking into account the nature of each client, to enable each client to take an informed decision about the service in the context of which the conflict of interest arises.	(b) include sufficient detail, taking into account the nature of each client, to enable each client to take an informed decision about the service in the context of which the conflict of interest arises.
205.	Art. 7 - para 7	7. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 to specify:	7. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 to specify:	7. ESMA shall develop draft regulatory technical standards to specify the following:	
206.	Art. 7 - para 7 - point a	(a) the requirements for the maintenance or operation of internal rules referred to in paragraph 3;	(a) the requirements for the maintenance or operation of internal rules referred to in paragraph 3;	(a) the requirements for the maintenance or operation of financial participation selection procedures and internal rules referred to in paragraphs 1 and 3 ;	
207.	Art. 7 - para 7 - point b	(b) the steps referred to in paragraph 4;	(b) the steps referred to in paragraph 4;	(b) the steps referred to in paragraph 4;	(b) the steps referred to in paragraph 4;
208.	Art. 7 - para 7 - point c	(c) the arrangements for the disclosure referred to in paragraphs 5 and 6.	(c) the arrangements for the disclosure referred to in paragraphs 5 and 6.	(c) the arrangements for the disclosure referred to in paragraphs 5 and 6.	(c) the arrangements for the disclosure referred to in paragraphs 5 and 6.
209.			<u>The delegated acts referred to in the first subparagraph shall take into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
210.	Art. 7 - para 7 - subpara 1a (new)			<i>ESMA shall submit those draft regulatory technical standards to the Commission by ... [XXX months from the date of entry into force of this Regulation].</i>	
211.	Art. 7 - para 7 - subpara 1b (new)			<i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
212.	Art. 7a (new) - title			<i>Article 7a</i> <i>Alignment of the interests of crowdfunding platform with the investors</i>	
213.	Art. 7a (new) - para 1			<i>1. To ensure that crowdfunding platforms align their incentives with those of investors, incentive mechanisms shall be encouraged.</i>	
214.	Art. 7a (new) - para 2			<i>2. Crowdfunding platforms may participate in the funding of a project. That participation shall not exceed 2% of the capital accumulated for the project.</i>	
215.	Art. 7a (new) - para 3			<i>3. A success fee (carry) may be granted to the crowdfunding service provider whenever the project exits successfully from the crowdfunding platform.</i>	
216.	Art. 7a (new) - para 4			<i>4. Crowdfunding service providers shall describe to ESMA the</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>alignment of interests policy that they plan to use prior to the authorisation and request its approval.</i>	
217.	Art. 7a (new) - para 5			<i>5. Crowdfunding platforms may modify the alignment of interests policy every three years. Any modification is subject to approval by ESMA.</i>	
218.	Art. 7a (new) - para 6			<i>6. Crowdfunding platforms shall explicitly describe their alignment of interests policy on their website in a prominent place.</i>	
219.	Art. 8 - title	<i>Article 8 Outsourcing</i>	<i>Article 8 Outsourcing</i>	<i>Article 8 Outsourcing</i>	<i>Article 8 Outsourcing</i>
220.	Art. 8 - para 1	1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk.	1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk.	1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk.	1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk.
221.	Art. 8 - para 2	2. Outsourcing of operational functions shall not impair materially the quality of the crowdfunding service providers' internal control and the ability of ESMA to monitor the crowdfunding service provider's compliance with all obligations laid down in this Regulation.	2. Outsourcing of operational functions shall not impair materially the quality of the crowdfunding service providers' internal control and the ability of ESMA <u>the competent authority</u> to monitor the crowdfunding service provider's compliance with all obligations laid down in this Regulation.	2. Outsourcing of operational functions shall not impair the the quality of the crowdfunding service providers' internal control and the ability of ESMA <u>the national competent authority</u> to monitor the crowdfunding service provider's compliance with all obligations laid down in this Regulation.	2. Outsourcing of operational functions shall not impair the the quality of the crowdfunding service providers' internal control and the ability of ESMA <u>the competent authority</u> to monitor the crowdfunding service provider's compliance with this Regulation. GREY - Technical Meeting (TM) 29/11/19 <u>Pending political agreement</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
222.	Art. 8 - para 3	3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.	3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.	3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.	3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.
223.	Art. 9 - title	<i>Article 9</i> Client asset safekeeping, holding of funds and providing payment services	Article 9 Client asset safekeeping, holding of funds and providing payment services	<i>Article 9</i> Client asset safekeeping, holding of funds and providing payment services	Article 9 Client asset safekeeping, holding of funds and providing payment services GREY - Technical Meeting (TM) 7/11/19
224.	Art. 9 - para 1 - intro	1. Crowdfunding service providers shall inform their clients of the following:	1. Crowdfunding Where asset safekeeping services are provided, crowdfunding service providers shall inform their clients of the following: about:	1. Crowdfunding service providers shall inform their clients of the following:	1. Crowdfunding Where asset safekeeping services are provided, crowdfunding service providers shall inform their clients of the following: about: GREY - Technical Meeting (TM) 7/11/19
225.	Art. 9 - para 1 - point a	(a) whether, and on which terms and conditions they provide asset safekeeping services, including references to applicable national law;	whether, (a) the nature and on which terms and conditions they provide for these asset safekeeping services, including references to applicable national law; and	(a) whether, and on which terms and conditions they provide asset safekeeping services, including references to applicable national law;	whether, (a) the nature and on which terms and conditions they provide of those asset safekeeping services, including references to applicable national law; and GREY - Technical Meeting (TM) 7/11/19
226.	Art. 9 - para 1 - point b	(b) whether asset safekeeping services are provided by them or by a third party;	(b) whether asset safekeeping services are provided by them directly or by a third party;	(b) whether asset safekeeping services are provided by them or by a third party;	(b) whether those asset safekeeping services are provided by them directly or by a third party; GREY - Technical Meeting (TM) 7/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
227.	Art. 9 - para 1 - point c	(c) whether payment services and the holding and safeguarding of funds are provided by the crowdfunding service provider or through a third party provider acting on their behalf.	whether payment services and the holding and safeguarding of funds are provided by the crowdfunding service provider or through a third party provider acting on their behalf.	(c) whether payment services and the holding and safeguarding of funds are provided by the crowdfunding service provider or through a third party provider acting on their behalf.	
228.	Art. 9 - para 1a (new)		<u>1a. Transferable securities or admitted instruments for crowdfunding purposes offered on a crowdfunding platform and which can be registered in a financial instruments account opened in the name of an investor or which can be physically delivered to a custodian shall be held in custody by the crowdfunding service provider or by a third party. An entity providing custody services shall be authorised in accordance with Directive 2014/65/EC or Directive CRD [exact reference to be added].</u>		
229.	Art. 9 - para 1b (new)		<u>1b. Crowdfunding service providers shall ensure that the payment services in relation to the provision of crowdfunding services are carried out in accordance with Directive 2015/2366/EU.</u>		
230.	Art. 9 - para 2	2. Crowdfunding service providers or third party providers acting on their behalf shall not hold clients' funds or provide payment services unless those funds are intended for the provision of payment services	2. Crowdfunding service providers shall not hold clients' funds or provide payment <u>2. Crowdfunding service provider may itself or through a third-party providers acting on their behalf shall not hold clients' funds or provide payment</u>	2. Crowdfunding service providers or third party providers acting on their behalf shall not hold clients' funds or provide payment services unless those funds are intended for the provision of payment services	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		related to the crowdfunding services and the crowdfunding service provider or the third party provider acting on its behalf is a payment service provider as defined in Article 4(11) of Directive (EU) 2015/2366.	services unless these funds are intended for the provision of payment services related to the crowdfunding services and provided that the crowdfunding service provider itself or the third-party provider acting on its behalf is a payment service provider as defined in Article 4(11) of in accordance with Directive (EU) 2015/2366.	related to the crowdfunding services and the crowdfunding service provider or the third party provider acting on its behalf is a payment service provider as defined in Article 4(11) of Directive (EU) 2015/2366.	
231.	Art. 9 - para 3	3. The funds referred to in paragraph 2 shall be safeguarded in accordance with the national provisions transposing Directive (EU) 2015/2366.	3. The funds referred to in paragraph 2 shall be safeguarded in accordance with the national provisions transposing Directive (EU) 2015/2366.	3. The funds referred to in paragraph 2 shall be safeguarded in accordance with the national provisions transposing Directive (EU) 2015/2366.	
232.	Art. 9 - para 4	4. Where crowdfunding service providers do not provide payment services or the holding and safeguarding of funds in relation to the crowdfunding services either themselves or through a third party, such crowdfunding service providers shall put in place and maintain arrangements to ensure that project owners accept funding of crowdfunding offers or any payment only by means of a payment service provider as defined in Article 4(11) of Directive (EU) 2015/2366.	4. Where a crowdfunding service providers do not provide payment services or the holding and safeguarding of funds in relation to the crowdfunding services either themselves provider does or through a third party, such a crowdfunding service providers provider shall put in place and maintain arrangements to ensure that project owners accept funding of crowdfunding offers or provide any payment services only by means of a payment service provider as defined operating in Article 4(11) of in accordance with Directive (EU) 2015/2366.	4. Where crowdfunding service providers do not provide payment services or the holding and safeguarding of funds in relation to the crowdfunding services either themselves or through a third party, such crowdfunding service providers shall put in place and maintain arrangements to ensure that project owners accept funding of crowdfunding offers or any payment only by means of a payment service provider or an agent providing payment services as defined in Article 4(11) and Article 19 of Directive (EU) 2015/2366.	
233.	Art. 9a (new)		<u>Article 9a</u> <u>Prudential requirements</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
234.	Art. 9a - para 1 (new)		<u>1. Crowdfunding service providers shall at all times have in place prudential safeguards equal to an amount of at least the highest between:</u>		
235.	Art. 9a - para 1 - point a (new)		<u>(a) EUR 25 000; and</u>		
236.	Art. 9a - para 1 - point b (new)		<u>(b) one quarter of the fixed overheads of the previous year, reviewed annually, which shall include the cost of servicing loans for three months when the crowdfunding service provider also facilitates the granting of loans</u>		
237.	Art 9a - para 1a (new)		<u>1a. The prudential safeguards referred to in paragraph 1 shall take one of the following forms:</u>		
238.	Art. 9a - para 1a - point a (new)		<u>(a) own funds, consisting of Common Equity Tier 1 items referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions pursuant to Article 36 in full without the application of threshold exemptions pursuant to Article 46 and 48 of that Regulation;</u>		
239.	Art. 9a - para 1a - point b (new)		<u>(b) an insurance policy covering the territories of the Union where crowdfunding offers are actively marketed or a comparable guarantee; or</u>		
240.	Art. 9a - para 1a -		<u>(c) a combination of points (a) and (b).</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point c (new)				
241.	Art. 9a - para 1b - (new)		<u>1b. Paragraph 1 does not apply to crowdfunding service providers that are undertakings subject, on a solo basis or on the basis of their consolidated situation, to the provisions of Title III of Part Three of Regulation (EU) No 575 / 2013 and undertakings which are subject, on a solo basis or on the basis of their consolidated situation, to the provisions of [Investment Firm Regulation (exact reference to be added when available)].</u>		
242.	Art. 9a - para 1c - (new)		<u>1c. Paragraph 1 does not apply to crowdfunding service providers that are undertakings subject to the provisions of Title II, Articles 7 to 9, of Directive (EU) 2015/2366 or Title II, Article 4 and 5, of Directive 2009/110/EC.</u>		
243.	Art. 9a - para 2- (new)		<u>2. Where a crowdfunding service provider has been in operation for less than 12 months it may use forward-looking business estimates in calculating the fixed overheads, provided that it starts using historical data as soon as it is available.</u>		
244.	Art. 9a - para 2a - (new)		<u>2a. The insurance policy referred to in paragraph 1 shall have at least the following characteristics:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
245.	Art. 9a - para 2a - point a - (new)		<u>(a) an initial term of no less than one year;</u>		
246.	Art. 9a - para 2a - point b - (new)		<u>(b) a notice period for cancellation of at least 90 days;</u>		
247.	Art. 9a - para 2a - point c - (new)		<u>(c) is taken out from an EU or non-EU undertaking authorised to provide insurance, in accordance with Union law or national law;</u>		
248.	Art. 9a - para 2a - point d - (new)		<u>(d) is provided by a third party entity.</u>		
249.	Art. 9a - para 2b (new)		<u>2b. The insurance policy referred to in paragraph 1 shall include, without being limited to, coverage against the risk of:</u>		
250.	Art. 9a - para 2b - point a (new)		<u>(a) loss of documents;</u>		
251.	Art. 9a - para 2b - point b (new)		<u>(b) misrepresentations or misleading statements made;</u>		
252.	Art. 9a - para 2b - point c (new)		<u>(c) acts, errors or omissions resulting in a breach of:</u>		
253.	Art. 9a - para 2b - point c - point i (new)		<u>i. legal and regulatory obligations;</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
254.	Art. 9a - para 2b - point c - point ii (new)		<u>ii. duty of skill and care towards clients;</u>		
255.	Art. 9a - para 2b - point c - point iii (new)		<u>iii. obligations of confidentiality;</u>		
256.	Art. 9a - para 2b - point d (new)		<u>(d) failure to establish, implement and maintain appropriate procedures to prevent conflicts of interest;</u>		
257.	Art. 9a - para 2b - point e (new)		<u>(e) losses arising from business disruption, system failures or process management.</u>		
258.	Art. 9a - para 2b - point f (new)		<u>(f) where applicable to the business model, gross negligence in carrying out asset valuation or credit pricing and scoring.</u>		
259.	Art. 9a - para 2c (new)		<u>2c. For the purposes of paragraph 1(b), crowdfunding service providers shall calculate their fixed overheads of the preceding year, using figures resulting from the applicable accounting framework, by subtracting the following items from the total expenses after distribution of profits to shareholders in their most recent audited annual financial statements, or, where audited statements are not available, in annual financial statements validated by national</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			supervisors:		
260.	Art. 9a - para 2c - point a (new)		<u>(a) staff bonuses and other remuneration, to the extent that they depend on a net profit of the crowdfunding service provider in the respective year;</u>		
261.	Art. 9a - para 2c - point b (new)		<u>(b) employees', directors' and partners' shares in profits;</u>		
262.	Art. 9a - para 2c - point c (new)		<u>(c) other appropriations of profits and other variable remuneration, to the extent that they are fully discretionary;</u>		
263.	Art. 9a - para 2c - point d (new)		<u>(d) shared commission and fees payable which are directly related to commission and fees receivable, which are included within total revenue, and where the payment of the commission and fees payable is contingent upon the actual receipt of the commission and fees receivable; and</u>		
264.	Art. 9a - para 2c - point e (new)		<u>(e) non-recurring expenses from non-ordinary activities.</u>		
265.	Art. 9a - para 2d (new)		<u>2d. Where fixed expenses have been incurred on behalf of the crowdfunding service providers by third parties, and these fixed expenses are not already included within the total expenses referred to in paragraph 2c, crowdfunding service providers shall take either of the following actions:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
266.	Art. 9a - para 2d - point a (new)		(a) <u>where a break-down of the expenses of those third parties is available, crowdfunding service providers shall determine the amount of fixed expenses that those third parties have incurred on their behalf and shall add that amount to the figure resulting from paragraph 2c;</u>		
267.	Art. 9a - para 2d - point b (new)		(b) <u>where the break-down referred to in point (a) is not available, crowdfunding service providers shall determine the amount of expenses incurred on their behalf by those third parties according to the crowdfunding service providers' business plans and shall add that amount to the figure resulting from paragraph 2c.</u>		
268.	Chapter II - title	Chapter II Authorisation and supervision of crowdfunding service providers	Chapter II III Authorisation and supervision of crowdfunding service providers	Chapter II Authorisation and supervision of crowdfunding service providers	
269.	Art. 10 - title	<i>Article 10</i> Authorisation as a crowdfunding service provider	<i>Article 10</i> Authorisation as a crowdfunding service provider	<i>Article 10</i> Authorisation as a crowdfunding service provider	<i>Article 10</i> Authorisation as a crowdfunding service provider
270.	Art. 10 - para 1	1. A legal person that intends to provide crowdfunding services shall	1. A legal person that intends to provide crowdfunding services shall apply to ESMA <u>the competent authority of the</u>	1. <i>In order to become a crowdfunding service provider under this Regulation, a prospective crowdfunding service</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		apply to ESMA for authorisation as a crowd funding service provider.	<u>Member State of establishment</u> for authorisation as a crowd funding <u>crowdfunding</u> service provider.	<i>provider shall apply to the national competent authority of the Member State in which it is established for authorisation to provide crowdfunding services.</i>	
271.	Art. 10 - para 2	2. The application referred to in paragraph 1 shall contain all of the following:	2. The application referred to in paragraph 1 shall contain all of the following:	2. The application referred to in paragraph 1 shall contain all of the following:	2. The application referred to in paragraph 1 shall contain all of the following:
272.	Art. 10 - para 2 - point a	(a) the address of the prospective crowdfunding service provider;	(a) the <u>name (including the legal name and any other trading name to be used), physical address and internet address of the website used exclusively by the</u> prospective crowdfunding service provider;	(a) the address of the prospective crowdfunding service provider;	(a) the <u>name (including the legal name and any other trading name to be used), physical address and internet address of the website operated exclusively by the</u> prospective crowdfunding service provider; GREY - Technical Meeting (TM) 29/11/19 “Exclusively” out, but need discussion at political level of extra requirement
273.	Art. 10 - para 2 - point b	(b) the legal status of the prospective crowdfunding service provider;	(b) the legal status of the prospective crowdfunding service provider;	(b) the legal status of the prospective crowdfunding service provider;	(b) the legal status of the prospective crowdfunding service provider;
274.	Art. 10 - para 2 - point c	(c) the articles of association of the prospective crowdfunding service provider;	(c) the articles of association of the prospective crowdfunding service provider;	(c) the articles of association of the prospective crowdfunding service provider;	(c) the articles of association of the prospective crowdfunding service provider;
275.	Art. 10 - para 2 - point d	(d) a programme of operations setting out the types of crowdfunding services that the prospective crowd funding service provider wishes to provide;	(d) a programme of operations setting out the types of crowdfunding services that the prospective crowd funding <u>crowdfunding</u> service provider wishes to provide;	(d) a programme of operations setting out the types of crowdfunding services that the prospective crowd funding service provider wishes to provide <i>and the platform that it intends to operate,</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>including where and how offers are to be marketed</i>	
276.	Art. 10 - para 2 - point e	(e) a description of the prospective crowdfunding service provider's governance arrangements and internal control mechanisms to ensure compliance with this Regulation, including risk management and accounting procedures;	(e) a description of the prospective crowdfunding service provider's governance arrangements and internal control mechanisms to ensure compliance with this Regulation, including risk management and accounting procedures;	(e) a description of the prospective crowdfunding service provider's governance arrangements and internal control mechanisms to ensure compliance with this Regulation, including risk management and accounting procedures;	(e) a description of the prospective crowdfunding service provider's governance arrangements and internal control mechanisms to ensure compliance with this Regulation, including risk management and accounting procedures;
277.	Art. 10 - para 2 - point f	(f) a description of the prospective crowdfunding service provider's systems, resources and procedures for the control and safeguarding of the data processing systems;	(f) a description of the prospective crowdfunding service provider's systems, resources and procedures for the control and safeguarding of the data processing systems;	(f) a description of the prospective crowdfunding service provider's systems, resources and procedures for the control and safeguarding of the data processing systems;	(f) a description of the prospective crowdfunding service provider's systems, resources and procedures for the control and safeguarding of the data processing systems;
278.	Art. 10 - para fa (new)		<u>(fa) a description of the prospective crowdfunding service provider's operational risks;</u>		
279.	Art. 10 - para fb (new)		<u>(fb) a description of the prospective crowdfunding service provider's prudential safeguards in accordance with Article 9a;</u>		
280.	Art. 10 - para 2 - point g	(g) a description of the prospective crowdfunding service provider's business continuity arrangements;	(g) a description of the prospective crowdfunding service provider's business continuity arrangements <u>plan which, taking into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider, establishes measures and procedures that ensure, in the event of failure of the crowdfunding service provider, the continuity of the provision of</u>	(g) a description of the prospective crowdfunding service provider's business continuity arrangements, <i>to ensure that any loan repayments and investments will continue to be administered to the investors in the event of insolvency of the prospective crowdfunding service provider;</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>critical services related to existing investments and sound administration of agreements between the crowdfunding service provider and its clients;</u>		
281.	Art. 10 - para 2 - point h	(h) the identity of the persons responsible for the management of the prospective crowdfunding service provider;	(h) the identity of the persons responsible for the management of the prospective crowdfunding service provider;	(h) the identity of the persons responsible for the management of the prospective crowdfunding service provider;	(h) the identity of the persons responsible for the management of the prospective crowdfunding service provider;
282.	Art. 10 - para 2 - point i	(i) proof that the persons referred to in point (h) are of good repute and possess appropriate knowledge and experience to manage the prospective crowdfunding service provider;	(i) proof that the persons referred to in point (h) are of good repute and possess appropriate knowledge and experience to manage the prospective crowdfunding service provider;	(i) proof that the persons referred to in point (h) are of good repute and possess appropriate knowledge and experience to manage the prospective crowdfunding service provider;	(i) proof that the persons referred to in point (h) are of good repute and possess appropriate knowledge and experience to manage the prospective crowdfunding service provider;
283.	Art. 10 - para 2 - point j	(j) a description of the internal rules of the prospective crowdfunding service provider to prevent that its shareholders who hold 20% or more of the share capital or voting rights, its managers or its employees or any person directly or indirectly linked to them by control engage in crowdfunding transactions offered by the prospective crowdfunding service provider;	(j) a description of the internal rules of the prospective crowdfunding service provider <u>provider's internal rules</u> to prevent that its shareholders who hold 20% or more of the share capital or voting rights, its managers or its employees or any person directly or indirectly linked to them <u>those shareholders, managers or employees</u> by control <u>as defined in Article 4(1)(35)(b) of Directive 2014/65/EU</u> engage <u>as project owners</u> in crowdfunding transactions <u>projects</u> offered by the prospective crowdfunding service provider;	(j) a description of the internal rules of the prospective crowdfunding service provider to prevent that its shareholders who hold 20% or more of the share capital or voting rights, its managers, or any person directly linked to them by control engage in crowdfunding transactions offered by the prospective crowdfunding service provider, <i>and that description should also covering include the internal rules of the prospective crowdfunding service provider on conflicts of interest pertaining to employees' exposure to projects;</i>	
284.	Art. 10 - para 2 - point k	(k) a description of the prospective crowdfunding service provider's outsourcing arrangements;	(k) a description of the prospective crowdfunding service provider's outsourcing arrangements;	(k) a description of the prospective crowdfunding service provider's outsourcing arrangements;	(k) a description of the prospective crowdfunding service provider's outsourcing arrangements;

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
285.	Art. 10 - para 2 - point l	(l) a description of the prospective crowdfunding service provider's procedures to deal with complaints from clients;	(l) a description of the prospective crowdfunding service provider's procedures to deal with complaints from clients;	(l) a description of the prospective crowdfunding service provider's procedures to deal with complaints from clients;	(l) a description of the prospective crowdfunding service provider's procedures to deal with complaints from clients;
286.	Art. 10 - para 2 - point m	(m) where applicable, a description of the payment services that the prospective crowdfunding service provider intends to provide under Directive (EU) 2015/2366.	where applicable, (m) a description of the payment services that whether the prospective crowdfunding service provider intends to provide <u>payment services itself</u> under Directive (EU) 2015/2366, <u>through a third-party under Directive (EU) 2015/2366, or through an arrangement in accordance with Article 9(4);</u>	(m) where applicable, a description of the payment services that the prospective crowdfunding service provider intends to provide under Directive (EU) 2015/2366.	where applicable, (m) a confirmation of the payment services that whether the prospective crowdfunding service provider intends to provide <u>payment services itself or through a third-party</u> under Directive (EU) 2015/2366, <u>under Directive (EU) 2015/2366, or through an arrangement in accordance with Article 9(4) of this Regulation;</u> GREY - Technical Meeting (TM) 29/11/19
287.	Art. 10 - para 2 - point ma (new)			<i>(ma) proof that the crowdfunding service provider is adequately covered or holds sufficient capital against the financial consequences of its professional liability in the event of a failure to comply with its professional obligations set out in this Regulation.</i>	
288.	Art. 10 - para 2 - point mb (new)		<u>(mb) a description of the prospective crowdfunding service provider's procedures to verify the completeness and the clarity of information contained in the key investment information sheet;</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
289.	Art. 10 - para 2 - point mc (new)		<u>(mc) a description of the prospective crowdfunding service provider's procedures in relation to the national threshold referred to in Article 4(6)</u>		
290.	Art. 10 - para 2 - point md (new)		<u>(md) a description of the prospective crowdfunding service provider's procedures in relation to investment limits for non-sophisticated investors referred to in Article 15a(1b).</u>		
291.	Art. 10 - para 3 - intro	3. For the purposes of paragraph 2(i), prospective crowdfunding service providers shall provide proof of the following:	3. For the purposes of paragraph 2(i), prospective crowdfunding service providers shall provide proof of the following:	3. For the purposes of paragraph 2(i), prospective crowdfunding service providers shall provide proof of the following:	3. For the purposes of paragraph 2(i), prospective crowdfunding service providers shall provide proof of the following:
292.	Art. 10 - para 3 - point a	(a) absence of criminal record in respect of convictions or penalties of national rules in force in the fields of commercial law, insolvency law, financial services legislation, anti-money laundering legislation, fraud or professional liability for all the persons involved in the management of the prospective crowd funding service provider;	(a) absence of criminal record in respect of convictions or penalties of national rules in force in the fields of commercial law, insolvency law, financial services legislation, anti-money laundering legislation, fraud or professional liability for all the persons involved in the management of the prospective crowd funding <u>crowdfunding</u> service provider <u>and for shareholders who hold 20% or more of the share capital or voting rights;</u>	(a) absence of criminal record in respect of convictions or penalties of national rules in force in the fields of commercial law, insolvency law, financial services legislation, anti-money laundering legislation, fraud or professional liability for all the persons involved in the management of the prospective crowd funding service provider;	
293.	Art. 10 - para 3 - point b	(b) proof that the persons involved in the management of the crowdfunding service provider collectively possess sufficient knowledge, skills and experience to manage the crowdfunding service provider and that those persons are	(b) proof that the persons involved in the management of the crowdfunding service provider collectively possess sufficient knowledge, skills and experience to manage the crowdfunding service provider and that those persons are required to commit sufficient time to	(b) proof that the persons involved in the management of the crowdfunding service provider collectively possess sufficient knowledge, skills and experience to manage the crowdfunding service provider and that those persons are	(b) proof that the persons involved in the management of the crowdfunding service provider collectively possess sufficient knowledge, skills and experience to manage the crowdfunding service provider and that those persons are

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		required to commit sufficient time to perform their duties.	perform their duties.	required to commit sufficient time to perform their duties.	required to commit sufficient time to <i>the performance of</i> their duties. LL correction
294.	Art. 10 - para 4	4. ESMA shall, within 20 working days of receipt of the application referred to in paragraph 1, assess whether that application is complete. Where the application is not complete, ESMA shall set a deadline by which the prospective crowdfunding service provider is to provide the missing information.	4. ESMA The competent authority shall, within 20 working days of receipt of the application referred to in paragraph 1, assess whether that application is complete: <u>by checking that the necessary information listed in paragraph 2 has been submitted.</u> Where the application is not complete, ESMA the competent authority shall set a deadline by which the prospective crowdfunding service provider is to provide the missing information.	4. <i>The national competent authority</i> shall, within 30 working days of receipt of the application referred to in paragraph 1, assess whether that application is complete. Where the application is not complete, <i>the national competent authority</i> shall set a deadline by which the prospective crowdfunding service provider is to provide the missing information.	
295.	Art. 10 - para 4a (new)		<u>4a. Where an application as referred to in paragraph 1 remains incomplete after the deadline referred to in paragraph 4, the competent authority may refuse to review the application and in the event of such refusal shall return the submitted documents to the prospective crowdfunding service provider.</u>		
296.	Art. 10 - para 5	5. Where an application as referred to in paragraph 1 is complete, ESMA shall immediately notify the prospective crowdfunding service provider thereof.	5. Where an application as referred to in paragraph 1 is complete, ESMA the competent authority shall immediately notify the prospective crowdfunding service provider thereof.	5. Where an application as referred to in paragraph 1 is complete, <i>the national competent authority</i> shall immediately notify the prospective crowdfunding service provider thereof.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
297.	Art. 10 - para 5a (new)			<i>5a. Before making a decision on the granting or refusal of an application for authorisation to provide crowdfunding service, the national competent authority shall consult the national competency authority of any other Member State in the following cases:</i>	
298.	Art. 10 - para 5a (new) - point a			<i>(a) the prospective crowdfunding service provider is a subsidiary of a crowdfunding service provider authorised in that other Member State;</i>	
299.	Art. 10 - para 5a (new) - point b			<i>(b) the prospective crowdfunding service provider is a subsidiary of the parent undertaking of a crowdfunding service provider authorised in that other Member State;</i>	
300.	Art. 10 - para 5a (new) - point c			<i>(c) the prospective crowdfunding service provider is controlled by the same natural or legal persons who control a crowdfunding service provider authorised in that other Member State;</i>	
301.	Art. 10 - para 5a (new) - point d			<i>(d) the prospective crowdfunding service provider intends to directly market offers in that other Member State.</i>	
302.	Art. 10 - para 5b (new)			<i>5b. Where either of the national competent authorities referred to in paragraph 5a disagree about the procedure or content of an action or inaction of the other, such</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>disagreement shall be resolved in accordance with Article 13a.</i>	
303.	Art. 10 - para 6	6. ESMA shall, within two months from the receipt of a complete application, assess whether the prospective crowdfunding service provider complies with the requirements set out in this Regulation and shall adopt a fully reasoned decision granting or refusing authorisation as a crowdfunding service provider. ESMA shall have the right to refuse authorisation if there are objective and demonstrable grounds for believing that the management of the crowdfunding service provider may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market.	6. ESMA <u>The competent authority</u> shall, within two <u>three</u> months from the receipt of a complete application, assess whether the prospective crowdfunding service provider complies with the requirements set out in this Regulation and shall adopt a fully reasoned decision granting or refusing authorisation as a crowdfunding service provider. ESMA <u>This assessment</u> shall have <u>take into account</u> the right to refuse authorisation if there are objective <u>nature, scale and demonstrable grounds for believing that the management complexity of the services intended to be provided by the prospective</u> crowdfunding service provider may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market.	6. <i>The national competent authority</i> shall, within <i>three</i> months from the receipt of a complete application, assess whether the prospective crowdfunding service provider complies with the requirements set out in this Regulation and shall adopt a fully reasoned decision granting or refusing authorisation as a crowdfunding service provider. <i>The national competent authority</i> shall have the right to refuse authorisation if there are objective and demonstrable grounds for believing that the management of the crowdfunding service provider may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market.	
304.	Art. 10 - para 6a (new)			<i>6a. The national competent authority shall inform ESMA of a successful application for authorisation under this Article. ESMA shall add that application to the register of approved platforms provided for in Article 11. ESMA may request information in order to</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>ensure that national competent authorities grant authorisations under this Article in a consistent manner. If ESMA does not agree with a decision of the national competent authority to grant or refuse an application for authorisation under this Article, it shall issue its reasons for such disagreement and shall explain and justify any significant deviation from the decision.</i>	
305.	Art. 10 - para 7	7. ESMA shall notify the prospective crowdfunding service provider of its decision within five working days after having taken that decision.	7. ESMA <u>The competent authority shall, within five working days after having taken that decision,</u> notify the prospective crowdfunding service provider of its decision within five working days after having taken that decision <u>and, if authorisation is granted, shall submit to ESMA the data referred to in Article 11(2).</u>	7. <i>The national competent authority</i> shall notify the prospective crowdfunding service provider of its decision within <i>two</i> working days after having taken that decision.	
306.	Art. 10 - para 7a (new)			<i>7a. A crowdfunding service provider authorised in accordance with this Article shall meet at all times the conditions for its authorisation.</i>	
307.	Art. 10 - para 8	8. The authorisation referred to in paragraph 1 shall be effective and valid for the entire territory of the Union.	8. The authorisation referred to in paragraph 1 shall be effective and valid for the entire territory of the Union.	8. The authorisation referred to in paragraph 1 shall be effective and valid for the entire territory of the Union.	
308.	Art. 10 - para 9	9. Member States shall not require crowdfunding service providers to have physical presence in the territory of a Member State other than the Member State in which	9. Member States shall not require crowdfunding service providers to have physical presence in the territory of a Member State other than the Member State in which	9. Member States shall not require crowdfunding service providers to have physical presence in the territory of a Member State other than <i>the facilities in</i> the Member	9. Member States shall not require crowdfunding service providers to have <i>a</i> physical presence in the territory of a Member State other than the facilities in the Member

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		those crowdfunding service providers are established in order to provide crowdfunding services on a cross-border basis.	those crowdfunding service providers are established in order to provide crowdfunding services on a cross-border basis.	State in which those crowdfunding service providers are established <i>and have obtained authorisation</i> in order to provide crowdfunding services on a cross-border basis.	State, in which those crowdfunding service providers are established <i>and have obtained authorisation, for those crowdfunding service providers to be able to supply crowdfunding services on a cross-border basis.</i> <i>Check coherence with Article 13a</i> GREY - Technical Meeting (TM) 7/11/19
309.	Art. 10 - para 9a (new)		<u>9a. Where an entity authorised pursuant to Directive 2014/65/EU, Directive 2015/2366/EU, Directive 2009/110/EU, Directive 2013/36/EU or national legislation applicable to crowdfunding services prior to the entry into force of this Regulation applies for authorisation as a crowdfunding service provider under this Regulation, the competent authority shall not require from that entity to provide information or documents which it has already submitted when applying for authorisation under the mentioned Directives or national legislation, provided that such information or documents remain up-to-date and are accessible to the competent authority.</u>		<u>9a. Where an entity authorised pursuant to Directive 2014/65/EU, Directive 2015/2366/EU, Directive 2009/110/EU, Directive 2013/36/EU or national law applicable to crowdfunding services prior to the entry into force of this Regulation applies for authorisation as a crowdfunding service provider under this Regulation, the competent authority shall not require from that entity to provide information or documents which it has already submitted when applying for authorisation under those Directives or national law, provided that such information or documents remain up-to-date</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><u>and are accessible to the competent authority.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p> <p><i>Pending political agreement</i></p>
310.	Art. 10 - para 9aa (new)		<p><u>9aa. Where a prospective crowdfunding service provider also seeks to apply for an authorisation to provide payment services solely in connection with the provision of crowdfunding services, and to the extent that the competent authorities are also responsible for the authorisation pursuant to Directive 2015/2366/EU, the competent authorities shall require that the information and documents to be submitted under each application are submitted only once.</u></p>		<p><u>9aa. Where a prospective crowdfunding service provider also seeks to apply applies for an authorisation to provide payment services solely in connection with the provision of crowdfunding services, and to the extent that the competent authorities are also responsible for the authorisation pursuant to Directive 2015/2366/EU, the competent authorities shall require that the information and documents to be submitted under each application are submitted only once. shall not require from that entity to provide information or documents which it has already submitted when applying for authorisation, provided that such information or documents remain up-to-date and are accessible to the competent authority.</u></p> <p>GREY - Technical Meeting (TM) 29/11/19</p> <p><i>Pending political agreement</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
311.	Art. 10 - para 10	10. The Commission shall adopt delegated acts in accordance with Article 37 to specify further the requirements and arrangements for the application referred to in paragraph 1.	<p>10. The Commission shall adopt delegated acts in accordance with Article 37 to specify further the requirements and arrangements for the application referred to in paragraph 1.</p> <p><u>The delegated acts referred to in the first sub-paragraph shall take into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider.</u></p>	10. <i>ESMA shall develop draft implementing technical standards to establish standard forms, templates and procedures for the application for authorisation.</i>	
312.	Art. 10 - para 10 - subpara 1a (new)			<i>ESMA shall submit those draft implementing technical standards to the Commission by ... [XX months from the date of entry into force of this Regulation].</i>	
313.	Art. 10 - para 10 - subpara 1b (new)			<i>Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1095/2010.</i>	
314.	Art. 10a (new)		<u>Article 10a</u> <u>Scope of authorisation</u>		
315.	Art. 10a - para 1 (new)		<u>1. The competent authorities that granted an authorisation notified under paragraph 7 of Article 10 shall ensure that such authorisation specifies the crowdfunding services which the crowdfunding</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>service provider is authorised to provide. The authorisation may only cover crowdfunding services as defined in Article 3(1)(a).</u>		
316.	Art. 10a - para 2 (new)		<u>2. A crowdfunding service provider seeking authorisation to extend its business to additional crowdfunding services not foreseen at the time of the initial authorisation shall submit a request for extension of its authorisation to the competent authorities that the crowdfunding service provider obtained its initial authorisation from by complementing and updating the information in paragraph 2 of Article 10. The request for extension shall be processed in accordance with the processing of applications referred to in paragraphs 4 to 8 of Article 10.</u>		
317.	Art. 11 - title	<i>Article 11</i> Register of crowdfunding service providers	<i>Article 11</i> Register of crowdfunding service providers	<i>Article 11</i> Register of crowdfunding service providers	<i>Article 11</i> Register of crowdfunding service providers
318.	Art. 11 - para 1	1. ESMA shall establish a register of all crowdfunding service providers. That register shall be publicly available on its website and shall be updated on a regular basis.	1. ESMA shall establish a register of all crowdfunding service providers. That register shall be publicly available on its website and shall be updated on a regular basis.	1. ESMA shall establish a register of all crowdfunding service providers. That register shall be publicly available on its website and shall be updated on a regular basis.	1. ESMA shall establish a register of all crowdfunding service providers. That register shall be publicly available on its website and shall be updated on a regular basis.
319.	Art. 11 - para 2	2. The register referred to in paragraph 1 shall contain the following data:	2. The register referred to in paragraph 1 shall contain the following data:	2. The register referred to in paragraph 1 shall contain the following data:	2. The register referred to in paragraph 1 shall contain the following data:

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
320.	Art. 11 - para 2 - point a	(a) the name and legal form of the crowdfunding service provider;	(a) the name and , legal form <u>and where applicable, the legal entity identifier</u> of the crowdfunding service provider;	(a) the name and legal form of the crowdfunding service provider;	(a) the name and , legal form <u>and where applicable, the legal entity identifier</u> of the crowdfunding service provider; GREY - Technical Meeting (TM) 29/11/19
321.	Art. 11 - para 2 - point b	(b) the commercial name and internet address of the crowdfunding platform operated by the crowdfunding service provider;	(b) the commercial name and internet address of the crowdfunding platform operated by the crowdfunding service provider;	(b) the commercial name and internet address of the crowdfunding platform operated by the crowdfunding service provider;	(b) the commercial name and internet address of the crowdfunding platform operated by the crowdfunding service provider;
322.	Art. 11 - para 2 - point ba (new)		<u>(ba) the competent authority which granted authorisation and its contact details;</u>		<u>(ba) the name and address of the competent authority which granted authorisation and its contact details;</u> GREY - Technical Meeting (TM) 29/11/19
323.	Art. 11 - para 2 - point c	(c) information on the services for which the crowdfunding service provider is authorised;	(c) information on the services for which the crowdfunding service provider is authorised;	(c) information on the services for which the crowdfunding service provider is authorised;	(c) information on the services for which the crowdfunding service provider is authorised;
324.	Art. 11 - para 2 - point ca (new)		<u>(ca) the Member States in which the crowdfunding service provider is providing services;</u>		<u>(ca) the Member States in which the crowdfunding service provider has notified its intention to provide services in accordance with Article 13a;</u> <u>Reference to be confirmed after political discussion</u> GREY - Technical Meeting (TM) 29/11/19
325.	Art. 11 - para 2 - point cb (new)		<u>(cb) any other activities provided by the crowdfunding service provider not covered by</u>		<u>(cb) any other activities services provided by the crowdfunding service provider not covered by</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>this Regulation with a reference to the relevant national or EU legislation;</u>		<u>this Regulation with a reference to the relevant national or Union law;</u> GREY - Technical Meeting (TM) 29/11/19
326.	Art. 11 - para 2 - point d	(d) sanctions imposed on the crowdfunding service provider or its managers.	(d) sanctions imposed on the crowdfunding service provider or its managers.	(d) sanctions imposed on the crowdfunding service provider or its managers.	(d) penalties imposed on the crowdfunding service provider or its managers. LL change
327.	Art. 11 - para 3	3. Any withdrawal of an authorisation in accordance with Article 13 shall be published in the register for five years.	3. Any withdrawal of an authorisation in accordance with Article 13 shall be published in the register for five years.	3. Any withdrawal of an authorisation in accordance with Article 13 shall be published in the register for five years.	3. Any withdrawal of authorisation of a crowdfunding service provider in accordance with Article 13 shall be published in the register for five years. LL change
328.	Art. 12 - title	<i>Article 12</i> Supervision	Article 12 Supervision	<i>Article 12</i> Supervision	<i>Article 12</i> Supervision
329.	Art. 12 - para 1	1. Crowdfunding service providers shall provide their services under the supervision of ESMA.	1. CrowdfundingThe crowdfunding service providers providers provider shall provide their its services under the supervision of ESMA the competent authorities designated in accordance with Article 27a by the Member State which granted authorisation.	1. Crowdfunding service providers shall provide their services under the supervision of the national competent authority of the Member State where the crowdfunding service provider has been authorised.	
330.	Art. 12 - para 2	2. Crowdfunding service providers shall comply at all times with the conditions for authorisation.	2. CrowdfundingThe crowdfunding service providers providers provider shall comply at all times with the conditions for authorisation	2. Crowdfunding service providers shall comply at all times with the conditions for authorisation set out in Article 10 of this Regulation.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
331.	Art. 12 - para 3	3. ESMA shall assess compliance of crowdfunding service providers with the obligations provided for in this Regulation.	3. ESMA <u>The relevant competent authority</u> shall assess the compliance of the crowdfunding service providers <u>provider</u> with the obligations provided for in this Regulation.	3. <i>The national competent authority</i> shall assess compliance of crowdfunding service providers with the obligations provided for in this Regulation. <i>It shall determine the frequency and depth of that assessment having regard to the size and complexity of the activities of the crowdfunding service provider. For the purpose of that assessment, the national competent authority may subject the crowdfunding service provider to an on-site inspection.</i>	
332.	Art. 12 - para 4	4. Crowdfunding service providers shall notify ESMA of any material changes to the conditions for authorisation without undue delay and, upon request, shall provide the information needed to assess their compliance with this Regulation.	4. Crowdfunding <u>The crowdfunding</u> service providers <u>provider</u> shall notify ESMA <u>the relevant competent authority</u> of any material changes to the conditions for authorisation without undue delay and, upon request, shall provide the information needed to assess their compliance with this Regulation.	4. Crowdfunding service providers shall notify <i>the national competent authority</i> of any material changes to the conditions for authorisation without undue delay and, upon request, shall provide the information needed to assess their compliance with this Regulation.	
333.	Art. 12a (new) - title			<i>Article 12 a</i> <i>Designation of the competent authority</i>	<i>Article 12 a</i> <i>Designation of the competent authority</i> See line 654 > GREY - Technical Meeting (TM) 20/11/19
334.	Art. 12a (new) - para 1 - subpara 1			<i>1. Each Member State shall designate the national competent authority responsible for carrying</i>	<i>1. Each Member State shall designate the national competent authority responsible</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				out the duties under this Regulation for the authorisation and supervision of crowdfunding services providers and shall inform ESMA thereof.	for carrying out the duties under this Regulation for the authorisation and supervision of crowdfunding services providers and shall inform ESMA thereof. GREY - Technical Meeting (TM) 20/11/19
335.	Art. 12a (new) - para 1 - subpara 2			Where a Member State designates more than one national competent authority, it shall determine their respective roles and shall designate a single authority to be responsible for cooperation with the national competent authorities of other Member States and with ESMA, where provided for in this Regulation.	Where a Member State designates more than one national competent authority, it shall determine their respective roles and shall designate a single authority to be responsible for cooperation with the national competent authorities of other Member States and with ESMA, where provided for in this Regulation. GREY - Technical Meeting (TM) 20/11/19
336.	Art. 12a (new) - para 2			2. ESMA shall publish on its website a list of the competent authorities designated in accordance with the first subparagraph.	2. ESMA shall publish on its website a list of the competent authorities designated in accordance with the first subparagraph. <u>Pending political agreement (but in principle OK)</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
337.	Art. 12a (new) - para 3			<i>3. The national competent authorities shall have the supervisory and investigatory powers necessary for the exercise of their functions.</i>	<i>3. The national competent authorities shall have the supervisory and investigatory powers necessary for the exercise of their functions.</i> See line 682 GREY - Technical Meeting (TM) 29/11/19
338.	Art. 13 - title	<i>Article 13</i> Withdrawal of authorisation	Article 13 Withdrawal of authorisation	<i>Article 13</i> Withdrawal of authorisation	<i>Article 13</i> Withdrawal of authorisation
339.	Art. 13 - para 1	1.ESMA shall have the power to withdraw the authorisation of a crowdfunding service provider in any of the following situations where the crowdfunding service provider:	1. ESMA <u>The competent authorities designated in accordance with Article 27a by the Member State which granted authorisation</u> shall have the power to withdraw the authorisation of a crowdfunding service provider in any of the following situations where the crowdfunding service provider:	1. <i>The national competent authorities</i> shall have the power to withdraw the authorisation of a crowdfunding service provider in any of the following situations where the crowdfunding service provider:	
340.	Art. 13 - para 1 - point a	(a) has not used its authorisation within 18 months after the authorisation has been granted;	(a) has not used its authorisation within 18 <u>12</u> months after the authorisation has been granted;	(a) has not used its authorisation within 18 months after the authorisation has been granted;	
341.	Art. 13 - para 1 - point b	(b) has expressly renounced its authorisation;	(b) has expressly renounced its authorisation;	(b) has expressly renounced its authorisation;	(b) has expressly renounced its authorisation;
342.	Art. 13 - para 1 - point c	(c) has not provided crowdfunding services for six successive months;	(c) has not provided crowdfunding services <u>in the</u>	(c) has not provided crowdfunding services for six successive months;	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>meaning of Article 3(1)(a) for sixnine successive months; and is also no longer involved in the administration of existing contracts that were initially matched through the use of its crowdfunding platform;</u>		
343.	Art. 13 - para 1 - point d	(d) has obtained its authorisation by irregular means, including making false statements in its application for authorisation;	(d) has obtained its authorisation by irregular means, including making false statements in its application for authorisation;	(d) has obtained its authorisation by irregular means, including making false statements in its application for authorisation;	(d) has obtained its authorisation by irregular means, including making false statements in its application for authorisation;
344.	Art. 13 - para 1 - point e	(e) no longer meets the conditions under which the authorisation was granted;	(e) no longer meets the conditions under which the authorisation was granted;	(e) no longer meets the conditions under which the authorisation was granted;	(e) no longer meets the conditions under which the authorisation was granted;
345.	Art. 13 - para 1 - point f	(f) has seriously infringed the provisions of this Regulation.	(f) has seriously infringed the provisions of this Regulation;	(f) has seriously infringed the provisions of this Regulation.	(f) has seriously infringed the provisions of this Regulation.
346.	Art. 13 - para 1 - point fa (new)		<u>(fa) or a third party provider acting on its behalf has lost the authorisation allowing for the provision of payment services as defined in Directive (EU) 2015/2366 or investment services under Directive 2014/65/EU, and such a crowdfunding service provider has failed to remedy the situation within a reasonable time;</u>		
347.	Art. 13 - para 1 - point fb (new)		<u>(fb) which is also a payment services provider as defined in Directive (EU) 2015/2366, or its managers, employees or third parties acting on its behalf, have breached national legislation transposing Directive (EU) 2015/849 in</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>respect of money laundering or terrorism financing.</u>		
348.	Art. 13 - para 1 - point g (new)			<i>(g) has lost its authorisation as a payment institution in accordance with pursuant to Article 13 of Directive 2015/2366/EU, or a third party provider acting on its behalf has lost that authorisation;</i>	
349.	Art. 13 - para 1 - point h (new)			<i>(h) has infringed provisions of national law implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing, or its managers, employees or third parties acting on its behalf have infringed those provisions.</i>	
350.	Art. 13 - para 2 - subpara 1	2. National competent authorities shall notify ESMA of the following without delay:	2. National competent authorities shall notify ESMA of the following without delay:		
351.	Art. 13 - para 2 - subpara 1 - point a	(a) the fact that a crowdfunding service provider, or a third party provider acting on behalf of that crowdfunding service provider, has lost its authorisation as a payment institution in accordance with Article 13 of Directive 2015/2366/EU;	the fact that a crowdfunding service provider, or a third party provider acting on behalf of that crowdfunding service provider, has lost its authorisation as a payment institution in accordance with Article 13 of Directive 2015/2366/EU;		
352.	Art. 13 - para 2 - subpara 1 - point b	(b) the fact that a crowdfunding service provider, or its managers, employees or third parties acting on its behalf, have breached national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing.	the fact that a crowdfunding service provider, or its managers, employees or third parties acting on its behalf, have breached national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing.		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
353.	Art. 13 - para 2 - subpara 2	Subparagraph 2(b) shall also apply to national competent authorities designated under the provisions of Directive (EU) 2015/849.	Subparagraph 2(b) shall also apply to national competent authorities designated under the provisions of Directive (EU) 2015/849.		
354.	Art. 13 - para 3	3. ESMA shall withdraw the authorisation as a crowdfunding service provider where ESMA is of the opinion that the facts referred to in points (a) and (b) of paragraph 2 affect the good repute of the management of the crowdfunding service provider, or indicate a failure of the governance arrangements, internal control mechanisms or procedures referred to in Article 5.	3. ESMA shall withdraw the authorisation as a crowdfunding service provider where ESMA is of the opinion that the facts referred to in points (a) and (b) of paragraph 2 affect the good repute of the management of the crowdfunding service provider, or indicate a failure of the governance arrangements, internal control mechanisms or procedures referred to in Article 5.		
355.	Art. 13 - para 4	4. ESMA shall notify, without undue delay, the national competent authority of the Member State where the crowdfunding service provider is established of its decision to withdraw the authorisation of a crowdfunding service provider.	4. ESMA shall notify, without undue delay, the national competent authority of the Member State where the crowdfunding service provider is established of its decision to withdraw the authorisation of a crowdfunding service provider. <u>4. ESMA shall notify, without undue delay, the national competent authority designated as a single point of contact in accordance with Article 27a, paragraph 2, by the Member State which withdrew the authorisation shall notify, without undue delay, the competent authorities of the Member States where the crowdfunding service provider is established of its decision to withdraw the authorisation of a provides crowdfunding service providers services in accordance with Article 13a and ESMA, which shall introduce this information in the register referred to in Article 11.</u>	4. <i>The national competent authorities</i> shall notify, without undue delay, <i>ESMA</i> of <i>their</i> decision to withdraw the authorisation of a crowdfunding service provider.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
356.	Art. 13 - para 4a (new)			<i>4a. Before making a decision to withdraw the authorisation of a crowdfunding service provider to provide crowdfunding services, the national competent authority shall consult the national competent authority of any other Member State in cases where the crowdfunding service provider:</i>	
357.	Art. 13 - para 4a (new) - point a			<i>(a) is a subsidiary of a crowdfunding service provider authorised in that other Member State;</i>	
358.	Art. 13 - para 4a (new) - point b			<i>(b) is a subsidiary of the parent undertaking of a crowdfunding service provider authorised in that other Member State;</i>	
359.	Art. 13 - para 4a (new) - point c			<i>(c) is controlled by the same natural or legal persons who control a crowdfunding service provider authorised in that other Member State;</i>	
360.	Art. 13 - para 4a (new) - point d			<i>(d) directly markets offers in that other Member State.</i>	
361.	Art. 13a (new) - title			<i>Article 13a</i> <i>Settlement of disputes between competent authorities</i>	
362.	Art. 13a (new) - para 1 - subpara 1			<i>1. Where a competent authority disagrees about the procedure or content of an action or inaction of a competent authority of another</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>Member State regarding the application of this Regulation, ESMA, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.</i>	
363.	Art. 13a (new) - para 1 - subpara 2			<i>Where on the basis of objective criteria disagreement between competent authorities from different Member States can be identified, ESMA may, on its own initiative, assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.</i>	
364.	Art. 13a (new) - para 2 - subpara 1			<i>2. ESMA shall set a time limit for conciliation between the competent authorities taking into account any relevant time periods, as well as the complexity and urgency of the matter. At that stage ESMA shall act as a mediator.</i>	
365.	Art. 13a (new) - para 2 - subpara 2			<i>If the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in the first subparagraph, ESMA may, in</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>accordance with the procedure set out in the third and fourth subparagraph of Article 44(1) of Regulation (EU) No 1095/2010, take a decision requiring them to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with Union law.</i>	
366.	Art. 13a (new) - para 3			<i>3. Without prejudice to the powers of the Commission under Article 258 TFEU, where a competent authority does not comply with the decision of ESMA, and thereby fails to ensure that a crowdfunding service provider complies with requirements under this Regulation, ESMA may adopt an individual decision addressed to the crowdfunding service provider requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice.</i>	
367.	Art. 13a (new) - para 4			<i>4. Decisions adopted under paragraph 3 shall prevail over any previous decision adopted by the competent authorities on the same matter. Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be compatible with such decision.</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
368.	Art. 13a (new) - para 5			<i>5. In the report referred to in Article 50(2) of Regulation (EU) No 1095/2010, the Chairperson of ESMA shall set out the nature and type of disagreements between competent authorities, the agreements reached and the decisions taken to settle such disagreements.</i>	
369.	Art. 13a (new)		<u>Article 13a</u> <u>Cross-border provision of crowdfunding services</u>		
370.	Art. 13a - para 1 (new)		<u>1. Where the crowdfunding service provider authorised in accordance with Article 10 intends to provide crowdfunding services in a Member State other than the Member State whose competent authority granted authorisation in accordance with Article 10, it shall submit to the competent authority designated as a single point of contact in accordance with Article 27a, paragraph 2, by the Member State which granted authorisation the following information:</u>		
371.	Art. 13a - para 1 - point a (new)		<u>(a) the Member States in which the crowdfunding service provider intends to provide crowdfunding services;</u>		
372.	Art. 13b - para 1 - point a (new)		<u>(b) the identity of the persons responsible for the provision of the crowdfunding services in those Member States;</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
373.	Art. 13a - para 1 - point c (new)		<u>(c) the starting date of the intended provision of the crowdfunding services by the crowdfunding service provider;</u>		
374.	Art. 13a - para 1 - point d (new)		<u>(d) any other activities provided by the crowdfunding service provider not covered by this Regulation.</u>		
375.	Art. 13a - para 2 (new)		<u>2. The single point of contact of the Member State which granted authorisation shall, within ten working days of receipt of the information referred to in paragraph 1, communicate that information to the competent authorities of the Member States in which the crowdfunding service provider intends to provide crowdfunding services as referred to in paragraph 1 and to ESMA, which shall introduce this information in the register referred to in Article 11.</u>		
376.	Art. 13a - para 3 (new)		<u>3. The single point of contact of the Member State which granted authorisation shall thereafter inform without delay the crowdfunding service provider of such communication.</u>		
377.	Art. 13a - para 4 (new)		<u>4. The crowdfunding service provider may start to provide crowdfunding services in the Member States referred to in paragraph 1 from the date of the receipt of the communication referred to in paragraph 3.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
378.	Chapter IV - title	Chapter IV Transparency and entry knowledge test by crowdfunding service providers	CHAPTER IV TRANSPARENCY AND ENTRY KNOWLEDGE TEST BY CROWDFUNDING SERVICE PROVIDERS	Chapter IV Transparency and entry knowledge test by crowdfunding service providers	Chapter IV Transparency and entry knowledge test by crowdfunding service providers <i>To consider redrafting of Chapter title once agreed politically</i>
379.	Art. 14 - title	<i>Article 14</i> Information to clients	<i>Article 14</i> Information to clients	<i>Article 14</i> Information to clients	<i>Article 14</i> Information to clients
380.	Art. 14 - para 1	1. All information, including marketing communications as referred to in Article 19, from crowdfunding service providers to clients or potential clients about themselves, about the costs and charges related to crowdfunding services or investments, about the crowdfunding conditions, including crowdfunding project selection criteria, or about the nature of and risks associated with their crowdfunding services shall be clear, comprehensible, complete and correct.	1. All information, including marketing communications as referred to in Article 19, from crowdfunding service providers to clients or potential clients about themselves, about the costs and charges related to crowdfunding services or investments, about the crowdfunding conditions, including crowdfunding project selection criteria, or about the nature of and risks associated with their crowdfunding services shall be clear, comprehensible, complete and correct.	1. All information, including marketing communications as referred to in Article 19, from crowdfunding service providers to clients about themselves, about the costs, financial risks and charges related to crowdfunding services or investments, including about insolvency risks of the crowdfunding service provider about the crowdfunding conditions, including crowdfunding project selection criteria, or about the nature of and risks associated with their crowdfunding services shall be fair , clear, and not misleading .	
381.	Art. 14 - para 1a (new)		<u>1a. Crowdfunding service providers shall inform clients and potential clients that their crowdfunding services are not covered by the deposit guarantee scheme established in accordance with Directive 2014/49/EU and that transferable securities or admitted instruments</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>for crowdfunding purposes acquired through their crowdfunding platform are not covered by the investor compensation scheme established in accordance with Directive 97/9/EC.</u>		
382.	Art. 14 - para 1b (new)		1b. Crowdfunding service providers shall inform their clients about the reflection period for non-sophisticated investors referred to in Article 15b. Such information shall be provided in a prominent place on every page of each website and mobile application of the crowdfunding service provider containing an offer to invest into a crowdfunding project.		
383.	Art. 14 - para 2	2. The information referred to in paragraph 1 shall be provided to potential clients before they enter into a crowdfunding transaction.	2. The information referred to in paragraph paragraphs 1, 1a and 1b shall be provided to potential clients before they enter into a transaction with the crowdfunding transaction service provider.	2. <i>All information to be provided to clients in accordance with paragraph 1 shall be provided in a concise, accurate and easily accessible manner, including on the website of the crowdfunding service provider. The information shall be provided whenever appropriate, including prior to entering into a crowdfunding transaction.</i>	
384.	Art. 14 - para 3	3. The information referred to in paragraph 1 shall be available to all clients and potential clients on a clearly identified section of the website of the crowdfunding	3. The information referred to in paragraph paragraphs 1, 1a, 1b and 4 shall be available to all clients and potential clients on a clearly identified section of the website of		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		platform and in a non-discriminatory manner.	the crowdfunding platform and in a non-discriminatory manner.		
385.	Art. 14 - para 4 (new)		<u>4. Crowdfunding service providers which provide crowdfunding services consisting of the facilitation of granting of loans shall, in addition to the information referred to in paragraph 1, make available and periodically update default rates of loans granted through their crowdfunding platform. The default rates shall cover a minimum period of five years from the date the default rates are made available.</u>		
386.	Art. 14 - para 4a (new)		<u>4a. If crowdfunding service providers apply credit scores to crowdfunding projects or suggest pricing of crowdfunding offers on their crowdfunding platform, a description of the method used to calculate such credit scores or prices. If the estimation is based on accounts that are not audited, this should be clearly disclosed in the description of the method.</u>		
387.	Art. 14 - para 5 (new)		<u>5. EBA shall develop draft regulatory technical standards to specify the elements, including the format, that shall be included in the description of the method referred to in paragraph 4a of this Article to calculate credit scores or pricing.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
388.	Art. 14 - para 5 - subpara 1 (new)		<u>EBA shall submit those draft regulatory technical standards to the Commission by [Publications Office please insert date 24 months from entry into force].</u>		
389.	Art. 14 - para 5 - subpara 2 (new)		<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.</u>		
390.	Art. 14a (new) - title			<i>Article 14 a</i> <i>Default rate disclosure</i>	
391.	Art. 14a (new) - para 1			<i>1. Crowdfunding service providers shall disclose annually the default rates of the crowdfunding projects offered on their crowdfunding platform over at least the preceding 24 months.</i>	
392.	Art. 14a (new) - para 2			<i>2. The default rates referred to in paragraph 1 shall be published online in a prominent place on the website of the crowdfunding service provider.</i>	
393.	Art. 14a (new) - para 3 - subpara 1			<i>3. In close cooperation with the EBA, ESMA shall develop draft regulatory technical standards to specify the methodology for calculating the default rate of the projects offered on crowdfunding platform.</i>	
394.	Art. 14a (new) - para 3 - subpara 2			<i>ESMA shall submit those draft regulatory technical standards to</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>the Commission by ... [XX months from the date of entry into force of this Regulation].</i>	
395.	Art. 14a (new) - para 3 - subpara 3			<i>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
396.	Art. 15 - title	<i>Article 15</i> Entry knowledge test and simulation of the ability to bear loss	Article 15 Entry knowledge test and simulation of the ability to bear loss	<i>Article 15</i> Entry knowledge test and simulation of the ability to bear loss	<i>Article 15</i> Entry knowledge test and simulation of the ability to bear loss
397.	Art. 15 - para 1	1. Crowdfunding service providers shall, before giving prospective investors full access to their crowdfunding offers, assess whether and which crowdfunding services offered are appropriate for the prospective investors.	1. Crowdfunding service providers shall, before giving prospective <u>non-sophisticated</u> investors full access to <u>invest in</u> their crowdfunding offers <u>projects</u> , assess whether and which crowdfunding services offered are appropriate for the prospective <u>non-sophisticated</u> investors.	1. Crowdfunding service providers shall assess whether and which crowdfunding services offered are appropriate for the prospective investors.	
398.	Art. 15 - para 2	2. For the purposes of the assessment pursuant to the first paragraph 1, crowdfunding service providers shall request information about the prospective investor's basic knowledge and understanding of risk in investing in general and in the types of investments offered on the crowdfunding platform, including information about:	2. For the purposes of the assessment pursuant to the first paragraph 1, crowdfunding service providers shall request information about the prospective <u>non-sophisticated</u> investor's basic knowledge and understanding of risk in investing in general and in the types of investments offered on the crowdfunding platform, including	2. For the purposes of the assessment pursuant to paragraph 1, crowdfunding service providers shall request information about the prospective investor's <i>experience, investment objectives, financial situation and</i> basic understanding of risk in investing in general and in the types of investments offered on the	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			information about:	crowdfunding platform, including information about:	
399.	Art. 15 - para 2 - point a	(a) the prospective investor's past investments in transferable securities or loan agreements, including in early or expansion stage businesses;	(a) the prospective <u>non-sophisticated</u> investor's past investments in transferable securities, <u>admitted instruments for crowdfunding purposes</u> or loan agreements, including in early or expansion stage businesses;	(a) the prospective investor's past investments in transferable securities or loan agreements, including in early or expansion stage businesses;	
400.	Art. 15 - para 2 - point b	(b) any relevant knowledge or professional experience in relation to crowdfunding investments.	(b) any relevant knowledge or professional experience in relation to crowdfunding investments.	(b) <i>the understanding of the prospective investor of the risks involved in granting loans or acquiring transferable securities through a crowdfunding platform, and</i> professional experience in relation to crowdfunding investments.	
401.	Art. 15 - para 3	3. Crowdfunding service providers shall take the measures necessary to comply with paragraph 1 for each investor every two years.	3. Crowdfunding service providers shall take the measures necessary to comply with paragraph 1 for each <u>non-sophisticated</u> investor every two years.		
402.	Art. 15 - para 4	4. Where prospective investors do not provide the information required pursuant to paragraph 1, or where crowdfunding service providers consider, on the basis of the information received under paragraph 1 that the prospective investors have insufficient knowledge, crowdfunding service providers shall inform those prospective investors that the services offered on their platforms may be inappropriate for them and give them a risk warning. That	4. Where prospective <u>non-sophisticated</u> investors do not provide the information required pursuant to paragraph 1, or where crowdfunding service providers consider, on the basis of the information received under paragraph 1, that the prospective <u>non-sophisticated</u> investors have insufficient knowledge, crowdfunding service providers shall inform those prospective <u>non-sophisticated</u> investors that the services offered on their platforms	4. Where crowdfunding service providers consider, on the basis of the information received under paragraph 2, that the prospective investors have insufficient <i>understanding of the offer or that the offer is not suitable for those prospective investors,</i> crowdfunding service providers shall inform those prospective investors that the services offered on their platforms may be inappropriate for them and give them a risk warning. That information or risk	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		information or risk warning shall not prevent prospective investors from investing in crowdfunding projects.	may be inappropriate for them and give them a risk warning. That information or risk warning shall not prevent prospective Prospective non-sophisticated investors from investing inshall expressly acknowledge that they have received and understood the warning issued by the crowdfunding projects. service provider.	warning shall not prevent prospective investors from investing in crowdfunding projects. <i>The information or risk warning shall clearly state the risk of losing the entirety of the money invested.</i>	
403.	Art. 15 - para 5 - subpara 1	5. Crowdfunding service providers shall at all times offer prospective investors and investors the possibility to simulate their ability to bear loss, calculated as 10% of their net worth, based on the following information:	5. Crowdfunding service providers shall at all times offer prospective non-sophisticated investors and non-sophisticated investors the possibility to simulate their ability to bear loss, calculated as 10% of their net worth, based on the following information:	5. <i>All crowdfunding</i> service providers shall at all times offer prospective investors and investors the possibility to simulate their ability to bear loss, calculated as 10% of their net worth, based on the following information:	
404.	Art. 15 - para 5 - point a	(a) regular income and total income, and whether the income is earned on a permanent or temporary basis;	(a) regular income and total income, and whether the income is earned on a permanent or temporary basis;	(a) regular income and total income <i>and, where appropriate, household income</i> , and whether the income is earned on a permanent or temporary basis;	
405.	Art. 15 - para 5 - point b	(b) assets, including financial investments, personal and investment property, pension funds and any cash deposits;	(b) assets, including financial investments, personal and investment property, pension funds and any cash deposits;	(b) assets, including financial investments, personal and investment property, pension funds and any cash deposits;	(b) assets, including financial investments, personal and investment property, pension funds and any cash deposits;
406.	Art. 15 - para 5 - point c	(c) financial commitments, including regular, existing or future.	(c) financial commitments, including regular, existing or future.	(c) financial commitments, including regular, existing or future.	(c) financial commitments, including regular, existing or future.
407.	Art. 15 - para 5 - subpara 2	Irrespective of the results of the simulation, prospective investors and investors shall not be prevented from investing in crowdfunding projects.	Irrespective of the results of the simulation, prospective non-sophisticated investors and non-sophisticated investors shall not be prevented from investing in	<i>On the basis</i> of the results of the simulation, <i>crowdfunding service providers may prevent</i> prospective investors and investors from investing in crowdfunding projects.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			crowdfunding projects. <u>The non-sophisticated investor shall acknowledge the results of the simulation.</u>	<i>However, investors shall remain responsible for the full risk of making an investment.</i>	
408.	Art. 15 - para 6 - subpara 1 - intro	6. The Commission may adopt delegated acts in accordance with Article 37 to specify the arrangements necessary to:	6. The Commission may adopt delegated acts in accordance with Article 37 to specify the arrangements necessary to:	6. <i>In close cooperation with the EBA, ESMA shall develop draft regulatory technical standards to specify the arrangements necessary to:</i>	
409.	Art. 15 - para 6 - point a	(a) carry out the assessment referred to in paragraph 1;	(a) carry out the assessment referred to in paragraph 1;	(a) carry out the assessment referred to in paragraph 1;	(a) carry out the assessment referred to in paragraph 1;
410.	Art. 15 - para 6 - point b	(b) carry out the simulation referred to in paragraph 3;	(b) carry out the simulation referred to in paragraph 3 ; <u>5</u> ;	(b) carry out the simulation referred to in paragraph 5;	
411.	Art. 15 - para 6 - point c	(c) provide the information referred to in paragraphs 2 and 4.	(c) provide the information referred to in paragraphs 2 and 4.	(c) provide the information referred to in paragraphs 2 and 4.	(c) provide the information referred to in paragraphs 2 and 4.
412.			<u>The delegated acts referred to in the first sub-paragraph shall take into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider.</u>		
413.	Art. 15 - para 6 - subpara 1a (new)			<i>ESMA shall submit those draft regulatory technical standards to the Commission by ... [XX months from the date of entry into force of this Regulation].</i>	
414.	Art. 15 - para 6 - subpara 1b (new)			<i>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
415.	Art. 15a (new)		<u>Article 15a</u> <u>Investment limits and warnings for non-sophisticated investors</u>		
416.	Art. 15a - para 1 (new)		<u>1 Member States may decide to introduce a limit to the amount of money non-sophisticated investors can invest into an individual crowdfunding project. The amount of this limit cannot be lower than EUR 1 000 per crowdfunding project.</u>		
417.	Art. 15a - para 1b (new)		<u>1b. Where a Member State sets an investment limit pursuant to paragraph 1 of this Article, crowdfunding service providers shall ensure with respect to non-sophisticated investors using their services that a non-sophisticated investor resident in that Member State does not exceed this limit. Crowdfunding service providers shall have, with regard to non-sophisticated investors resident in Member States which set the limit pursuant to paragraph 1 of this Article, the necessary procedures in place to ensure compliance with this requirement.</u>		
418.	Art. 15a - para 1c (new)		<u>1c. Any investment limit established pursuant to paragraph 1 of this Article shall be applicable only to non-sophisticated investors investing</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>in crowdfunding projects after the date of entry into application of this Regulation.</u>		
419.	Art. 15a - para 1d (new)		<u>1d. The Member State that decides to introduce an investment limit pursuant to paragraph 1 of this Article, or that decides to change such a limit, shall notify the limit to ESMA before it enters into force. ESMA shall disclose this information without delay on its website.</u>		
420.	Art. 15a - para 1e (new)		<u>1e. The Member State whose authority granted the authorisation shall ensure that crowdfunding service providers provide a warning to prospective non-sophisticated investors residing in a Member State which has taken a decision referred to in Article 2 paragraph 2a). This warning shall inform the non-sophisticated investor that the crowdfunding offer that they are considering to invest in is above the threshold notified by their Member State of residence.</u>		
421.	Art. 15b (new)		<u>Article 15b</u>		
422.	Art. 15b - Title (new)		<u>Reflection period</u>		
423.	Art. 15b - para 0 (new)		<u>0. Crowdfunding offers shall be subject to a time interval composed of the following sequential steps:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
424.	Art. 15b - para 0 - point i (new)		<u>(i) a step when the interval starts, corresponding to the listing by the crowdfunding service provider of the crowdfunding offer on its crowdfunding platform and opening of the crowdfunding project for investment by prospective investors;</u>		
425.	Art. 15b - para 0 - point ii (new)		<u>(ii) a step when the prospective investor expresses an interest via the crowdfunding platform to invest into the crowdfunding project;</u>		
426.	Art. 15b - para 0 - point iii (new)		<u>(iii) a step when the interval ends, corresponding to one of the two following dates:</u>		
427.	Art. 15b - para 0 - point iii - point a (new)		<u>a. at the future date announced by the crowdfunding service provider at the time of listing the crowdfunding offer on its crowdfunding platform, or</u>		
428.	Art. 15b - para 0 - point iii - point b (new)		<u>b. when the target funding goal has been reached, or in the case of a funding range, when the maximum target funding goal has been reached.</u>		
429.	Art. 15b - para 0a (new)		<u>0a. Crowdfunding service providers shall have internal procedures in place to ensure that the specific step for the expression of interest referred to in paragraph 0(ii) is recorded and stored on its crowdfunding platform.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
430.	Art. 15b - para 0b (new)		<u>0b. The terms and conditions of the crowdfunding offer shall remain binding on the project owner during the time interval specified in paragraph 0.</u>		
431.	Art. 15b - para 1 (new)		<u>1. The crowdfunding service provider shall provide for a reflection period, during which the non-sophisticated investor may at any time revoke the expression of interest referred to in paragraph 0(ii) without incurring a penalty and without giving a reason.</u>		
432.	Art. 15b - para 1a (new)		<u>1a. The reflection period referred to in paragraph 1 shall start at the moment of the expression of interest by the non-sophisticated investor referred to in paragraph 0(ii) and shall expire 7 calendar days later.</u>		
433.	Art. 15b - para 1c (new)		<u>1c. The modalities to revoke an expression of interest referred to in paragraph 1 shall include at least the same modality by which the non-sophisticated investor has been able to express interest as referred to in paragraph 0(ii) .</u>		
434.	Art. 15b - para 1d (new)		<u>1d. The crowdfunding service provider shall provide accurate, clear and timely information to the prospective non-sophisticated investors and the project owners throughout the time interval referred to in paragraph 0 about the reflection period or the</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>modalities to revoke an expression of interest, including at least the following:</u>		
435.	Art. 15b - para 1d - point i(new)		<u>(i) Immediately before the non-sophisticated investor finalises his or her expression of interest referred to in paragraph 0(ii) on the crowdfunding platform, the crowdfunding service provider shall inform the prospective non-sophisticated investor:</u>		
436.	Art. 15b - para 1d - point i - point a (new)		<u>a. that the expression of interest is subject to a reflection period,</u>		
437.	Art. 15b - para 1d - point i - point b(new)		<u>b. the duration of 7 days of the reflection period,</u>		
438.	Art. 15b - para 1d - point i - point c(new)		<u>c. the modalities to revoke an expression of interest.</u>		
439.	Art. 15b - para 1d - point ii(new)		<u>(ii) Immediately after the expression of interest by the non-sophisticated investor, the crowdfunding provider shall through its crowdfunding platform inform such investor that the reflection period has started.</u>		
440.	Art. 15b - para 2a - (new)		<u>2a. After the expiry of the reflection period referred to in paragraph 1, the crowdfunding service provider shall inform the</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>project owner of the final investment intentions.</u>		
441.	Art. 15b - para 2aa - (new)		<u>2aa. Where the revocation of an expression of interest by a non-sophisticated investor during the reflection period leads to a situation where the crowdfunding offer, after the ending date referred to in paragraph 0(iii), no longer meets the target funding goal, or in the case of a funding range, no longer meets the minimum target funding goal, the crowdfunding service provider shall promptly inform the project owner and the investors.</u>		
442.	Art. 15b - para 2b - (new)		<u>2b. The crowdfunding service provider shall make the necessary arrangements such that the funds collected from the investors are transmitted to the project owner only after the later of the following two dates:</u>		
443.	Art. 15b - para 2b - point i (new)		<u>(i) conclusion of the contracts between the project owner and the investors in accordance with national law, or</u>		
444.	Art. 15b - para 2b - point ii (new)		<u>(ii) expiry of the reflection period referred to in paragraph 1.</u>		
445.	Art. 16 - title	<i>Article 16</i> Key investment information sheet	Article 16 Key investment information sheet	<i>Article 16</i> Key investment information sheet	<i>Article 16</i> Key investment information sheet

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
446.	Art. 16 - para (-1) (new)			<i>-1. Crowdfunding service providers that offer the services referred to in point (i) of point (a) of Article 3(1) of this Regulation shall provide prospective investors with all of the information referred to in this Article.</i>	
447.	Art. 16 - para 1	1. Crowdfunding service providers shall provide prospective investors with a key investment information sheet drawn up by the project owner for each crowdfunding offer. The key investment information sheet shall be drafted in at least one of the official languages of the Member State concerned or in a language customary in the sphere of international finance.	1. Crowdfunding service providers shall provide prospective investors with a key investment information sheet drawn up by the project owner for each crowdfunding offer. The key investment information sheet shall be drafted in at least one of the official languages of the Member State concerned <u>whose authorities granted the authorisation in accordance with Article 10 of this Regulation</u> or in another <u>another</u> language customary in the sphere of international finance <u>accepted by those authorities.</u>	1. <i>Prospective investors shall be provided</i> with a key investment information sheet drawn up by the project owner for each crowdfunding offer. The key investment information sheet shall be drafted in at least one of the official languages of the Member State concerned or in a language customary in <i>English</i> .	
448.	Art. 16 - para 1a (new)		<u>1a. Where a crowdfunding service provider promotes a crowdfunding offer through marketing communication in another Member State, whose one of the official languages is different from the language used under paragraph 1, the key investment information sheet shall be made available in at least one of the official languages of that Member State or in a language accepted by the</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>competent authorities of that Member State.</u>		
449.	Art. 16 - para 1b (new)		<u>1b. Crowdfunding service providers shall not be prevented to arrange for a translation of the key investment information sheet into any language or languages other than referred to in paragraph 1 or 1a.</u>		
450.	Art. 16 - para 1c (new)		<u>1c. The translations referred to in paragraph 1 b shall accurately reflect the content of the original key investment information sheet.</u>		
451.	Art. 16 - para 2	2. The key investment information sheet referred to in paragraph 1 shall contain all of the following information:	2. The key investment information sheet referred to in paragraph 1 shall contain all of the following information:	2. The key investment information sheet referred to in paragraph 1 shall contain all of the following information:	2. The key investment information sheet referred to in paragraph 1 shall contain all of the following information:
452.	Art. 16 - para 2 - point a	(a) the information set out in the Annex;	<u>(a)</u> the information set out in the Annex; <u>I</u> ;	(a) the information set out in the Annex;	<u>(a)</u> the information set out in the Annex; <u>I</u> ; GREY - Technical Meeting (TM) 29/11/19
453.	Art. 16 - para 2 - point b - subpara 1	(b) the following explanatory statement, appearing directly underneath the title of the key investment information sheet:	<u>(b)</u> the following explanatory statement <u>disclaimer</u> , appearing directly underneath the title of the key investment information sheet:	(b) the following explanatory statement, appearing directly underneath the title of the key investment information sheet:	<u>(b)</u> the following explanatory statement <u>disclaimer</u> , appearing directly underneath the title of the key investment information sheet: GREY - Technical Meeting (TM) 29/11/19
454.	Art. 16 - para 2 - point b - subpara 2	“This crowdfunding offer has been neither verified nor approved by ESMA or national competent authorities.	“This crowdfunding offer has been neither verified nor approved by ESMA or national competent authorities <u>or ESMA</u> .	“This crowdfunding offer has been neither verified nor approved by ESMA or national competent authorities.	“This crowdfunding offer has been neither verified nor approved by ESMA or national competent authorities <u>or ESMA</u> .

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
455.	Art. 16 - para 2 - point b - subpara 3	The appropriateness of your education and knowledge have not 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.";	The appropriateness of your education and knowledge have not <u>necessarily</u> 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.";	The appropriateness of your education and knowledge have not 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.";	The appropriateness of your education and knowledge have not <u>necessarily</u> 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."; GREY - Technical Meeting (TM) 29/11/19
456.	Art. 16 - para 2 - point c - subpara 1 - intro	(c) a risk warning, which shall read as follows:	(c) a risk warning, which shall read as follows:	(c) a risk warning, which shall read as follows:	(c) a risk warning, which shall read as follows:
457.	Art. 16 - para 2 - point c - subpara 2	"Investment in this crowdfunding offer entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee and investor compensation schemes established in accordance with Directive 2014/49/EU of the European Parliament and of the Council* and Directive 97/9/EC of the European Parliament and of the Council.**	"Investment in this crowdfunding offer <u>project</u> entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee and <u>established in accordance with Directive 2014/49/EU of the European Parliament and of the Council*</u> . <u>Your investment is not covered by the</u> investor compensation schemes established in accordance with Directive 2014/49/EU of the	"Investment in this crowdfunding offer entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee and investor compensation schemes established in accordance with Directive 2014/49/EU of the European Parliament and of the Council* ⁴³ and Directive 97/9/EC of the European Parliament and of the Council.** ⁴⁴	"Investment in this crowdfunding offer <u>project</u> entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee and <u>established in accordance with Directive 2014/49/EU of the European Parliament and of the Council*</u> . <u>Your investment is not covered by the</u> investor compensation schemes established in accordance with Directive 2014/49/EU of the

⁴³ 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).

⁴⁴ Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 084, 26.3.1997, p. 22)."

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			European Parliament and of the Council* and Directive 97/9/EC of the European Parliament and of the Council.**		European Parliament and of the Council* and Directive 97/9/EC of the European Parliament and of the Council.** GREY - Technical Meeting (TM) 29/11/19
458.	Art. 16 - para 2 - point c - subpara 3	You may not receive any return on your investment.	You may not receive any return on your investment.	You may not receive any return on your investment.	You may not receive any return on your investment.
459.	Art. 16 - para 2 - point c - subpara 4	This is not a saving product and you should not invest more than 10% of your net wealth in crowdfunding projects.	This is not a saving product and you should not invest more than 10% of your net wealth in crowdfunding projects.	This is not a saving product and <i>we advise you</i> not <i>to</i> invest more than 10% of your net wealth in crowdfunding projects.	
460.	Art. 16 - para 2 - point c - subpara 5	You may not be able to sell the investment instruments when you wish.	You may not be able to sell the investment instruments when you wish	You may not be able to sell the investment instruments when you wish. <i>If you are able to sell them, you may nonetheless be subject to losses.</i>	
461.	Art. 16 - para 3	3. The key investment information sheet shall be clear, comprehensible, complete and correct and shall not contain any footnotes, other than those with references to applicable law. It shall be presented in a stand-alone, durable medium which is clearly distinguishable from marketing communications and consist of maximum 6 sides of A4-sized paper format if printed.	3. The key investment information sheet shall be clear, comprehensible, complete and correct and shall not contain any footnotes, other than those with references to <u>quotation of the</u> applicable law. It shall be presented in a stand-alone, durable medium which is clearly distinguishable from marketing communications and consist of maximum 6 sides of <u>A4-sized paper format if printed. sides of A4-sized paper format if printed. In case of</u>	3. The key investment information sheet shall be <i>fair</i> , clear, <i>and not misleading</i> and shall not contain any footnotes, other than those with references to applicable law. It shall be presented in a stand-alone, durable medium which is clearly distinguishable from marketing communications and consist of <i>a</i> maximum <i>of three</i> sides of A4-sized paper format if printed.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>admitted instruments for crowdfunding purposes, where the information required under Part F of Annex I exceeds 1 side of A4-sized paper format if printed, the remainder shall be produced in an annex attached to the key investment information sheet.</u>		
462.	Art. 16 - para 4	4. The crowdfunding service provider shall keep the key investment information sheet updated at all times and for the whole period of validity of the crowdfunding offer.	4. The crowdfunding service provider shall <u>request the project owner to notify any change of information in order to be able to</u> keep the key investment information sheet updated at all times and for the whole period of validity <u>duration</u> of the crowdfunding offer. <u>The investors who have put forward interest for the crowdfunding offer shall be immediately informed about any material change to the information in the key investment information sheet.</u>	4. The crowdfunding service provider shall keep the key investment information sheet updated at all times and for the whole period of validity of the crowdfunding offer.	
463.	Art. 16 - para 4a (new)			<i>4a. The requirement set out in point (a) of paragraph 3 of this Article shall not apply to crowdfunding service providers that offer services referred to in point (ii) of point (a) of Article 3(1). Such providers shall instead draw up a key investment information sheet regarding the crowdfunding service provider, which shall contain detailed information on the crowdfunding service provider; its systems and</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>controls for the management of risk, financial modelling for the crowdfunding offer and its historic performance.</i>	
464.	Art. 16 - para 4a (new)		<u>4a. Member States shall ensure that responsibility for the information given in a key investment information sheet attaches to at least the project owner or its administrative, management or supervisory bodies. The persons responsible for the key investment information sheet shall be clearly identified in the key investment information sheet by their names and functions or, in the case of legal persons, their names and registered offices, as well as declarations by them that, to the best of their knowledge, the information contained in the key investment information sheet is in accordance with the facts that the key investment information sheet makes no omission likely to affect its import.</u>		
465.	Art. 16 - para 4b (new)		<u>4b. Member States shall ensure that their laws, regulations and administrative provisions on civil liability apply to the persons responsible for the information given in a key investment information sheet, including any translation thereof, in at least the following situations:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
466.	Art. 16 - para 4a - point a (new)		<u>(a) the information is misleading or inaccurate; or</u>		
467.	Art. 16 - para 4a - point b (new)		<u>(b) the key investment information sheet omits key information in order to aid investors when considering whether to finance the crowdfunding project.</u>		
468.	Art. 16 - para 5	5. Crowdfunding service providers shall have in place and apply adequate procedures to verify the completeness and the clarity of information contained in the key investment information sheet.	5. Crowdfunding service providers shall have in place and apply adequate procedures to verify the completeness and the clarity of <u>the</u> information contained in the key investment information sheet.	5. <i>All crowdfunding</i> service providers shall have in place and apply adequate procedures to verify the completeness, <i>the correctness</i> and the clarity of information contained in the key investment information sheet.	
469.	Art. 16 - para 6 - subpara 1 - intro	6. When a crowdfunding service provider identifies a material omission, a material mistake or a material inaccuracy in the key investment information sheet, the project owner shall complement or amend that information. Where such complement or amendment is not possible, the crowdfunding service provider shall not make the crowdfunding offer or cancel the existing offer until the key investment information sheet complies with the requirements of this Article.	6. When a crowdfunding service provider identifies a material omission, a material mistake or a material inaccuracy in the key investment information sheet, the project owner shall complement or amend that information. Where such complement or amendment is not possible, the <u>The</u> crowdfunding service provider shall not <u>suspend</u> the crowdfunding offer or cancel the existing offer until the <u>relating to that</u> key investment information sheet complies with the requirements <u>until it has been complemented or amended for a</u>	6. When a crowdfunding service provider identifies an omission, a mistake or an inaccuracy in the key investment information sheet <i>which could have a material impact on the expected return of the investment, the corrections shall be made in the following manner:</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>period of this Article no longer than 30 calendar days.</u>		
470.	Art. 16 - para 6 - subpara 2 (new)		<u>The investors who have put forward interest for the crowdfunding offer shall be immediately informed about the identified irregularities, the steps taken and further to be taken by the crowdfunding service provider and the option to withdraw their interest for the crowdfunding offer.</u>		
471.	Art. 16 - para 6 - subpara 3 (new)		<u>If after one month the key investment information sheet has not been complemented or amended to rectify irregularities, the crowdfunding offer shall be cancelled.</u>		
472.	Art. 16 - para 6 - point a (new)			<i>(a) crowdfunding service providers that offer the services referred to in point (i) of point (a) of Article 3(1) shall signal the omission, mistake or inaccuracy promptly to the project owner, who shall complement or amend that information;</i>	
473.	Art. 16 - para 6 - point b (new)			<i>(b) crowdfunding service providers that offer services referred to in point (ii) of point (a) of Article 3(1) shall themselves amend the omission, mistake or inaccuracy in the key information sheet themselves.</i>	
474.	Art. 16 - para 6 - subpara 2			Where such complement or amendment is not made , the crowdfunding service provider shall	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				not make the crowdfunding offer or cancel the existing offer until the key investment information sheet complies with the requirements of this Article.	
475.	Art. 16 - para 7 - subpara 1	7. An investor may request a crowdfunding service provider to arrange for a translation of the key investment information sheet into a language of the investor's choice. The translation shall accurately reflect the content of the original key investment information sheet.	7. An investor may request a crowdfunding service provider to arrange for a translation of the key investment information sheet into a language of the investor's choice. The translation shall accurately reflect the content of the original key investment information sheet.	7. An investor may request a crowdfunding service provider to arrange for a translation of the key investment information sheet into a language of the investor's choice. The translation shall <i>faithfully and</i> accurately reflect the content of the original key investment information sheet.	
476.	Art. 16 - para 7 - subpara 2	Where the crowdfunding service provider does not provide the requested translation of the key investment information sheet, the crowdfunding service provider shall clearly advise the investor to refrain from making the investment.	Where the crowdfunding service provider does not provide the requested translation of the key investment information sheet, the crowdfunding service provider shall clearly advise the investor to refrain from making the investment.	Where the crowdfunding service provider does not provide the requested translation of the key investment information sheet, the crowdfunding service provider shall clearly advise the investor to refrain from making the investment.	
477.	Art. 16 - para 8	8. National competent authorities shall not require an ex ante notification and approval of a key investment information sheet.	8. National competent authorities shall not of the Member State that authorised the crowdfunding service provider may require an ex ante notification and approval of a key investment information sheet at least seven working days before making it available to prospective investors. Key investment information sheet shall not be subject to ex-ante approval by the competent authorities.	8. National competent authorities shall not require an ex ante notification and approval of a key investment information sheet.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
478.	Art. 16 - para 8a (new)		8a. <u>Where prospective investors are provided with a key investment information sheet drawn up in accordance with this article, the crowdfunding service providers and the project owners shall be considered as satisfying the obligation to draw up a key information document in accordance with Regulation 1286/2014.</u>		
479.	Art. 16 - para 8a - subpara 1 (new)		<u>This shall apply mutatis mutandis to persons advising on, or selling, a crowdfunding offer.</u>		
480.	Art. 16 - para 9 - subpara 1 - intro	9. The Commission may adopt delegated acts in accordance with Article 37 specifying:	9. The Commission may adopt delegated acts in accordance with Article 37 specifying:	9. <i>ESMA may develop draft regulatory technical standards to specify the following:</i>	
481.	Art. 16 - para 9 - point a	(a) the requirements for and content of the model for presenting the information referred to in paragraph 2 and the Annex;	(a) the requirements for and content of the model for presenting the information referred to in paragraph 2 and the Annex ; I	(a) the requirements for and content of the model for presenting the information referred to in paragraph 2 and the Annex;	
482.	Art. 16 - para 9 - point b	(b) the types of risks that are material to the crowdfunding offer and therefore must be disclosed in accordance with Part C of the Annex;	(b) the types of risks that are material to the crowdfunding offer and therefore must be disclosed in accordance with Part C of the Annex ; I ;	(b) the types of risks that are material to the crowdfunding offer and therefore must be disclosed in accordance with Part C of the Annex;	
483.	Art. 16 - para 9 - point ba (new)			<i>(ba) the use of certain financial ratios to enhance the clarity of key financial information;</i>	<i>(ba) the use of certain financial ratios to enhance the clarity of key financial information, including for presenting the information referred to in Annex I part A, point (ca) ;</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
484.	Art. 16 - para 9 - point c	(c) the fees and costs referred to in point (a) of Part H of the Annex, including a detailed breakdown of direct and indirect costs to be borne by the investor.	(c) the fees and costs referred to in point (a) of Part H of the Annex, including a detailed breakdown of direct and indirect costs to be borne by the investor	(c) the <i>commissions and transaction</i> costs referred to in point (a) of Part H of the Annex, including a <i>detailed</i> breakdown of direct and indirect costs to be borne by the investor.	
485.			<u>The delegated acts referred to in the first sub-paragraph shall take into account the nature, scale and complexity of the crowdfunding services provided by the crowdfunding service provider.</u>		
486.	Art. 16 - para 9 - subpara 1a (new)			<i>In drafting the standards, ESMA shall differentiate between the services referred to in point (i) of point (a) of Article 3 (1) and those referred to in point (ii) of point (a) of Article 3(1).</i>	
487.	Art. 16 - para 9 - subpara 1b (new)			<i>ESMA shall submit those draft regulatory technical standards to the Commission by ... [XXX months from the date of entry into force of this Regulation].</i>	
488.	Art. 16 - para 9 - subpara 1c (new)			<i>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.</i>	
489.	Art. 17 - title	<i>Article 17</i> Bulletin board	Article 17 Bulletin board	<i>Article 17</i> Bulletin board	<i>Article 17</i> Bulletin board

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
490.	Art. 17 - para 1	1. Crowdfunding service providers that allow their investors to interact directly with each other to buy and sell loan agreements or transferable securities which were originally crowdfunded on their platforms, shall inform their clients that they do not operate a trading system and that such buying and selling activity on their platforms is at the client's own discretion and responsibility.	1. Crowdfunding service providers that <u>may operate a bulletin board on which they</u> allow their investors <u>clients</u> to interact directly with each other <u>advertise interest</u> to buy and sell loan agreements or, transferable securities <u>or admitted instruments for crowdfunding purposes</u> which were originally crowdfunded <u>offered</u> on their <u>crowdfunding</u> platforms, shall inform their clients that they do not operate a trading system and that such buying and selling activity on their platforms is at the client's own discretion and responsibility.	1. Crowdfunding service providers that allow their investors to interact directly with each other to buy and sell loan agreements or transferable securities which were originally crowdfunded on their platforms, shall inform their clients that they do not operate a trading system and that such buying and selling activity on their platforms is at the client's own discretion and responsibility. <i>Such crowdfunding service providers shall also inform their clients that the rules applicable under Directive 2014/65/EU to trading venues, as defined in point (24) of Article 4(1) of that Directive, do not apply to their platforms.</i>	
491.	Art. 17 - para 1a (new)		<u>1a. The bulletin board referred in paragraph 1 cannot be used to bring together buying and selling interest by means of the crowdfunding service provider's protocols or internal operating procedures in a way that results in a contract. The bulletin board shall therefore not consist of an internal matching system which executes client orders on a multilateral basis.</u>		
492.	Art. 17 - para 1aa (new)		<u>1aa. Crowdfunding service providers that allow the advertisement referred to in paragraph 1 shall comply with the following requirements:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
493.	Art. 17 - para 1aa - point a (new)		<u>(a) they shall inform their clients about the nature of the bulletin board in accordance with paragraphs 1 and 1-a of this Article. they shall require their clients advertising a sale of an agreement, security or instrument referred to in paragraph 1 to make available the key investor information sheet;</u>		
494.	Art. 17 - para 1aa - point b (new)		<u>(b) they shall ensure that their clients advertising an interest to purchase an agreement, security or instrument referred to in paragraph 1 and qualifying as non-sophisticated receive the information referred to in Article 14(1a) and the risk warning referred to Article 15a(1e).</u>		
495.	Art. 17 - para 1b (new)		<u>1b. Crowdfunding service providers that allow the advertisement of interest referred to in paragraph 1 and that provide asset safekeeping services in accordance with Article 9(1) shall require their investors advertising such interest to notify them of any changes in ownership for the purposes of conducting ownership verification and record-keeping.</u>		
496.	Art. 17 - para 2	2. Crowdfunding service providers that suggest a reference price for the buying and selling referred to in	2. Crowdfunding service providers that suggest a reference price for the buying and selling	2.Crowdfunding service providers that <i>provide</i> a reference price for the buying and selling referred to in	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		paragraph 1 shall inform their clients that suggested reference price is non-binding and substantiate the suggested reference price.	referred to in paragraph 1 shall inform their clients that <u>the</u> suggested reference price is non-binding and substantiate the suggested reference price <u>and shall disclose key elements of the methodology in line with Article 14a of this Regulation.</u>	paragraph 1 shall inform their clients <i>whether the</i> reference price is <i>binding or</i> non-binding and <i>justify the basis on which</i> the reference price <i>was calculated.</i>	
497.	Art. 17 - para 2a (new)			<i>2a. In order to enable investors to buy and sell loans acquired through their platform, crowdfunding service providers shall facilitate transparency to investors about their platforms by providing information on the performance of loans generated.</i>	
498.	Art. 18 - title	<i>Article 18</i> Access to records	Article 18 Access to records	<i>Article 18</i> Access to records	<i>Article 18</i> Access to records
499.	Art. 18 - para 1 - intro	Crowdfunding service providers shall:	Crowdfunding service providers shall:	Crowdfunding service providers shall:	Crowdfunding service providers shall:
500.	Art. 18 - para 1 - point a	(a) keep all records related to their services and transactions on a durable medium for five years;	(a) keep all records related to their services and transactions on a durable medium for five years;	(a) keep all records related to their services and transactions on a durable medium for five years;	(a) keep all records related to their services and transactions on a durable medium for <i>a period of at least</i> five years;
501.	Art. 18 - para 1 - point b	(b) ensure that their clients have immediate access to records of the services provided to them at all times;	(b) ensure that their clients have immediate access to records of the services provided to them at all times;	(b) ensure that their clients have immediate access to records of the services provided to them at all times;	(b) ensure that their clients have immediate access to records of the services provided to them at all times;
502.	Art. 18 - para 1 - point c	(c) maintain for five years all agreements between the crowdfunding service providers and their clients.	(c) maintain for five years all agreements between the crowdfunding service providers and their clients.	(c) maintain for five years all agreements between the crowdfunding service providers and their clients.	(c) maintain <i>for a period of at least</i> five years all agreements between the crowdfunding service providers and their clients.
503.	Chapter V - title	Chapter V Marketing communications	Chapter V Marketing communications	Chapter V Marketing communications	Chapter V Marketing communications

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
504.	Art. 19 - title	<i>Article 19</i> Requirements regarding marketing communications	<i>Article 19</i> Requirements regarding marketing communications	<i>Article 19</i> Requirements regarding marketing communications	<i>Article 19</i> Requirements regarding marketing communications
505.	Art. 19 - para 1	1. Crowdfunding service providers shall ensure that all marketing communications to investors are clearly identifiable as such.	1. Crowdfunding service providers shall ensure that all marketing communications to investors are clearly identifiable as such.	1. Crowdfunding service providers shall ensure that all their marketing communications to investors are clearly identifiable as such.	1. Crowdfunding service providers shall ensure that all their marketing communications to investors, including those outsourced to third parties, about their services are clearly identifiable as such. <i>Cross check with definition marketing communication, line 143</i> GREY - Technical Meeting (TM) 29/11/19
506.	Art. 19 - para 2	2. No marketing communication shall comprise marketing of individual planned or pending crowdfunding projects or offers. Marketing communications may only indicate where and in which language clients can obtain information about individual projects or offers.	2. No marketing communication shall comprise marketing of individual planned or pending crowdfunding projects or offers. Marketing communications may only indicate where and in which language clients can obtain information about individual projects or offers. 2. The information contained in a marketing communication shall be fair, clear and not misleading and shall be consistent with the information contained in the key investment information sheet, where already available, or with the information required to be in the key investment information sheet, where the key investment	2. Prior to the closure of raising funds for a project, no marketing communication shall disproportionately target individual planned, pending or current crowdfunding projects or offers. █	<u>Pending political agreement</u> <i>Cross check with definition marketing communication, line 143</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>information sheet is yet to be made available.</u>		
507.	Art. 19 - para 3	3. For their marketing communications, crowdfunding service providers shall use one or more of the official languages of the Member State in which the crowdfunding service provider is active or a language customary in the sphere of international finance.	3. For their marketing communications, crowdfunding service providers shall use one or more of the official languages of the Member State in which the crowdfunding service provider is active <u>promotes the crowdfunding offer</u> or <u>in</u> a language customary in <u>accepted by the sphere competent authorities</u> of international finance that Member State.	3. For their marketing communications, crowdfunding service providers shall use one or more of the official languages of the Member State in which the crowdfunding service provider is active or English .	<u>Pending political agreement</u> Repeat 505, Cross check with definition marketing communication, line 143
508.	Art. 19 - para 4	4. National competent authorities shall not require an ex ante notification and approval of marketing communications.	4. National competent <u>Competent</u> authorities shall not require an ex ante notification and approval of marketing communications.	4. National competent authorities shall not require an ex ante notification and approval of marketing communications.	4. National competent <u>Competent</u> authorities shall not require an ex ante notification and approval of marketing communications. GREY - Technical Meeting (TM) 29/11/19
509.	Art. 20 - title	<i>Article 20</i> Publication of national provisions concerning marketing requirements	<i>Article 20</i> Publication of national provisions concerning marketing requirements	<i>Article 20</i> Publication of national provisions concerning marketing requirements	<i>Article 20</i> Publication of national provisions concerning marketing requirements
510.	Art. 20 - para 1	1. National competent authorities shall publish and keep updated on their websites national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers.	1. National competent <u>Competent</u> authorities shall publish and keep updated <u>up-to-date</u> on their websites those national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers: <u>that the competent authorities are responsible for overseeing compliance with and enforcing vis-à-vis crowdfunding service</u>	1. National competent authorities shall publish and keep updated on their websites national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>providers and their marketing communication.</u>		
511.	Art. 20 - para 2	2. Competent authorities shall notify ESMA of the laws, regulations and administrative provisions referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published. Competent authorities shall provide ESMA with a summary of those relevant national provisions in a language customary in the sphere of international finance.	2. Competent authorities shall notify ESMA of the laws, regulations and administrative provisions referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published. Competent authorities shall provide ESMA with a summary of those relevant national <u>laws, regulations and provisions in a language customary in the sphere of international finance . ESMA shall publish the summary and the hyperlinks to the websites of the competent authorities referred to in paragraph 1 on its website.</u>	2. Competent authorities shall notify ESMA of the laws, regulations and administrative provisions referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published. Competent authorities shall provide ESMA with a summary of those relevant national provisions in a language customary in the sphere of international finance.	
512.	Art. 20 - para 3	3. Competent authorities shall notify ESMA of any change in the information provided pursuant to paragraph 2 and submit an updated summary of the relevant national provisions without delay.	3. Competent authorities shall notify ESMA of any change in the information provided pursuant to paragraph 2 and submit an updated summary of the relevant national provisions <u>referred to in paragraph 1</u> without delay.	3. Competent authorities shall notify ESMA of any change in the information provided pursuant to paragraph 2 and submit an updated summary of the relevant national provisions without delay.	3. Competent authorities shall notify ESMA of any change in the information provided pursuant to paragraph 2 and submit an updated summary of the relevant national <u>laws, regulations and administrative provisions referred to in paragraph 1</u> without delay. GREY - Technical Meeting (TM) 7/11/19
513.	Art. 20 - para 3a (new)		<u>3a. Where the competent authorities are not responsible for overseeing and ensuring compliance with the laws, regulations and provisions referred to in paragraph 1, they</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>shall publish on their website the contact information about where information about the laws, regulations and provisions referred to in paragraph 1 can be obtained.</u>		
514.	Art. 20 - para 3b (new)		<u>3b. ESMA may develop draft implementing technical standards to determine standard forms, templates and procedures for the notifications under this Article.</u>		
515.	Art. 20 - para 3b - subpara 1 (new)		<u>ESMA shall submit those draft implementing standards to the Commission by ... [18 months after the date of entry into force of this Regulation].</u>		
516.	Art. 20 - para 3b - subpara 2 (new)		<u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</u>		
517.	Art. 20 - para 4	4. ESMA shall publish and maintain on its website a summary of the relevant national provisions in a language customary in the sphere of international finance and the hyperlinks to the websites of competent authorities referred to in paragraph 1. ESMA shall not be held liable for the information presented in the summary.	4. ESMA shall publish and maintain on its website a summary of the relevant national provisions in a language customary in the sphere of international finance and the hyperlinks to the websites of competent authorities referred to in paragraph 1. ESMA shall not be held liable for the information presented in the summary.	4. ESMA shall publish and maintain on its website a summary of the relevant national provisions in a language customary in the sphere of international finance and the hyperlinks to the websites of competent authorities referred to in paragraph 1. ESMA shall not be held liable for the information presented in the summary.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
518.	Art. 20 - para 5	5. National competent authorities shall be the single points of contact responsible for providing information on marketing rules in their respective Member States.	5. National competent authorities shall be the single points of contact responsible for providing information on marketing rules in their respective Member States.	5. National competent authorities shall be the single points of contact responsible for providing information on marketing rules in their respective Member States.	
519.	Art. 20 - para 6	6. ESMA may issue guidelines or recommendations addressed to national competent authorities specifying the best practices of marketing communications and verifying marketing communications of crowdfunding service providers.	6. ESMA may issue guidelines or recommendations addressed to national competent authorities specifying the best practices of marketing communications and verifying marketing communications of crowdfunding service providers.		
520.	Art. 20 - para 7	7. Competent authorities shall regularly, and at least on a yearly basis, report to ESMA on their enforcement actions taken during the previous year on the basis of their national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers. In particular, the report shall include:	7. Competent authorities shall regularly, and at least on a yearly basis, report to ESMA on their enforcement actions taken during the previous year on the basis of their national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers. In particular, the report shall include:	7. Competent authorities shall regularly, and at least on a yearly basis, report to ESMA on their enforcement actions taken during the previous year on the basis of their national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers. In particular, the report shall include:	
521.	Art. 20 - para 7 - point a	(a) the total number of enforcement actions taken by type of misconduct, where applicable;	the total number of enforcement actions taken by type of misconduct, where applicable;	(a) the total number of enforcement actions taken by type of misconduct, where applicable;	
522.	Art. 20 - para 7 - point b	(b) where available, the outcomes of the enforcement actions, including types of sanctions imposed by type of sanction or remedies provided by crowdfunding service providers;	where available, the outcomes of the enforcement actions, including types of sanctions imposed by type of sanction or remedies provided by crowdfunding service providers;	(b) where available, the outcomes of the enforcement actions, including types of sanctions imposed by type of sanction or remedies provided by crowdfunding service providers;	
523.	Art. 20 - para 7 - point c	(c) where available, examples of how competent authorities have dealt with the failure of crowdfunding service providers to comply with the national provisions	where available, examples of how competent authorities have dealt with the failure of crowdfunding service providers to comply with the national provisions.	(c) where available, examples of how competent authorities have dealt with the failure of crowdfunding service providers to comply with the national provisions	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
524.	Chapter VI - title	Chapter VI ESMA powers and competences	CHAPTER VI <u>COMPETENT AUTHORITIES</u> AND ESMA powers and competences	Chapter VI powers and competences <i>of the relevant national competent authority</i>	
525.	Chapter VI - Section I - title	SECTION I COMPETENCES AND PROCEDURES	Section I Competences and procedures	SECTION I COMPETENCES AND PROCEDURES	
526.	Art. 21 - title	<i>Article 21</i> Legal privilege	Article 21 Legal privilege	<i>Article 21</i> Legal privilege	
527.	Art. 21 - para 1	The powers conferred on ESMA by Articles 22 to 25, or on any official or other person authorised by ESMA, shall not be used to require the disclosure of information which is subject to legal privilege.	The powers conferred on ESMA by Articles 22 to 25, or on any official or other person authorised by ESMA, shall not be used to require the disclosure of information which is subject to legal privilege.	The powers conferred on <i>the national competent authority</i> , or on any official or other person authorised by <i>the national competent authority</i> , shall not be used to require the disclosure of information which is subject to legal privilege.	
528.	Art. 22 - title	<i>Article 22</i> Request for information	Article 22 Request for information		
529.	Art. 22 - para 1	1. ESMA may by simple request or by decision require the following persons to provide all information necessary to enable ESMA to carry out its duties under this Regulation:	1. — ESMA may by simple request or by decision require the following persons to provide all information necessary to enable ESMA to carry out its duties under this Regulation:		
530.	Art. 22 - para 1 - point a	(a) a crowdfunding service provider or a person controlling or being directly or indirectly controlled by a crowdfunding service provider;	a crowdfunding service provider or a person controlling or being directly or indirectly controlled by a crowdfunding service provider;		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
531.	Art. 22 - para 1 - point b	(b) project owners formerly or currently having made an offer on a crowdfunding platform ;	project owners formerly or currently having made an offer on a crowdfunding platform ;		
532.	Art. 22 - para 1 - point c	(c) third parties designated to perform functions in relation to the provision of the crowdfunding service in accordance with Article 8;	third parties designated to perform functions in relation to the provision of the crowdfunding service in accordance with Article 8;		
533.	Art. 22 - para 1 - point d	(d) the managers of the persons referred to in point (a) to (c);	the managers of the persons referred to in point (a) to (c);		
534.	Art. 22 - para 1 - point e	(e) the auditors and advisors of the persons referred to in point (a) to (c);	the auditors and advisors of the persons referred to in point (a) to (c);		
535.	Art. 22 - para 2	2. Any simple request for information as referred to in paragraph 1 shall:	2. Any simple request for information as referred to in paragraph 1 shall:		
536.	Art. 22 - para 2 - point a	(a) refer to this Article as the legal basis of that request;	refer to this Article as the legal basis of that request;		
537.	Art. 22 - para 2 - point b	(b) state the purpose of the request;	state the purpose of the request;		
538.	Art. 22 - para 2 - point c	(c) specify the information required;	specify the information required;		
539.	Art. 22 - para 2 - point d	(d) include a time limit within which the information is to be provided;	include a time limit within which the information is to be provided;		
540.	Art. 22 - para 2 - point e	(e) indicate the amount of the fine to be issued in accordance with Article 28 where the information provided is incorrect or misleading.	indicate the amount of the fine to be issued in accordance with Article 28 where the information provided is incorrect or misleading.		
541.	Art. 22 - para 3	3. When requiring to supply information under paragraph 1 by decision, ESMA shall:	3. When requiring to supply information under paragraph 1 by decision, ESMA shall:		

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542.	Art. 22 - para 3 - point a	(a) refer to this Article as the legal basis of that request;	refer to this Article as the legal basis of that request;	█	
543.	Art. 22 - para 3 - point b	(b) state the purpose of the request;	state the purpose of the request;	█	
544.	Art. 22 - para 3 - point c	(c) specify the information required;	specify the information required;	█	
545.	Art. 22 - para 3 - point d	(d) set a time limit within which the information is to be provided;	set a time limit within which the information is to be provided;	█	
546.	Art. 22 - para 3 - point e	(e) indicate the periodic penalty payments provided for in Article 29 where the production of the required information is incomplete;	indicate the periodic penalty payments provided for in Article 29 where the production of the required information is incomplete;	█	
547.	Art. 22 - para 3 - point f	(f) indicate the fine provided for in Article 28, where the answers to questions asked are incorrect or misleading;	indicate the fine provided for in Article 28, where the answers to questions asked are incorrect or misleading;	█	
548.	Art. 22 - para 3 - point g	(g) indicate the right to appeal the decision before ESMA's Board of Appeal and to have the decision reviewed by the Court of Justice of the European Union ('Court of Justice') in accordance with Articles 60 and 61 of Regulation (EU) No 1095/2010.	indicate the right to appeal the decision before ESMA's Board of Appeal and to have the decision reviewed by the Court of Justice of the European Union ('Court of Justice') in accordance with Articles 60 and 61 of Regulation (EU) No 1095/2010.	█	<i>Pending political agreement</i>
549.	Art. 22 - para 4	4. The persons referred to in paragraph 1 or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested. Lawyers duly authorised to act may supply	4. — The persons referred to in paragraph 1 or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested. Lawyers duly authorised to act may supply	█	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.	the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.		
550.	Art. 22 - para 5	5. ESMA shall without delay send a copy of the simple request or of its decision to the competent authority of the Member State where the persons referred to in paragraph 1 concerned by the request for information are domiciled or established.	5. ESMA shall without delay send a copy of the simple request or of its decision to the competent authority of the Member State where the persons referred to in paragraph 1 concerned by the request for information are domiciled or established.		
551.	Art. 23 - title	<i>Article 23</i> General investigations	Article 23 General investigations		
552.	Art. 23 - para 1	1. ESMA may conduct investigations of persons referred to in Article 22(1). To that end, the officials and other persons authorised by ESMA shall be empowered to:	1. ESMA may conduct investigations of persons referred to in Article 22(1). To that end, the officials and other persons authorised by ESMA shall be empowered to:		
553.	Art. 23 - para 1 - point a	(a) examine any records, data, procedures and any other material relevant to the execution of its tasks irrespective of the medium on which they are stored;	examine any records, data, procedures and any other material relevant to the execution of its tasks irrespective of the medium on which they are stored;		
554.	Art. 23 - para 1 - point b	(b) take or obtain certified copies of or extracts from such records, data, procedures and other material;	take or obtain certified copies of or extracts from such records, data, procedures and other material;		
555.	Art. 23 - para 1 - point c	(c) summon and ask any person referred to in Article 22(1) or their representatives or staff for oral or written explanations on facts or documents relating to the subject	summon and ask any person referred to in Article 22(1) or their representatives or staff for oral or written explanations on facts or documents relating to the subject		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		matter and purpose of the inspection and to record the answers;	matter and purpose of the inspection and to record the answers;		
556.	Art. 23 - para 1 - point d	(d) interview any other natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;	interview any other natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;		
557.	Art. 23 - para 1 - point e	(e) request records of telephone and data traffic.	request records of telephone and data traffic.		
558.	Art. 23 - para 2	2. The officials and other persons authorised by ESMA for the purposes of the investigations referred to in paragraph 1 shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the investigation. That authorisation shall also indicate the periodic penalty payments provided for in Article 29 where the production of the required records, data, procedures or any other material, or the answers to questions asked to persons referred to in Article 22(1) are not provided or are incomplete, and the fines provided for in Article 28, where the answers to questions asked to persons referred to in Article 22(1) are incorrect or misleading.	2. The officials and other persons authorised by ESMA for the purposes of the investigations referred to in paragraph 1 shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the investigation. That authorisation shall also indicate the periodic penalty payments provided for in Article 29 where the production of the required records, data, procedures or any other material, or the answers to questions asked to persons referred to in Article 22(1) are not provided or are incomplete, and the fines provided for in Article 28, where the answers to questions asked to persons referred to in Article 22(1) are incorrect or misleading.		
559.	Art. 23 - para 3	3. The persons referred to in Article 22(1) are required to submit to	3. The persons referred to in Article 22(1) are required to submit to		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		investigations launched on the basis of a decision of ESMA. The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 29, the legal remedies available under Regulation (EU) No 1095/2010 and the right to have the decision reviewed by the Court of Justice.	investigations launched on the basis of a decision of ESMA. The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 29, the legal remedies available under Regulation (EU) No 1095/2010 and the right to have the decision reviewed by the Court of Justice.		
560.	Art. 23 - para 4	4. In good time before an investigation referred to in paragraph 1, ESMA shall inform the competent authority of the Member State where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the competent authority concerned shall, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the competent authority concerned may also attend the investigations upon request.	4. In good time before an investigation referred to in paragraph 1, ESMA shall inform the competent authority of the Member State where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the competent authority concerned shall, upon the request of ESMA, assist those authorised persons in carrying out their duties. Officials of the competent authority concerned may also attend the investigations upon request.		
561.	Art. 23 - para 5	5. If a request for records of telephone or data traffic referred to in point (e) of paragraph 1 requires authorisation from a judicial authority according to applicable national law, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.	5. If a request for records of telephone or data traffic referred to in point (e) of paragraph 1 requires authorisation from a judicial authority according to applicable national law, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
562.	Art. 23 - para 6	6. Where a national judicial authority receives an application for the authorisation of a request for records of telephone or data traffic referred to in point (e) of paragraph 1, that authority shall verify the following:	6. Where a national judicial authority receives an application for the authorisation of a request for records of telephone or data traffic referred to in point (e) of paragraph 1, that authority shall verify the following:		
563.	Art. 23 - para 6 - point a	(a) the decision adopted by ESMA referred to in paragraph 3 is authentic;	the decision adopted by ESMA referred to in paragraph 3 is authentic;		
564.	Art. 23 - para 6 - point b	(b) any measures to be taken are proportionate and not arbitrary or excessive.	any measures to be taken are proportionate and not arbitrary or excessive.		
565.	Art. 23 - para 7	7. For the purposes of point (b) paragraph 6, the national judicial authority may ask ESMA for detailed explanations, in particular relating to the grounds ESMA has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on ESMA's file. The lawfulness of ESMA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1095/2010.	7. For the purposes of point (b) paragraph 6, the national judicial authority may ask ESMA for detailed explanations, in particular relating to the grounds ESMA has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on ESMA's file. The lawfulness of ESMA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1095/2010.		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
566.	Art. 24 - title	<i>Article 24</i> On-site inspections	Article 24 On-site inspections		
567.	Art. 24 - para 1	1. In order to carry out its duties under this Regulation, ESMA may conduct all necessary on-site inspections at any business premises of the persons referred to in Article 22(1).	1. In order to carry out its duties under this Regulation, ESMA may conduct all necessary on-site inspections at any business premises of the persons referred to in Article 22(1).		
568.	Art. 24 - para 2	2. The officials and other persons authorised by ESMA to conduct an on-site inspection may enter any business premises of the persons subject to an investigation decision adopted by ESMA and shall have all the powers stipulated in Article 23(1). They shall also have the power to seal any business premises and books or records for the period of, and to the extent necessary for, the inspection.	2. The officials and other persons authorised by ESMA to conduct an on-site inspection may enter any business premises of the persons subject to an investigation decision adopted by ESMA and shall have all the powers stipulated in Article 23(1). They shall also have the power to seal any business premises and books or records for the period of, and to the extent necessary for, the inspection.		
569.	Art. 24 - para 3	3. In sufficient time before the inspection, ESMA shall give notice of the inspection to the competent authority of the Member State where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant competent authority, may carry out the on-site inspection without prior notice. Inspections in accordance with this Article shall be conducted provided that the relevant	3. In sufficient time before the inspection, ESMA shall give notice of the inspection to the competent authority of the Member State where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, ESMA, after informing the relevant competent authority, may carry out the on-site inspection without prior notice. Inspections in accordance with this Article shall be conducted provided that the relevant authority has		

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		authority has confirmed that it does not object to those inspections.	confirmed that it does not object to those inspections.		
570.	Art. 24 - para 4	4. The officials and other persons authorised by ESMA to conduct an on-site inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the periodic penalty payments provided for in Article 33 where the persons concerned do not submit to the inspection.	4. The officials and other persons authorised by ESMA to conduct an on-site inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the periodic penalty payments provided for in Article 33 where the persons concerned do not submit to the inspection.		
571.	Art. 24 - para 5	5. The persons referred to in Article 23(1) shall submit to on-site inspections ordered by decision of ESMA. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the periodic penalty payments provided for in Article 29, the legal remedies available under Regulation (EU) No 1095/2010 as well as the right to have the decision reviewed by the Court of Justice	5. The persons referred to in Article 23(1) shall submit to on-site inspections ordered by decision of ESMA. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the periodic penalty payments provided for in Article 29, the legal remedies available under Regulation (EU) No 1095/2010 as well as the right to have the decision reviewed by the Court of Justice		
572.	Art. 24 - para 6	6. Officials of, as well as those authorised or appointed by, the competent authority of the Member State where the inspection is to be conducted shall, at the request of ESMA, actively assist the officials and other persons authorised by ESMA. Officials of the competent authority of the Member State	6. Officials of, as well as those authorised or appointed by, the competent authority of the Member State where the inspection is to be conducted shall, at the request of ESMA, actively assist the officials and other persons authorised by ESMA. Officials of the competent authority of the		

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		concerned may also attend the on-site inspections.	Member State concerned may also attend the on-site inspections.		
573.	Art. 24 - para 7	7. ESMA may also require competent authorities to carry out specific investigatory tasks and on-site inspections as provided for in this Article and in Article 23(1) on its behalf.	7. ESMA may also require competent authorities to carry out specific investigatory tasks and on-site inspections as provided for in this Article and in Article 23(1) on its behalf.		
574.	Art. 24 - para 8	8. Where the officials and other accompanying persons authorised by ESMA find that a person opposes an inspection ordered pursuant to this Article, the competent authority of the Member State concerned shall afford them the necessary assistance, requesting, where appropriate, the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their on-site inspection.	8. Where the officials and other accompanying persons authorised by ESMA find that a person opposes an inspection ordered pursuant to this Article, the competent authority of the Member State concerned shall afford them the necessary assistance, requesting, where appropriate, the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their on-site inspection.		
575.	Art. 24 - para 9	9. If the on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7 requires authorisation by a judicial authority according to national law, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.	9. If the on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7 requires authorisation by a judicial authority according to national law, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.		
576.	Art. 24 - para 10	10. Where a national judicial authority receives an application for the authorisation of an on-site inspection provided for in paragraph 1 or the assistance provided for in	10. Where a national judicial authority receives an application for the authorisation of an on-site inspection provided for in paragraph 1 or the assistance		

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		paragraph 7, that authority shall verify the following:	provided for in paragraph 7, that authority shall verify the following:		
577.	Art. 24 - para 10 - point a	(a) the decision adopted by ESMA referred to in paragraph 4 is authentic;	the decision adopted by ESMA referred to in paragraph 4 is authentic;		
578.	Art. 24 - para 10 - point b	(b) any measures to be taken are proportionate and not arbitrary or excessive.	any measures to be taken are proportionate and not arbitrary or excessive.		
579.	Art. 24 - para 11	11. For the purposes of paragraph 10(b), the national judicial authority may ask ESMA for detailed explanations, in particular relating to the grounds ESMA has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on ESMA's file. The lawfulness of ESMA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1095/2010.	11. For the purposes of paragraph 10(b), the national judicial authority may ask ESMA for detailed explanations, in particular relating to the grounds ESMA has for suspecting that an infringement of this Regulation has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the investigation or demand that it be provided with the information on ESMA's file. The lawfulness of ESMA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1095/2010.		
580.	Art. 25 - title	<i>Article 25</i> Exchange of information	Article 25 Exchange of information	<i>Article 25</i> Exchange of information	
581.	Art. 25 - para 1	ESMA and the competent authorities shall provide each other	ESMA and the competent authorities shall provide each other	ESMA and the competent authorities shall provide each other	

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		with the information required for the purposes of carrying out their duties under this Regulation without undue delay.	with the information required for the purposes of carrying out their duties under this Regulation without undue delay.	with the information required for the purposes of carrying out their duties under this Regulation without undue delay.	
582.	Art. 26 - title	<i>Article 26</i> Professional secrecy	Article 26 Professional secrecy	<i>Article 26</i> Professional secrecy	
583.	Art. 26 - para 1	The obligation of professional secrecy referred to in Article 76 of Directive 2014/65/EU shall apply to ESMA and all persons who work or who have worked for ESMA or for any other person to whom ESMA has delegated tasks, including auditors and experts contracted by ESMA.	The obligation of professional secrecy referred to in Article 76 of Directive 2014/65/EU shall apply to ESMA and all persons who work or who have worked for ESMA or for any other person to whom ESMA has delegated tasks, including auditors and experts contracted by ESMA.	The obligation of professional secrecy referred to in Article 76 of Directive 2014/65/EU shall apply to <i>the national competent authorities</i> , ESMA and all persons who work or who have worked for <i>the national competent authorities or</i> ESMA or for any other person to whom <i>tasks were</i> delegated, including auditors and experts <i>■</i> contracted.	
584.	Art. 27 - title	<i>Article 27</i> Supervisory measures by ESMA	Article 27 Supervisory measures by ESMA	<i>■</i>	
585.	Art. 27 - para 1	1. Where ESMA finds that a person listed in Article 22(1)(a) has committed one of the infringements listed in Chapter I to V, it may take one or more of the following actions:	1. — Where ESMA finds that a person listed in Article 22(1)(a) has committed one of the infringements listed in Chapter I to V, it may take one or more of the following actions:	<i>■</i>	
586.	Art. 27 - para 1 - point a	(a) adopt a decision requiring the person to bring the infringement to an end;	adopt a decision requiring the person to bring the infringement to an end;	<i>■</i>	
587.	Art. 27 - para 1 - point b	(b) adopt a decision imposing fines or periodic penalty payments pursuant to Articles 28 and 29;	adopt a decision imposing fines or periodic penalty payments pursuant to Articles 28 and 29;	<i>■</i>	

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588.	Art. 27 - para 1 - point c	(c) issue public notices;	issue public notices;		
589.	Art. 27 - para 1 - point d	(d) issue warnings.	issue warnings.		
590.	Art. 27 - para 2	2. When taking the actions referred to in paragraph 1, ESMA shall take into account the nature and seriousness of the infringement, having regard to the following criteria:	2. When taking the actions referred to in paragraph 1, ESMA shall take into account the nature and seriousness of the infringement, having regard to the following criteria:		
591.	Art. 27 - para 2 - point a	(a) the duration and frequency of the infringement;	the duration and frequency of the infringement;		
592.	Art. 27 - para 2 - point b	(b) whether financial crime has been occasioned, facilitated or otherwise attributable to the infringement;	whether financial crime has been occasioned, facilitated or otherwise attributable to the infringement;		
593.	Art. 27 - para 2 - point c	(c) whether the infringement has been committed intentionally or negligently;	whether the infringement has been committed intentionally or negligently;		
594.	Art. 27 - para 2 - point d	(d) the degree of responsibility of the person responsible for the infringement;	the degree of responsibility of the person responsible for the infringement;		
595.	Art. 27 - para 2 - point e	(e) the financial strength of the person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;	the financial strength of the person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;		
596.	Art. 27 - para 2 - point f	(f) the impact of the infringement on investors' interests;	the impact of the infringement on investors' interests;		
597.	Art. 27 - para 2 - point g	(g) the importance of the profits gained, losses avoided by the person responsible for the infringement or	the importance of the profits gained, losses avoided by the person responsible for the		

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		the losses for third parties derived from the infringement, insofar as they can be determined;	infringement or the losses for third parties derived from the infringement, insofar as they can be determined;		
598.	Art. 27 - para 2 - point h	(h) the level of cooperation of the person responsible for the infringement with ESMA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;	the level of cooperation of the person responsible for the infringement with ESMA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;		
599.	Art. 27 - para 2 - point i	(i) previous infringements by the person responsible for the infringement;	previous infringements by the person responsible for the infringement;		
600.	Art. 27 - para 2 - point j	(j) measures taken after the infringement by the person responsible for the infringement to prevent its repetition.	measures taken after the infringement by the person responsible for the infringement to prevent its repetition.		
601.	Art. 27 - para 3	3. ESMA shall notify any action taken pursuant to paragraph 1 to the person responsible for the infringement without undue delay and shall communicate that action to the competent authorities of the Member States concerned and to the Commission. ESMA shall publicly disclose any such decision on its website within 10 working days from the date when that decision was adopted.	3. ESMA shall notify any action taken pursuant to paragraph 1 to the person responsible for the infringement without undue delay and shall communicate that action to the competent authorities of the Member States concerned and to the Commission. ESMA shall publicly disclose any such decision on its website within 10 working days from the date when that decision was adopted.		
602.	Art. 27 - para 4	4. The disclosure to the public referred to in paragraph 3 shall include the following:	4. The disclosure to the public referred to in paragraph 3 shall include the following:		
603.	Art. 27 - para 4 - point a	(a) a statement affirming the right of the person responsible for the infringement to appeal the decision;	a statement affirming the right of the person responsible for the infringement to appeal the decision;		

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604.	Art. 27 - para 4 - point b	(b) where relevant, a statement affirming that an appeal has been lodged and specifying that such an appeal does not have suspensive effect;	where relevant, a statement affirming that an appeal has been lodged and specifying that such an appeal does not have suspensive effect;		
605.	Art. 27 - para 4 - point c	(c) a statement asserting that it is possible for ESMA's Board of Appeal to suspend the application of the contested decision in accordance with Article 60(3) of Regulation (EU) No 1095/2010.	a statement asserting that it is possible for ESMA's Board of Appeal to suspend the application of the contested decision in accordance with Article 60(3) of Regulation (EU) No 1095/2010.		
606.	Section II (new) - title			Section II ADMINISTRATIVE PENALTIES AND OTHER ADMINISTRATIVE MEASURES	
607.	Art. 27a (new) - title			<i>Article 27a Administrative penalties and other administrative measures</i>	<i>Article 27a Administrative penalties and other administrative measures</i> GREY - Technical Meeting (TM) 20/11/19
608.	Art. 27a (new) - para 1 - subpara 1			<i>1. Without prejudice to the right of Member States to provide for and impose criminal penalties pursuant to Article 27c, Member States shall lay down rules establishing appropriate administrative penalties and other administrative measures, applicable at least to situations where a crowdfunding service provider has failed to meet the requirements laid down in Chapters I to V. Such administrative penalties and other administrative measures shall be</i>	<i>1. Without prejudice to the right of Member States to provide for and impose criminal penalties pursuant to Article 27c, Member States shall lay down rules establishing appropriate administrative penalties and other administrative measures, applicable at least to situations where a crowdfunding service provider has failed to meet the requirements laid down in Chapters I to V. Such administrative penalties and other administrative measures shall be</i>

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				<i>effective, proportionate and dissuasive.</i>	<i>effective, proportionate and dissuasive.</i> GREY - Technical Meeting (TM) 20/11/19
609.	Art. 27a (new) - para 1 - subpara 2			<i>Member States shall ensure that the administrative penalties and other administrative measures are effectively implemented.</i>	<i>Member States shall ensure that the administrative penalties and other administrative measures are effectively implemented.</i> GREY - Technical Meeting (TM) 20/11/19
610.	Art. 27a (new) - para 2			<i>2. Member States shall, in accordance with national law, confer on national competent authorities the power to apply at least the following administrative penalties and other administrative measures in the event of an infringement of Chapters I to V of this Regulation:</i>	<i>2. Member States shall, in accordance with national law, confer on national competent authorities the power to apply at least the following administrative penalties and other administrative measures in the event of an infringement of Chapters I to V of this Regulation:</i> <i>Deleted, see line 790</i> GREY - Technical Meeting (TM) 7/11/19
611.	Art. 27a (new) - para 2 - point a			<i>(a) a public statement indicating the person responsible for, and the nature of, the infringement;</i>	<i>(a) a public statement indicating the person responsible for, and the nature of, the infringement;</i> <i>Deleted, see line 791</i> GREY - Technical Meeting (TM) 7/11/19

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612.	Art. 27a (new) - para 2 - point b			<i>(b) an order requiring the person to cease the infringing conduct and to desist from a repetition of that conduct;</i>	<i>(b) an order requiring the person to cease the infringing conduct and to desist from a repetition of that conduct;</i> Deleted, see line 792 GREY - Technical Meeting (TM) 7/11/19
613.	Art. 27a (new) - para 2 - point c			<i>(c) a temporary or, for repeated serious infringements, permanent ban preventing any member of the management body of the legal person responsible for the infringement, or any other natural person held responsible for the infringement, from exercising management functions in such undertakings;</i>	<i>(c) a temporary or, for repeated serious infringements, permanent ban preventing any member of the management body of the legal person responsible for the infringement, or any other natural person held responsible for the infringement, from exercising management functions in such undertakings;</i> moved to line 795 GREY - Technical Meeting (TM) 20/11/19
614.	Art. 27a (new) - para 2 - point d			<i>(d) in the case of a natural person, maximum administrative pecuniary fines of 5% of the annual turnover of the crowdfunding service provider during the calendar year in which the infringement took place;</i>	<i>(d) in the case of a natural person, maximum administrative pecuniary fines of 5% of the annual turnover of the crowdfunding service provider during the calendar year in which the infringement took place;</i>
615.	Art. 27a (new) - para 2 - point e			<i>(e) maximum administrative pecuniary fines of at least twice the amount of the benefit derived from the infringement where that benefit</i>	<i>(e) maximum administrative pecuniary fines of at least twice the amount of the benefit derived from the infringement where that</i>

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				<i>can be determined, even if that exceeds the maximum amounts in point (d).</i>	<i>benefit can be determined, even if that exceeds the maximum amounts in point (d).</i> Deleted, see line 793 GREY - Technical Meeting (TM) 7/11/19
616.	Art. 27a (new) - para 3			<i>3. Where the provisions referred to in paragraph 1 apply to legal persons, Member States shall confer on competent authorities the power to apply the administrative penalties and other administrative measures set out in paragraph 2, subject to the conditions provided for in national law, to members of the management body, and to other individuals who under national law are responsible for the infringement.</i>	
617.	Art. 27a (new) - para 4			<i>4. Member States shall ensure that any decision or measure imposing administrative penalties or other administrative measures set out in paragraph 2 is properly reasoned and is subject to a right of appeal before a tribunal.</i>	<i>4. Member States shall ensure that any decision or measure imposing administrative penalties or other administrative measures set out in paragraph 2 is properly reasoned and is subject to a right of appeal before a tribunal.</i> Deleted, see line 810 GREY - Technical Meeting (TM) 7/11/19
618.	Art. 27b (new) - title			<i>Article 27b Exercise of the power to impose</i>	<i>To be checked with COM non paper</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>administrative penalties and other administrative measures</i>	
619.	Art. 27b (new) - para 1			<i>1. Competent authorities shall exercise their powers to impose administrative penalties and other administrative measures referred to in Article 27a in accordance with this Regulation and with their national legal frameworks, as appropriate:</i>	<i>To be checked with COM non paper</i>
620.	Art. 27b (new) - para 1 - point a			<i>(a) directly;</i>	(a) directly; Deleted, see line 677 GREY - Technical Meeting (TM) 7/11/19
621.	Art. 27b (new) - para 1 - point b			<i>(b) in collaboration with other authorities;</i>	(b) in collaboration with other authorities; Deleted, see line 678 GREY - Technical Meeting (TM) 7/11/19
622.	Art. 27b (new) - para 1 - point c			<i>(c) under their responsibility by delegation to other authorities;</i>	(c) under their responsibility by delegation to other authorities; Deleted, see line 679 GREY - Technical Meeting (TM) 7/11/19
623.	Art. 27b (new) - para 1 - point d			<i>(d) by application to the competent judicial authorities.</i>	(d) by application to the competent judicial authorities Deleted, see line 680

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 7/11/19
624.	Art. 27b (new) - para 2			<i>2. Competent authorities, when determining the type and level of an administrative penalty or other administrative measure imposed under Article 27a, shall take into account the extent to which the infringement is intentional or results from negligence and all other relevant circumstances, including, where appropriate:</i>	<i>2. Competent authorities, when determining the type and level of an administrative penalty or other administrative measure imposed under Article 27a, shall take into account the extent to which the infringement is intentional or results from negligence and all other relevant circumstances, including, where appropriate:</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
625.	Art. 27b (new) - para 2 - point a			<i>(a) the materiality, gravity and the duration of the infringement;</i>	<i>(a) the materiality, gravity and the duration of the infringement;</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
626.	Art. 27b (new) - para 2 - point b			<i>(b) the degree of responsibility of the natural or legal person responsible for the infringement;</i>	<i>(b) the degree of responsibility of the natural or legal person responsible for the infringement;</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
627.	Art. 27b (new) - para 2 - point c			<i>(c) the financial strength of the natural or legal person responsible for the infringement;</i>	<i>(e) the financial strength of the natural or legal person responsible for the infringement;</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
628.	Art. 27b (new) - para 2 - point d			<i>(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as those can be determined;</i>	<i>(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as those can be determined;</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
629.	Art. 27b (new) - para 2 - point e			<i>(e) the losses for third parties caused by the infringement, insofar as those can be determined;</i>	<i>(e) the losses for third parties caused by the infringement, insofar as those can be determined;</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
630.	Art. 27b (new) - para 2 - point f			<i>(f) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;</i>	<i>(f) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
631.	Art. 27b (new) - para 2 - point g			<i>(g) previous infringements by the natural or legal person responsible for the infringement.</i>	<i>(g) previous infringements by the natural or legal person responsible for the infringement.</i> Deleted, see line 798 > GREY - Technical Meeting (TM) 7/11/19
632.	Art. 27c (new) - title			<i>Article 27c Criminal penalties</i>	<i>Article 27c Criminal penalties</i> Deleted, see line 788 GREY - Technical Meeting (TM) 7/11/19
633.	Art. 27c (new) - para 1			<i>1. Member States may decide not to lay down rules for administrative penalties or other administrative measures for infringements which are subject to criminal penalties under their national law.</i>	<i>1. Member States may decide not to lay down rules for administrative penalties or other administrative measures for infringements which are subject to criminal penalties under their national law.</i> Deleted, see line 788 GREY - Technical Meeting (TM) 7/11/19
634.	Art. 27c (new) - para 2			<i>2. Where Member States have chosen, in accordance with paragraph 1 of this Article, to lay down criminal penalties for an</i>	<i>2. Where Member States have chosen, in accordance with paragraph 1 of this Article, to lay down criminal penalties for an</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<p><i>infringement referred to in Article 27a(1), they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for the infringements referred to in Article 27a(1), and to provide the same information to other competent authorities as well as to ESMA, in order to fulfil their obligation to cooperate for the purposes of this Regulation.</i></p>	<p><i>infringement referred to in Article 27a(1), they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for the infringements referred to in Article 27a(1), and to provide the same information to other competent authorities as well as to ESMA, in order to fulfil their obligation to cooperate for the purposes of this Regulation.</i></p> <p><i>Deleted, see line 686</i></p> <p>GREY - Technical Meeting (TM) 7/11/19</p>
635.	Art. 27d (new) - title			<p><i>Article 27d</i> <i>Notification duties</i></p>	<p><i>Article 27d</i> <i>Notification duties</i></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
636.	Art. 27d (new) - para 1			<p><i>Member States shall notify the laws, regulations and administrative provisions implementing this Chapter, including any relevant criminal law provisions, to the Commission and ESMA by... [one year from the date of entry into force of this</i></p>	<p><i>Member States shall notify the laws, regulations and administrative provisions implementing this Chapter, including any relevant criminal law provisions, to the Commission and ESMA by... [one year from the date of entry into force of this</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>Regulation]. Member States shall notify the Commission and ESMA without undue delay of any subsequent amendments thereto.</i>	<i>Regulation]. Member States shall notify the Commission and ESMA without undue delay of any subsequent amendments thereto.</i> GREY - Technical Meeting (TM) 20/11/19
637.	Art. 27e (new) - title			<i>Article 27e Cooperation between competent authorities and ESMA</i>	<i>Article 27e Cooperation between competent authorities and ESMA</i> GREY - Technical Meeting (TM) 20/11/19
638.	Art. 27e (new) - para 1			<i>1. The national competent authorities and ESMA shall cooperate closely with each other and exchange information in order to carry out their duties under this Chapter.</i>	<i>1. The competent authorities and ESMA shall cooperate closely with each other and exchange information in order to carry out their duties under this Chapter.</i> GREY - Technical Meeting (TM) 20/11/19
639.	Art. 27e (new) - para 2			<i>2. National competent authorities shall closely coordinate their supervision in order to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation and provide cross-jurisdictional assessments in the event of any disagreements.</i>	<i>2. Competent authorities shall closely coordinate their supervision in order to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation and provide cross-jurisdictional assessments in the event of any disagreements.</i> GREY - Technical Meeting (TM) 20/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
640.	Art. 27e (new) - para 3			3. <i>Where a national competent authority finds that a requirement of Chapters I to V has not been met or has reason to believe that to be the case, it shall inform the competent authority of the entity or entities suspected of such infringement of its findings in a sufficiently detailed manner. The competent authorities concerned shall closely coordinate their supervision in order to ensure consistent decisions.</i>	3. <i>Where a competent authority finds that [a requirement of Chapters I to V pending political discussion] has not been met or has reason to believe that to be the case, it shall inform the competent authority of the entity or entities suspected of such infringement of its findings in a sufficiently detailed manner. The competent authorities concerned shall closely coordinate their supervision in order to ensure consistent decisions.</i> <i>Pending political discussion</i>
641.	Art. 27f (new) - title			<i>Article 27f Publication of administrative penalties and other administrative measures</i>	<i>Article 36e Publication of decisions</i> GREY - Technical Meeting (TM) 20/11/19 <i>Note: order of Articles under this Chapter tbd at finalisation</i>
642.	Art. 27f (new) - para 1			<i>1. Subject to paragraph 4, Member States shall ensure that national competent authorities publish on their official websites, without undue delay and as a minimum, any decision imposing an administrative penalty or other administrative measure against which no appeal has been made after the addressee of that penalty or measure has been notified of that decision.</i>	<i>1. A decision imposing administrative penalties and other administrative measures for infringement of this Regulation shall be published by competent authorities on their official websites immediately after the person subject to that decision has been informed of that decision. The publication shall include at least information on the type and nature of the</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><u>infringement and the identity of the persons responsible. That obligation does not apply to decisions imposing measures that are of an investigatory nature.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
643.	Art. 27f (new) - para 2			<p><i>2. The publication referred to in paragraph 1 shall include information on the type and nature of the infringement and the identity of the persons responsible and the administrative penalties or other administrative measures imposed.</i></p>	<p><u>2. Where the publication of the identity of the legal entities, or identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise an on-going investigation, Member States competent authorities shall ensure that the competent authorities do one of the following:</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
644.	Art. 27f (new) - para 3			<p><i>3. Where the publication of the identity, in the case of legal persons, or of the identity and personal data, in the case of natural persons is considered by the competent authority to be disproportionate following a case-by-case assessment, or where the competent authority considers that</i></p>	<p><u>(a) defer the publication of the decision to impose a penalty or a measure until the moment where the reasons for non-publication cease to exist;</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>the publication jeopardises the stability of financial markets or an on-going criminal investigation, or where the publication would cause, insofar as it can be determined, disproportionate damages to the person involved, Member States shall ensure that competent authorities do one of the following:</i>	
645.	Art. 27f (new) - para 3 - point a			<i>(a) defer publication of the decision imposing the administrative penalty or other administrative measure until the moment where the reasons for that deferral cease to exist;</i>	<p><u>(b) publish the decision to impose a penalty or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned;</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
646.	Art. 27f (new) - para 3 - point b			<i>(b) publish the decision imposing the administrative penalty or other administrative measure on an anonymous basis, in accordance with national law; or</i>	<p><u>(c) not publish the decision to impose a penalty or measure in the event that the options laid down in points (a) and (b) are considered to be insufficient to ensure the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
647.	Art. 27f (new) - para 3 - point c			<i>(c) not publish the decision to impose the administrative penalty or other administrative measure in</i>	<u>In the case of a decision to publish a penalty or measure on an anonymous basis, as referred</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>the event that the competent authority is of the opinion that the options set out in points (a) and (b) are considered to be insufficient to ensure:</i>	<p><u>to in point (b) of the first subparagraph, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
648.	Art. 27f (new) - para 3 - point c - point i			<i>(i) that the stability of financial markets would not be jeopardised; or</i>	<p><u>3. Where the decision to impose a <i>penalty</i> or measure is subject to appeal before the relevant judicial or other authorities, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose a <i>penalty</i> or a measure shall also be published.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
649.	Art. 27f (new) - para 3 - point c - point ii			<i>(ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.</i>	<p><u>4. Competent authorities shall ensure that any publication, in accordance with this Article shall remain on their official website for a period of at least five years after its publication. Personal data contained in the publication shall be kept on the official website of the competent</u></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><u>authority only for the period which is necessary in accordance with the applicable data protection rules.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
650.	Art. 27f (new) - para 4			<p><i>4. In the case of a decision to publish an administrative penalty or other administrative measure on an anonymous basis, the publication of the relevant data may be postponed. Where a national competent authority publishes a decision imposing an administrative penalty or other administrative measure against which there is an appeal before the relevant judicial authorities, competent authorities shall also publish immediately on their official website that information and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative penalty or other administrative measure shall also be published.</i></p>	<p>4. In the case of a decision to publish an administrative penalty or other administrative measure on an anonymous basis, the publication of the relevant data may be postponed. Where a national competent authority publishes a decision imposing an administrative penalty or other administrative measure against which there is an appeal before the relevant judicial authorities, competent authorities shall also publish immediately on their official website that information and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative penalty or other administrative measure shall also be published.</p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
651.	Art. 27f (new) - para 5			<p><i>5. National competent authorities shall ensure that any decision that is published in accordance with</i></p>	<p>5. National competent authorities shall ensure that any decision that is published in accordance with</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<p><i>paragraphs 1 to 4 remains accessible on their official website for a period of at least five years after its publication. Personal data contained in those decisions shall only be retained on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.</i></p>	<p><i>paragraphs 1 to 4 remains accessible on their official website for a period of at least five years after its publication. Personal data contained in those decisions shall only be retained on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.</i></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
652.	Art. 27f (new) - para 6			<p><i>6. National competent authorities shall inform ESMA of all administrative penalties and other administrative measures imposed, including, where appropriate, any appeal in relation thereto and the outcome thereof.</i></p>	<p><i>6. National competent authorities shall inform ESMA of all administrative penalties and other administrative measures imposed, including, where appropriate, any appeal in relation thereto and the outcome thereof.</i></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
653.	Art. 27f (new) - para 7			<p><i>7. ESMA shall maintain a central database of administrative penalties and other administrative measures communicated to it. That database shall be only accessible to ESMA, the EBA, EIOPA and the competent authorities and shall be updated on the basis of the information provided by the national competent authorities in accordance with paragraph 6.</i></p>	<p><i>7. ESMA shall maintain a central database of administrative penalties and other administrative measures communicated to it. That database shall be only accessible to ESMA, the EBA, EIOPA and the competent authorities and shall be updated on the basis of the information provided by the national competent authorities in accordance with paragraph 6.</i></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 20/11/19
654.	Art. 27a (new)		<u>Article 27a</u> <u>Competent authorities</u>		<u>Article 27a</u> <u>Competent authorities</u> GREY - Technical Meeting (TM) 20/11/19
655.	Art. 27a - para 1 (new)		<u>1. Member States shall designate the competent authorities responsible for carrying out the functions and duties foreseen in this Regulation.</u>		<u>1. Member States shall designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation and shall inform ESMA thereof.</u> GREY - Technical Meeting (TM) 20/11/19
656.	Art. 27a - para 2 (new)		<u>2. Where Member States designate more than one competent authority pursuant to paragraph 1, they shall determine their respective tasks and designate one of them as a single point of contact for cross-border administrative cooperation between competent authorities as well as with ESMA.</u>		<u>2. Where Member States designate more than one competent authority pursuant to paragraph 1, they shall determine their respective tasks and designate one of them as a single point of contact for cross-border administrative cooperation between competent authorities as well as with ESMA.</u> GREY - Technical Meeting (TM) 29/11/19 <i>Pending political agreement (but in principle OK)</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
657.	Art. 27b (new)		<u>Article 27b</u> <u>Powers of competent authorities</u>		<i><u>Pending political agreement, see line 337</u></i>
658.	Art. 27b - para 1 (new)		<u>1. In order to fulfil their duties under this Regulation, competent authorities shall have, in accordance with national law, at least the following investigatory powers:</u>		<i><u>Pending political agreement</u></i>
659.	Art. 27b - para 1 - point b (new)		<u>(b) to require crowdfunding service providers and third parties designated to perform functions in relation to the provision of crowdfunding services, and the persons that control them or are controlled by them, to provide information and documents;</u>		<i><u>Pending political agreement</u></i>
660.	Art. 27b - para 1 - point c (new)		<u>(c) to require auditors and managers of the crowdfunding service providers and third parties designated to perform functions in relation to the provision of crowdfunding services, to provide information;</u>		<i><u>Pending political agreement</u></i>
661.	Art. 27b - para 1 - point d (new)		<u>(d) to carry out on-site inspections or investigations at sites other than the private residences of natural persons, and for that purpose to enter premises in order to access documents and other data in any form, where a reasonable suspicion exists that documents and other data related to the subject-matter of the inspection or investigation may be relevant</u>		<i><u>Pending political agreement</u></i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>to prove an infringement of this Regulation;</u>		
662.	Art. 27b - para 2 (new)		<u>2. In order to fulfil their duties under this Regulation, competent authorities shall have, in accordance with national law, at least the following supervisory powers:</u>		<i>Pending political agreement</i>
663.	Art. 27b - para 2 - point a (new)		<u>(a) to require crowdfunding service providers to request project owners to include in the key investment information sheet supplementary information, where necessary for investor protection;</u>		<i>Pending political agreement</i>
664.	Art. 27b - para 2 - point b (new)		<u>(b) to suspend a crowdfunding offer for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;</u>		<i>Pending political agreement</i>
665.	Art. 27b - para 2 - point c (new)		<u>(c) to prohibit or suspend advertisements or require crowdfunding service providers or third parties designated to perform functions in relation to the provision of crowdfunding services to cease or suspend advertisements for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for believing that this Regulation has been infringed;</u>		<i>Pending political agreement</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
666.	Art. 27b - para 2 - point d (new)		<u>(d) to prohibit a crowdfunding offer where they find that this Regulation has been infringed or where there are reasonable grounds for suspecting that it would be infringed;</u>		<i>Pending political agreement</i>
667.	Art. 27b - para 2 - point f (new)		<u>(f) to suspend or require relevant crowdfunding service providers to suspend the operation of the crowdfunding platform for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for believing that this Regulation has been infringed;</u>		<i>Pending political agreement</i>
668.	Art. 27b - para 2 - point g (new)		<u>(g) to prohibit the operation of the crowdfunding platform where they find that this Regulation has been infringed;</u>		<i>Pending political agreement</i>
669.	Art. 27b - para 2 - point h (new)		<u>(h) to make public the fact that a crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services is failing to comply with its obligations;</u>		<i>Pending political agreement</i>
670.	Art. 27b - para 2 - point i (new)		<u>(i) to disclose, or to require the crowdfunding servicer provider or the third party designated to perform functions in relation to the provision of crowdfunding services to disclose all material information which may have an effect on the</u>		<i>Pending political agreement</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>assessment of the provision of the crowdfunding service in order to ensure investor protection or the smooth operation of the market;</u>		
671.	Art. 27b - para 2 - point l (new)		<u>(l) to suspend or require the crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services to suspend the provision of crowdfunding services where it considers that the crowdfunding service provider's situation is such that the provision of the crowdfunding service would be detrimental to investors' interests;</u>		<i>Pending political agreement</i>
672.	Art. 27b - para 2 - point n (new)		<u>(n) to issue recommendations, guidelines and, if applicable, binding administrative provisions;</u>		<i>Pending political agreement</i>
673.	Art. 27b - para 2 - point o - subpara 1 (new)		<u>(o) to transfer existing contracts to another crowdfunding service provider in case the crowdfunding service provider's authorisation is withdrawn in accordance with Article 13(1)(c).</u>		<i>Pending political agreement</i>
674.	Art. 27b - para 2 - point o - subpara 2 (new)		<u>Any measures adopted in exercise of the powers under the present paragraph shall be proportionate, duly justified and taken in accordance with Article 36b.</u>		<i>Pending political agreement</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
675.	Art. 27b - para 1b (new)		<u>1b. Where necessary under national law, the competent authority may ask the relevant judicial authority to decide on the use of the powers referred to in subparagraphs 1 and 2.</u>		<i>Pending political agreement</i>
676.	Art. 27b - para 1c (new)		<u>1c. The crowdfunding service provider to which the existing contracts are transferred as referred to in point (o) of paragraph 2 of this Article shall be authorised to provide crowdfunding services in the same Member State where the original crowdfunding service provider was authorised.</u>		<i>Pending political agreement</i>
677.	Art. 27b - para 2 (new)		<u>2. Competent authorities shall exercise their functions and powers referred to in paragraph 1 and 2 in any of the following ways:</u>		<i>Pending political agreement</i>
678.	Art. 27b - para 2 - point a (new)		<u>(a) directly;</u>		<u>(a) directly;</u> GREY - Technical Meeting (TM) 7/11/19
679.	Art. 27b - para 2 - point b (new)		<u>(b) in collaboration with other authorities;</u>		<u>(b) in collaboration with other authorities;</u> GREY - Technical Meeting (TM) 7/11/19
680.	Art. 27b - para 2 - point c (new)		<u>(c) under their responsibility by delegation to such authorities;</u>		<u>(c) under their responsibility by delegation to such authorities;</u> GREY - Technical Meeting (TM) 7/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
681.	Art. 27b - para 2 - point d (new)		<u>(d) by application to the competent judicial authorities.</u>		<u>(d) by application to the competent judicial authorities.</u> GREY - Technical Meeting (TM) 7/11/19
682.	Art. 27b - para 3 (new)		<u>3. Member States shall ensure that appropriate measures are in place so that competent authorities have all the supervisory and investigatory powers that are necessary to fulfil their duties.</u>		<u>3. Member States shall ensure that appropriate measures are in place so that competent authorities have all the supervisory and investigatory powers that are necessary to fulfil their duties.</u> GREY - Technical Meeting (TM) 20/11/19
683.	Art. 27b - para 4(new)		<u>4. A person making information available to the competent authority in accordance with this Regulation shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.</u>		<u>4. A person making information available to the competent authority in accordance with this Regulation shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.</u> GREY - Technical Meeting (TM) 20/11/19
684.	Art. 27c (new)		<u>Article 27c Cooperation between competent authorities</u>		<u>Article 27c Cooperation between competent authorities</u> GREY - Technical Meeting (TM) 20/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
685.	Art. 27c - para 1 - subpara 1 (new)		<p><u>1. Competent authorities shall cooperate with each other and with ESMA for the purposes of this Regulation. They shall exchange information without undue delay and cooperate in investigation, supervision and enforcement activities.</u></p>		<p><u>1. Competent authorities shall cooperate with each other and with ESMA for the purposes of this Regulation. They shall exchange information without undue delay and cooperate in investigation, supervision and enforcement activities.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
686.	Art. 27c - para 1 - subpara 2 (new)		<p><u>Where Member States have chosen, in accordance with Article 36a, to lay down criminal sanctions for infringements of this Regulation, they shall ensure that appropriate measures are in place so that the competent authority has all the necessary powers to liaise with judicial authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for possible infringements of this Regulation and provide the same to other competent authorities and ESMA to fulfil their obligation to cooperate with each other and ESMA for the purposes of this Regulation.</u></p>		<p><i>Where Member States have chosen, in accordance with Article XX, to lay down criminal penalties for an infringement referred to this Regulation, they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for the infringements referred to in this Regulation and to provide the same information to other competent authorities as well as to ESMA, in order to fulfil their obligation to cooperate for the purposes of this Regulation.</i></p> <p>GREY - Technical Meeting (TM) 7/11/19</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
687.	Art. 27c - para 2 - (new)		<u>2. A competent authority may refuse to act on a request for information or a request to cooperate with an investigation only in any of the following exceptional circumstances:</u>		
688.	Art. 27c - para 2 - point a (new)		<u>(a) where complying with the request is likely to adversely affect its own investigation, enforcement activities or a criminal investigation;</u>		
689.	Art. 27c - para 2 - point b (new)		<u>(b) where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Member State addressed;</u>		
690.	Art. 27c - para 2 - point c (new)		<u>(c) where a final judgment has already been delivered in relation to such persons for the same actions in the Member State addressed.</u>		
691.	Art. 27c - para 3 (new)		<u>3. Competent authorities shall, on request, without undue delay supply any information required for the purposes of this Regulation.</u>		
692.	Art. 27c - para 4 - subpara 1 (new)		<u>4. The competent authority may request assistance from the competent authority of another Member State with regard to on-site inspections or investigations.</u>		
693.	Art. 27c - para 4 - subpara 2 (new)		<u>A requesting competent authority shall inform ESMA of any request referred to in the first subparagraph. In the case of</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>an on-site inspection or investigation with cross-border effect, ESMA shall, where requested to do so by one of the competent authorities, coordinate the inspection or investigation.</u>		
694.	Art. 27c - para 4 - subpara 3 (new)		<u>Where a competent authority receives a request from a competent authority of another Member State to carry out an on-site inspection or an investigation, it may do any of the following:</u>		
695.	Art. 27c - para 4 - subpara 3 - point a (new)		<u>(a) carry out the on-site inspection or investigation itself;</u>		
696.	Art. 27c - para 4 - subpara 3 - point b (new)		<u>(b) allow the competent authority which submitted the request to participate in an on-site inspection or investigation;</u>		
697.	Art. 27c - para 4 - subpara 3 - point c (new)		<u>(c) allow the competent authority which submitted the request to carry out the on-site inspection or investigation itself;</u>		
698.	Art. 27c - para 4 - subpara 3 - point ad(new)		<u>(d) appoint auditors or experts to carry out the on-site inspection or investigation;</u>		
699.	Art. 27c - para 4 - subpara 3 - point e (new)		<u>(e) share specific tasks related to supervisory activities with the other competent authorities.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
700.	Art. 27c - para 5 (new)		<p><u>5. The competent authorities may refer to ESMA in situations where a request for cooperation, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time. Without prejudice to Article 258 TFEU, ESMA may, in the situations referred to in the first sentence of this paragraph, act in accordance with the power conferred on it under Article 19 of Regulation (EU) No 1095/2010.</u></p>		
701.	Art. 27c - para 6 - subpara 1 (new)		<p><u>6. ESMA may, or where the Commission so requests shall, develop draft regulatory technical standards to specify the information to be exchanged between competent authorities in accordance with paragraph 1.</u></p>		
702.	Art. 27c - para 6 - subpara 2 (new)		<p><u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.</u></p>		
703.	Art. 27c - para 7 - subpara 1 (new)		<p><u>7. ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the cooperation and exchange of information between competent authorities.</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
704.	Art. 27c - para 7 - subpara 2 (new)		<u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.</u>		
705.	Art. 27d (new)		<u>Article 27d</u> <u>Cooperation with ESMA</u>		
706.	Art. 27d - para 1 (new)		<u>1. The competent authorities shall cooperate with ESMA for the purposes of this Regulation, in accordance with Regulation (EU) No 1095/2010.</u>		
707.	Art. 27d - para 2 (new)		<u>2. The competent authorities shall without delay provide ESMA with all information necessary to carry out its duties, in accordance with Article 35 of Regulation (EU) No 1095/2010.</u>		
708.	Art. 27d - para 3 - subpara 1 (new)		<u>3. In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to determine the procedures and forms for exchange of information as referred to in paragraph 2.</u>		
709.	Art. 27d - para 3 - subpara 2 (new)		<u>Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU)</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>No 1095/2010.</u>		
710.	Art. 27da - (new)		<u>Article 27da</u> <u>Cooperation with other authorities</u>		
711.	Art. 27da - subpara 1 (new)		<u>Where a crowdfunding service provider engages in activities other than those covered by the authorisation referred to in Article 10, the competent authorities shall cooperate with the authorities responsible for the oversight of such other activities as provided for in the relevant national or Union law.</u>		
712.	Art. 27e (new)		<u>Article 27e</u> <u>Professional secrecy</u>		
713.	Art. 27e - para 1 (new)		<u>1. All information exchanged between the competent authorities under this Regulation that concerns business or operational conditions and other economic or personal affairs shall be considered to be confidential and shall be subject to the requirements of professional secrecy, except where the competent authority states at the time of communication that such information may be disclosed or such disclosure is necessary for legal proceedings.</u>		
714.	Art. 27e - para 2 (new)		<u>2. The obligation of professional secrecy shall apply to all persons who work or who</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>have worked for the competent authority. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of provisions laid down by Union or national law.</u>		
715.	Art. 27f (new)		<u>Article 27f</u> <u>Data protection</u>		<u>Article 27f</u> <u>Data protection</u> GREY - Technical Meeting (TM) 7/11/19
716.	Art. 27f - subpara 1 (new)		<u>With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679.</u>		<u>With regard to the processing of personal data within the scope of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679.</u> GREY - Technical Meeting (TM) 7/11/19
717.	Art. 27f - subpara 2 (new)		<u>With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EU) 2018/1725.</u>		<u>With regard to the processing of personal data by ESMA within the scope of this Regulation, it shall comply with Regulation (EU) 2018/1725.</u> GREY - Technical Meeting (TM) 7/11/19
718.	Art. 27g (new)		<u>Article 27g</u> <u>Precautionary measures</u>		
719.	Art. 27g - para 1 (new)		<u>1. Where the competent authority of the Member State where crowdfunding services are</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>provided has clear and demonstrable grounds for believing that irregularities have been committed by the crowdfunding service provider or third parties designated to perform functions in relation to the provision of crowdfunding services or that those persons have infringed their obligations under this Regulation, it shall notify the competent authority which granted authorisation and ESMA.</u>		
720.	Art. 27g - para 2 (new)		<u>2. Where, despite the measures taken by the competent authority which granted authorisation, the crowdfunding service provider or third party designated to perform functions in relation to the provision of crowdfunding services persists in infringing this Regulation, the competent authority of the Member State where crowdfunding services are provided, after informing the competent authority which granted the authorisation and ESMA, shall take all appropriate measures in order to protect investors and shall inform the Commission and ESMA thereof without undue delay.</u>		
721.	Art. 27g - para 3 (new)		<u>3. Where a competent authority disagrees with any of</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>the measures taken by another competent authority pursuant to paragraph 2, it may bring the matter to the attention of ESMA. ESMA may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.</u>		
722.	Art. 27h (new)		<u>Article 27h</u> <u>Complaint handling by competent authorities</u>		<u>Article 27h</u> <u>Complaint handling by competent authorities</u> GREY - Technical Meeting (TM) 29/11/19
723.	Art. 27h - para 1 (new)		<u>1. Competent authorities designated according to Article 27a shall set up procedures which allow clients and other interested parties, including consumers associations, to submit complaints to the competent authorities with regard to crowdfunding service providers' alleged infringements of this Regulation. In all cases, complaints should be accepted in written or electronic form and in an official language of that Member State or in a language accepted by the competent authorities of that Member State.</u>		<u>1. Competent authorities designated according to Article 27a shall set up procedures which allow clients and other interested parties, including consumers associations, to submit complaints to the competent authorities with regard to crowdfunding service providers' alleged infringements of this Regulation. In all cases, complaints should be accepted in written or electronic form and in an official language of that Member State or in a language accepted by the competent authorities of that Member State.</u> GREY - Technical Meeting (TM) 29/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
724.	Art. 27h - para 2 (new)		<u>2. The information about the complaint procedures shall be made available on the website of each competent authority and communicated to ESMA. ESMA shall publish the references to the complaints procedures related sections of the websites of the competent authorities on its website.</u>		<u>2. Information on the complaints procedures referred to in paragraph 1 shall be made available on the website of each competent authority and communicated to ESMA. ESMA shall publish the references to the complaints procedures related sections of the websites of the competent authorities on its website.</u> GREY - Technical Meeting (TM) 29/11/19
725.	Art. 28a (new)		<u>Article 28a</u> <u>Provision of other services by the crowdfunding service provider</u>		<i>Com will propose text for Recital / Art. 1</i>
726.	Art. 28a - subpara 2 (new)		<u>Crowdfunding service providers authorised under this Regulation may also engage in activities other than those covered by the authorization referred to in Article 10 in accordance with the specific provisions of the relevant applicable national or Union legislation.</u>		<i>Com will propose text for Recital / Art. 1</i>
727.	Section II - title	SECTION II ADMINISTRATIVE SANCTIONS AND OTHER MEASURES	Section II ADMINISTRATIVE SANCTIONS AND OTHER MEASURES		
728.	Art. 28 - title	<i>Article 28</i> Fines	Article 28 Fines		Article 28 Fines

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
729.	Art. 28 - para 1	1. Where in accordance with Article 31(5), ESMA finds that a person has, intentionally or negligently, committed one of the infringements listed in Chapter I to V, it shall adopt a decision imposing a fine in accordance with paragraph 3.	1. Where in accordance with Article 31(5), ESMA finds that a person has, intentionally or negligently, committed one of the infringements listed in Chapter I to V, it shall adopt a decision imposing a fine in accordance with paragraph 3.		1. Where in accordance with Article 31(5), ESMA finds that a person has, intentionally or negligently, committed one of the infringements listed in Chapter I to V, it shall adopt a decision imposing a fine in accordance with paragraph 3. GREY - Technical Meeting (TM) 29/11/19
730.	Art. 28 - para 2	2. An infringement shall be considered to have been committed intentionally if ESMA finds objective factors which demonstrate that a person acted deliberately to commit the infringement.	2. An infringement shall be considered to have been committed intentionally if ESMA finds objective factors which demonstrate that a person acted deliberately to commit the infringement.		2. An infringement shall be considered to have been committed intentionally if ESMA finds objective factors which demonstrate that a person acted deliberately to commit the infringement. GREY - Technical Meeting (TM) 29/11/19
731.	Art. 28 - para 3	3. The maximum amount of the fine referred to in paragraph 1 shall be maximum 5% of the annual turnover of the crowdfunding service provider during a calendar year.	3. The maximum amount of the fine referred to in paragraph 1 shall be maximum 5% of the annual turnover of the crowdfunding service provider during a calendar year.		3. The maximum amount of the fine referred to in paragraph 1 shall be maximum 5% of the annual turnover of the crowdfunding service provider during a calendar year. GREY - Technical Meeting (TM) 29/11/19
732.	Art. 28 - para 4	4. When determining the level of a fine pursuant to paragraph 1, ESMA shall take into account the criteria set out in Article 27(2).	4. When determining the level of a fine pursuant to paragraph 1, ESMA shall take into account the criteria set out in Article 27(2).		4. When determining the level of a fine pursuant to paragraph 1, ESMA shall take into account the criteria set out in Article 27(2).

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
733.	Art. 29 - title	<i>Article 29</i> Periodic penalty payments	Article 29 Periodic penalty payments		Article 29 Periodic penalty payments GREY - Technical Meeting (TM) 29/11/19
734.	Art. 29 - para 1	1. ESMA shall, by decision, impose periodic penalty payments in order to compel:	1. ESMA shall, by decision, impose periodic penalty payments in order to compel:		1. ESMA shall, by decision, impose periodic penalty payments in order to compel: GREY - Technical Meeting (TM) 29/11/19
735.	Art. 29 - para 1 - point a	(a) a person to put an end to an infringement in accordance with a decision taken pursuant to Article 23;	a person to put an end to an infringement in accordance with a decision taken pursuant to Article 23;		a person to put an end to an infringement in accordance with a decision taken pursuant to Article 23; GREY - Technical Meeting (TM) 29/11/19
736.	Art. 29 - para 1 - point b	(b) a person referred to in Article 22(1):	a person referred to in Article 22(1):		a person referred to in Article 22(1): GREY - Technical Meeting (TM) 29/11/19
737.	Art. 29 - para 1 - point b - point i	(i) to supply complete information which has been requested by a decision pursuant to Article 22;	(i) to supply complete information which has been requested by a decision pursuant to Article 22;		(i) to supply complete information which has been requested by a decision pursuant to Article 22; GREY - Technical Meeting (TM) 29/11/19
738.	Art. 29 - para 1 -	(ii) to submit to an investigation and in particular to produce complete	(ii) to submit to an investigation and in particular to		(ii) to submit to an investigation and in particular to

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point b - point ii	records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision pursuant to Article 23;	produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision pursuant to Article 23;		produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision pursuant to Article 23; GREY - Technical Meeting (TM) 29/11/19
739.	Art. 29 - para 1 - point b - point iii	(iii) to submit to an on-site inspection ordered by a decision taken pursuant to Article 24.	(iii) — to submit to an on-site inspection ordered by a decision taken pursuant to Article 24.		(iii) — to submit to an on-site inspection ordered by a decision taken pursuant to Article 24. GREY - Technical Meeting (TM) 29/11/19
740.	Art. 29 - para 2	2. A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed for each day of delay.	2. — A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed for each day of delay.		2. — A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed for each day of delay. GREY - Technical Meeting (TM) 29/11/19
741.	Art. 29 - para 3	3. Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be 3 % of the average daily turnover in the preceding business year, or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.	3. — Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be 3 % of the average daily turnover in the preceding business year, or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.		3. — Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be 3 % of the average daily turnover in the preceding business year, or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
742.	Art. 29 - para 4	4. A periodic penalty payment shall be imposed for a maximum period of six months following the notification of ESMA's decision. Following the end of the period, ESMA shall review the measure.	4. — A periodic penalty payment shall be imposed for a maximum period of six months following the notification of ESMA's decision. Following the end of the period, ESMA shall review the measure.		4. — A periodic penalty payment shall be imposed for a maximum period of six months following the notification of ESMA's decision. Following the end of the period, ESMA shall review the measure. GREY - Technical Meeting (TM) 29/11/19
743.	Art. 30 - title	<i>Article 30</i> Disclosure, nature, enforcement and allocation of fines and periodic penalty payments	Article 30 Disclosure, nature, enforcement and allocation of fines and periodic penalty payments		Article 30 Disclosure, nature, enforcement and allocation of fines and periodic penalty payments GREY - Technical Meeting (TM) 29/11/19
744.	Art. 30 - para 1	1. ESMA shall disclose to the public every fine and periodic penalty payment that has been imposed pursuant to Articles 28 and 29 unless such disclosure to the public would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data within the meaning of Regulation (EU) 2016/679 .	1. — ESMA shall disclose to the public every fine and periodic penalty payment that has been imposed pursuant to Articles 28 and 29 unless such disclosure to the public would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data within the meaning of Regulation (EU) 2016/679⁴⁵.		1. — ESMA shall disclose to the public every fine and periodic penalty payment that has been imposed pursuant to Articles 28 and 29 unless such disclosure to the public would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data

⁴⁵ — 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)

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					within the meaning of Regulation (EU) 2016/679 ⁴⁶ ; GREY - Technical Meeting (TM) 29/11/19
745.	Art. 30 - para 2	2. Fines and periodic penalty payments imposed pursuant to Articles 34 and 35 shall be of an administrative nature.	2. Fines and periodic penalty payments imposed pursuant to Articles 34 and 35 shall be of an administrative nature.		2. Fines and periodic penalty payments imposed pursuant to Articles 34 and 35 shall be of an administrative nature. GREY - Technical Meeting (TM) 29/11/19
746.	Art. 30 - para 3	3. Where ESMA decides to impose no fines or penalty payments, it shall inform the European Parliament, the Council, the Commission, and the competent authorities of the Member State concerned accordingly and shall set out the reasons for its decision.	3. Where ESMA decides to impose no fines or penalty payments, it shall inform the European Parliament, the Council, the Commission, and the competent authorities of the Member State concerned accordingly and shall set out the reasons for its decision.		3. Where ESMA decides to impose no fines or penalty payments, it shall inform the European Parliament, the Council, the Commission, and the competent authorities of the Member State concerned accordingly and shall set out the reasons for its decision. GREY - Technical Meeting (TM) 29/11/19
747.	Art. 30 - para 4	4. Fines and periodic penalty payments imposed pursuant to Articles 28 and 29 shall be enforceable.	4. Fines and periodic penalty payments imposed pursuant to Articles 28 and 29 shall be enforceable.		4. Fines and periodic penalty payments imposed pursuant to Articles 28 and 29 shall be enforceable. GREY - Technical Meeting (TM) 29/11/19

⁴⁶ 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)

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
748.	Art. 30 - para 5	5. Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out.	5. — Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out.		5. — Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. GREY - Technical Meeting (TM) 29/11/19
749.	Art. 30 - para 6	6. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union.	6. — The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union.		6. — The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union. GREY - Technical Meeting (TM) 29/11/19
750.	Art. 31 - title	<i>Article 31</i> Procedural rules for taking supervisory measures and imposing fines	Article 31 Procedural rules for taking supervisory measures and imposing fines		Article 31 Procedural rules for taking supervisory measures and imposing fines GREY - Technical Meeting (TM) 29/11/19
751.	Art. 31 - para 1	1. Where, in carrying out its duties under this Regulation, ESMA finds that there are serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Chapters I to V, ESMA shall appoint an independent investigation officer within ESMA to investigate the matter. The appointed officer shall not be involved or have been directly or indirectly involved in the supervision or the authorisation	1. — Where, in carrying out its duties under this Regulation, ESMA finds that there are serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Chapters I to V, ESMA shall appoint an independent investigation officer within ESMA to investigate the matter. The appointed officer shall not be involved or have been directly or indirectly involved in the		1. — Where, in carrying out its duties under this Regulation, ESMA finds that there are serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Chapters I to V, ESMA shall appoint an independent investigation officer within ESMA to investigate the matter. The appointed officer shall not be involved or have been directly or indirectly involved in the

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		process of the crowdfunding service provider concerned and shall perform its functions independently from ESMA.	supervision or the authorisation process of the crowdfunding service provider concerned and shall perform its functions independently from ESMA.		supervision or the authorisation process of the crowdfunding service provider concerned and shall perform its functions independently from ESMA. GREY - Technical Meeting (TM) 29/11/19
752.	Art. 31 - para 2	2. The investigation officer referred to in paragraph 1 shall investigate the alleged infringements, taking into account any comments submitted by the persons who are subject to the investigations, and shall submit a complete file with his findings to ESMA.	2. — The investigation officer referred to in paragraph 1 shall investigate the alleged infringements, taking into account any comments submitted by the persons who are subject to the investigations, and shall submit a complete file with his findings to ESMA.		2. — The investigation officer referred to in paragraph 1 shall investigate the alleged infringements, taking into account any comments submitted by the persons who are subject to the investigations, and shall submit a complete file with his findings to ESMA. GREY - Technical Meeting (TM) 29/11/19
753.	Art. 31 - para 3	3. In order to carry out its tasks, the investigation officer may exercise the power to request information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Articles 23 and 24.	3. — In order to carry out its tasks, the investigation officer may exercise the power to request information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Articles 23 and 24.		3. — In order to carry out its tasks, the investigation officer may exercise the power to request information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Articles 23 and 24. GREY - Technical Meeting (TM) 29/11/19
754.	Art. 31 - para 4	4. Where carrying out his tasks, the investigation officer shall have access to all documents and	4. — Where carrying out his tasks, the investigation officer shall have access to all documents and		4. — Where carrying out his tasks, the investigation officer shall have access to all documents and

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		information gathered by ESMA in its supervisory activities.	information gathered by ESMA in its supervisory activities.		information gathered by ESMA in its supervisory activities. GREY - Technical Meeting (TM) 29/11/19
755.	Art. 31 - para 5	5. Upon completion of his investigation and before submitting the file with his findings to ESMA, the investigation officer shall give the persons subject to the investigations the opportunity to be heard on the matters being investigated. The investigation officer shall base his findings only on facts on which the persons concerned have had the opportunity to comment.	5. Upon completion of his investigation and before submitting the file with his findings to ESMA, the investigation officer shall give the persons subject to the investigations the opportunity to be heard on the matters being investigated. The investigation officer shall base his findings only on facts on which the persons concerned have had the opportunity to comment.		5. Upon completion of his investigation and before submitting the file with his findings to ESMA, the investigation officer shall give the persons subject to the investigations the opportunity to be heard on the matters being investigated. The investigation officer shall base his findings only on facts on which the persons concerned have had the opportunity to comment. GREY - Technical Meeting (TM) 29/11/19
756.	Art. 31 - para 6	6. The rights of the defence of the persons concerned shall be fully respected during investigations under this Article.	6. The rights of the defence of the persons concerned shall be fully respected during investigations under this Article.		6. The rights of the defence of the persons concerned shall be fully respected during investigations under this Article. GREY - Technical Meeting (TM) 29/11/19
757.	Art. 31 - para 7	7. When submitting the file with his findings to ESMA, the investigation officer shall notify the persons who are subject to the investigations. The persons subject to the investigations shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of	7. When submitting the file with his findings to ESMA, the investigation officer shall notify the persons who are subject to the investigations. The persons subject to the investigations shall be entitled to have access to the file, subject to the legitimate interest of		7. When submitting the file with his findings to ESMA, the investigation officer shall notify the persons who are subject to the investigations. The persons subject to the investigations shall be entitled to have access to the file, subject to the legitimate interest of

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.	other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.		other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties. GREY - Technical Meeting (TM) 29/11/19
758.	Art. 31 - para 8	8. On the basis of the file containing the investigation officer's findings and, when requested by the persons subject to the investigations, after having heard those persons in accordance with Article 32, ESMA shall decide if one or more of the infringements listed in Chapters I to V have been committed by the persons subject to the investigations and, in such a case, shall take a supervisory measure in accordance with Article 31.	8. — On the basis of the file containing the investigation officer's findings and, when requested by the persons subject to the investigations, after having heard those persons in accordance with Article 32, ESMA shall decide if one or more of the infringements listed in Chapters I to V have been committed by the persons subject to the investigations and, in such a case, shall take a supervisory measure in accordance with Article 31.		8. — On the basis of the file containing the investigation officer's findings and, when requested by the persons subject to the investigations, after having heard those persons in accordance with Article 32, ESMA shall decide if one or more of the infringements listed in Chapters I to V have been committed by the persons subject to the investigations and, in such a case, shall take a supervisory measure in accordance with Article 31. GREY - Technical Meeting (TM) 29/11/19
759.	Art. 31 - para 9	9. The investigation officer shall not participate in ESMA's deliberations or in any other way intervene in ESMA's decision-making process.	9. — The investigation officer shall not participate in ESMA's deliberations or in any other way intervene in ESMA's decision-making process.		9. — The investigation officer shall not participate in ESMA's deliberations or in any other way intervene in ESMA's decision-making process. GREY - Technical Meeting (TM) 29/11/19
760.	Art. 31 - para 10	10. The Commission may adopt delegated acts in accordance with	10. — The Commission may adopt delegated acts in accordance		10. — The Commission may adopt delegated acts in accordance

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		Article 37 by [please insert date 24 months after entry into force] specifying further the rules of procedure for the exercise of the power to impose fines or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of fines or periodic penalty payments, and the limitation periods for the imposition and enforcement of fines and periodic penalty payments.	with Article 37 by [please insert date 24 months after entry into force] specifying further the rules of procedure for the exercise of the power to impose fines or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of fines or periodic penalty payments, and the limitation periods for the imposition and enforcement of fines and periodic penalty payments.		with Article 37 by [please insert date 24 months after entry into force] specifying further the rules of procedure for the exercise of the power to impose fines or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of fines or periodic penalty payments, and the limitation periods for the imposition and enforcement of fines and periodic penalty payments. GREY - Technical Meeting (TM) 29/11/19
761.	Art. 31 - para 11	11. ESMA shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, ESMA shall refrain from imposing fines or periodic penalty payments where a prior acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.	11. — ESMA shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, ESMA shall refrain from imposing fines or periodic penalty payments where a prior acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.		11. — ESMA shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, ESMA shall refrain from imposing fines or periodic penalty payments where a prior acquittal or conviction arising from identical fact or facts which are substantially the same has already acquired the force of res judicata as the result of criminal proceedings under national law.

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 29/11/19
762.	Art. 32 - title	Article 32 Hearing of persons concerned	Article 32 Hearing of persons concerned		Article 32 Hearing of persons concerned GREY - Technical Meeting (TM) 29/11/19
763.	Art. 32 - para 1	1. Before taking any decision pursuant to Articles 27, 28 and 29, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its decisions only on findings on which the persons subject to the proceedings have had an opportunity to comment.	1. — Before taking any decision pursuant to Articles 27, 28 and 29, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its decisions only on findings on which the persons subject to the proceedings have had an opportunity to comment.		1. — Before taking any decision pursuant to Articles 27, 28 and 29, ESMA shall give the persons subject to the proceedings the opportunity to be heard on its findings. ESMA shall base its decisions only on findings on which the persons subject to the proceedings have had an opportunity to comment. GREY - Technical Meeting (TM) 29/11/19
764.	Art. 32 - para 2	2. The first subparagraph shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case ESMA may adopt an interim decision and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision.	2. — The first subparagraph shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case ESMA may adopt an interim decision and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision.		2. — The first subparagraph shall not apply if urgent action is needed in order to prevent significant and imminent damage to the financial system. In such a case ESMA may adopt an interim decision and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision. GREY - Technical Meeting (TM) 29/11/19
765.	Art. 32 - para 3	3. The rights of the defence of the persons subject to investigations shall be fully respected in the	3. — The rights of the defence of the persons subject to investigations shall be fully respected in the		3. — The rights of the defence of the persons subject to investigations shall be fully respected in the

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		proceedings. They shall be entitled to have access to ESMA's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or ESMA's internal preparatory documents.	proceedings. They shall be entitled to have access to ESMA's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or ESMA's internal preparatory documents.		proceedings. They shall be entitled to have access to ESMA's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or ESMA's internal preparatory documents. GREY - Technical Meeting (TM) 29/11/19
766.	Art. 33 - title	<i>Article 33</i> Review by the Court of Justice	Article 33 Review by the Court of Justice		Article 33 Review by the Court of Justice GREY - Technical Meeting (TM) 29/11/19
767.	Art. 33 - para 1	The Court of Justice shall have unlimited jurisdiction to review decisions whereby ESMA has imposed a fine or a periodic penalty payment or imposed any other sanction or administrative measure in accordance with this Regulation. It may annul, reduce or increase the fine or periodic penalty payment imposed.	The Court of Justice shall have unlimited jurisdiction to review decisions whereby ESMA has imposed a fine or a periodic penalty payment or imposed any other sanction or administrative measure in accordance with this Regulation. It may annul, reduce or increase the fine or periodic penalty payment imposed.		The Court of Justice shall have unlimited jurisdiction to review decisions whereby ESMA has imposed a fine or a periodic penalty payment or imposed any other sanction or administrative measure in accordance with this Regulation. It may annul, reduce or increase the fine or periodic penalty payment imposed. GREY - Technical Meeting (TM) 29/11/19
768.	Art. 34 - title	<i>Article 34</i> Authorisation and supervisory fees	Article 34 Authorisation and supervisory fees		Article 34 Authorisation and supervisory fees GREY - Technical Meeting (TM) 29/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
769.	Art. 34 - para 1	1. ESMA shall charge fees to the crowdfunding service providers in accordance with this Regulation and in accordance with the delegated acts adopted pursuant to paragraph 3. Those fees shall cover ESMA's expenditure relating to the authorisation and supervision of crowdfunding service providers and the reimbursement of costs that the competent authorities may incur carrying out work pursuant to this Regulation, in particular as a result of any delegation of tasks in accordance with Article 35.	1. ESMA shall charge fees to the crowdfunding service providers in accordance with this Regulation and in accordance with the delegated acts adopted pursuant to paragraph 3. Those fees shall cover ESMA's expenditure relating to the authorisation and supervision of crowdfunding service providers and the reimbursement of costs that the competent authorities may incur carrying out work pursuant to this Regulation, in particular as a result of any delegation of tasks in accordance with Article 35.		1. ESMA shall charge fees to the crowdfunding service providers in accordance with this Regulation and in accordance with the delegated acts adopted pursuant to paragraph 3. Those fees shall cover ESMA's expenditure relating to the authorisation and supervision of crowdfunding service providers and the reimbursement of costs that the competent authorities may incur carrying out work pursuant to this Regulation, in particular as a result of any delegation of tasks in accordance with Article 35. GREY - Technical Meeting (TM) 29/11/19
770.	Art. 34 - para 2	2. The amount of the fee charged to an individual crowdfunding service provider shall be capped to an amount proportionate to the size of the crowdfunding service provider's activities.	2. The amount of the fee charged to an individual crowdfunding service provider shall be capped to an amount proportionate to the size of the crowdfunding service provider's activities.		2. The amount of the fee charged to an individual crowdfunding service provider shall be capped to an amount proportionate to the size of the crowdfunding service provider's activities. GREY - Technical Meeting (TM) 29/11/19
771.	Art. 34 - para 3	3. The Commission shall adopt a delegated act in accordance with Article 37 by [Publications Office: please insert date 24 months after entry into force] to specify the type of fees, the matters for which fees are due, the amount of the fees and	3. The Commission shall adopt a delegated act in accordance with Article 37 by [Publications Office: please insert date 24 months after entry into force] to specify the type of fees, the matters for which fees are due, the amount of the fees and		3. The Commission shall adopt a delegated act in accordance with Article 37 by [Publications Office: please insert date 24 months after entry into force] to specify the type of fees, the matters for which fees are due, the amount of the fees and

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		the manner in which they are to be paid and the methodology to calculate the maximum amount per entity under paragraph 2 that can be charged by ESMA.	and the manner in which they are to be paid and the methodology to calculate the maximum amount per entity under paragraph 2 that can be charged by ESMA.		and the manner in which they are to be paid and the methodology to calculate the maximum amount per entity under paragraph 2 that can be charged by ESMA. GREY - Technical Meeting (TM) 29/11/19
772.	Art. 35 - title	<i>Article 35</i> Delegation of tasks by ESMA to competent authorities	Article 35 Delegation of tasks by ESMA to competent authorities		Article 35 Delegation of tasks by ESMA to competent authorities GREY - Technical Meeting (TM) 29/11/19
773.	Art. 35 - para 1	1. Where necessary for the proper performance of a supervisory task, ESMA may delegate specific supervisory tasks to the competent authority of a Member State in accordance with the guidelines issued by ESMA pursuant to Article 16 of Regulation (EU) No 1095/2010. Such specific supervisory tasks may, in particular, include the power to carry out requests for information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Article 23 and Article 24.	1. — Where necessary for the proper performance of a supervisory task, ESMA may delegate specific supervisory tasks to the competent authority of a Member State in accordance with the guidelines issued by ESMA pursuant to Article 16 of Regulation (EU) No 1095/2010. Such specific supervisory tasks may, in particular, include the power to carry out requests for information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Article 23 and Article 24.		1. — Where necessary for the proper performance of a supervisory task, ESMA may delegate specific supervisory tasks to the competent authority of a Member State in accordance with the guidelines issued by ESMA pursuant to Article 16 of Regulation (EU) No 1095/2010. Such specific supervisory tasks may, in particular, include the power to carry out requests for information in accordance with Article 22 and to conduct investigations and on-site inspections in accordance with Article 23 and Article 24. GREY - Technical Meeting (TM) 29/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
774.	Art. 35 - para 2	2. Prior to delegation of a task, ESMA shall consult the relevant competent authority about:	2. Prior to delegation of a task, ESMA shall consult the relevant competent authority about:		2. Prior to delegation of a task, ESMA shall consult the relevant competent authority about: GREY - Technical Meeting (TM) 29/11/19
775.	Art. 35 - para 2 - point a	(a) the scope of the task to be delegated;	the scope of the task to be delegated;		the scope of the task to be delegated; GREY - Technical Meeting (TM) 29/11/19
776.	Art. 35 - para 2 - point b	(b) the timetable for the performance of the task; and	the timetable for the performance of the task; and		the timetable for the performance of the task; and GREY - Technical Meeting (TM) 29/11/19
777.	Art. 35 - para 2 - point c	(c) the transmission of necessary information by and to ESMA.	the transmission of necessary information by and to ESMA.		the transmission of necessary information by and to ESMA. GREY - Technical Meeting (TM) 29/11/19
778.	Art. 35 - para 3	3. In accordance with the regulation on fees adopted by the Commission pursuant to Article 34(3), ESMA shall reimburse a competent authority for costs incurred as a result of carrying out delegated tasks.	3. In accordance with the regulation on fees adopted by the Commission pursuant to Article 34(3), ESMA shall reimburse a competent authority for costs incurred as a result of carrying out delegated tasks.		3. In accordance with the regulation on fees adopted by the Commission pursuant to Article 34(3), ESMA shall reimburse a competent authority for costs incurred as a result of carrying out delegated tasks. GREY - Technical Meeting (TM) 29/11/19
779.	Art. 35 - para 4	4. ESMA shall review the decision referred to in paragraph 1 at appropriate intervals. A	4. ESMA shall review the decision referred to in paragraph 1 at appropriate intervals. A		4. ESMA shall review the decision referred to in paragraph 1 at appropriate intervals. A

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		appropriate intervals. A delegation may be revoked at any time.	delegation may be revoked at any time.		delegation may be revoked at any time. GREY - Technical Meeting (TM) 29/11/19
780.	Art. 36 - title	<i>Article 36</i> Data protection	<i>Article 36</i> Data protection	<i>Article 36</i> Data protection	<i>Article 36</i> Data protection <i>Deleted, see line 715-717</i> GREY - Technical Meeting (TM) 7/11/19
781.	Art. 36 - para 1	1. With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council.	1. With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council.	1. With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council.	1. With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. <i>Deleted, see line 715-717</i> GREY - Technical Meeting (TM) 7/11/19
782.	Art. 36 - para 2	2. With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EC) No 45/2001.	2. With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EC) No 45/2001.	2. With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EC) No 45/2001.	2. With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EC) No 45/2001. <i>Deleted, see line 715-717</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 7/11/19
783.	Chapter VIa - title (new)		<u>CHAPTER VIa</u> <u>ADMINISTRATIVE</u> <u>SANCTIONS AND OTHER</u> <u>ADMINISTRATIVE</u> <u>MEASURES</u>		<u>CHAPTER VIa</u> <u>ADMINISTRATIVE</u> <u>SANCTIONS AND OTHER</u> <u>ADMINISTRATIVE</u> <u>MEASURES</u> GREY - Technical Meeting (TM) 7/11/19
784.	Art. 36a (new)		<u>Article 36a</u> <u>Administrative sanctions and</u> <u>other administrative measures</u>		<u>Article 36a</u> <u>Administrative <i>penalties</i> and</u> <u>other administrative measures</u> GREY - Technical Meeting (TM) 20/11/19
785.	Art. 36a - para 1 (new)		<u>1. Without prejudice to the</u> <u>supervisory and investigatory</u> <u>powers of competent authorities</u> <u>under Article 27b, and the right</u> <u>of Member States to provide for</u> <u>and impose criminal sanctions,</u> <u>Member States shall, in</u> <u>accordance with national law,</u> <u>provide for competent authorities</u> <u>to have the power to impose</u> <u>administrative sanctions and take</u> <u>appropriate other administrative</u> <u>measures which shall be effective,</u> <u>proportionate and dissuasive.</u> <u>Those administrative sanctions</u> <u>and other administrative</u> <u>measures shall apply at least to:</u>		<u>1. Without prejudice to the</u> <u>supervisory and investigatory</u> <u>powers of competent authorities</u> <u>under Article 27b, and the right</u> <u>of Member States to provide for</u> <u>and impose criminal <i>penalties</i>,</u> <u>Member States shall, in</u> <u>accordance with national law,</u> <u>provide for competent authorities</u> <u>to have the power to impose</u> <u>administrative <i>penalties</i> and take</u> <u>appropriate other administrative</u> <u>measures which shall be effective,</u> <u>proportionate and dissuasive.</u> <u>Those administrative <i>penalties</i></u> <u>and other administrative</u> <u>measures shall apply at least to:</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 20/11/19
786.	Art. 36a - para 1 - point a (new)		<u>(a) infringements of Article 4, Article 5, Article 6(1), (2) and (3), Article 7, Article 8(1) and (2), Article 9, Article 9a(1) and (2), Article 10(1), Article 12(2) and (4), Article 13a(1), Article 14(1) to (4), Article 15(1) to (5), Article 15a(2), Article 15b, Article 16(1) to (6), Article 17, Article 18 and Article 19(1) to (3);</u>		<i>Tbd at finalisation</i> GREY - Technical Meeting (TM) 20/11/19
787.	Art. 36a - para 1 - point b (new)		<u>(b) failure to cooperate or comply in an investigation or with an inspection or request covered by Article 27c.</u>		<u>(b) failure to cooperate or comply in an investigation or with an inspection or request covered by Article 27c</u> GREY - Technical Meeting (TM) 20/11/19
788.			<u>Member States may decide not to lay down rules for administrative sanctions as referred to in the first subparagraph where the infringements referred to in point (a) or point (b) of that subparagraph are already subject to criminal sanctions in their national law by [Publications Office please insert date 6 months from entry into force]. Where they so decide, Member States shall notify, in detail, to the Commission and to ESMA, the</u>		<i>Member States may decide not to lay down rules for administrative penalties or other administrative measures for infringements which are subject to criminal penalties under their national law.</i> GREY - Technical Meeting (TM) 7/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>relevant parts of their criminal law.</u>		
789.			<u>By [Publications office please insert date 6 months from entry into force], Member States shall notify, in detail, the rules referred to in the first and second subparagraph to the Commission and to ESMA. They shall notify the Commission and ESMA without delay of any subsequent amendment thereto.</u>		<p><u>By ... [6 months from the date of entry into force of this Regulation], Member States shall notify, in detail, the rules referred to in the first and second subparagraph to the Commission and to ESMA. They shall notify the Commission and ESMA without delay of any subsequent amendment thereto.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
790.	Art. 36a - para 2 (new)		<u>2. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose at least the following administrative sanctions and other administrative measures in relation to the infringements listed in point (a) of paragraph 1:</u>		<p><u>2. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose at least the following administrative penalties and other administrative measures in relation to the infringements listed in point (a) of paragraph 1:</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
791.	Art. 36a - para 2 - point a (new)		<u>(a) a public statement indicating the natural person or the legal entity responsible and the nature of the infringement in accordance with Article 36c;</u>		<p><i>(a) a public statement indicating the natural or legal person responsible for, and the nature of, the infringement;</i></p> <p>GREY - Technical Meeting (TM) 7/11/19</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<i>Reference depending on political discussion on Article 36e</i>
792.	Art. 36a - para 2 - point b (new)		<u>(b) an order requiring the natural person or legal entity responsible to cease the conduct constituting the infringement;</u>		<i>(b) an order requiring the natural or legal person to cease the infringing conduct and to desist from a repetition of that conduct;</i> GREY - Technical Meeting (TM) 7/11/19
792 (bis)					<i>(c) a temporary or, for repeated serious infringements, permanent ban preventing any member of the management body of the legal person responsible for the infringement, or any other natural person held responsible for the infringement, from exercising management functions in such undertakings;</i> GREY - Technical Meeting (TM) 20/11/19
793.	Art. 36a - para 2 - point a (new)		<u>(c) maximum administrative pecuniary sanctions of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined, even if that exceeds the maximum amounts in points (d) and (e);</u>		<i>(e) maximum administrative pecuniary fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in point (d).</i> GREY - Technical Meeting (TM) 7/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<i>Reference depending on political discussion on Article 36a</i>
794.	Art. 36a - para 2 - point d (new)		<p><u>(d) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 500 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency</u> <u>[Publications Office please insert date of entry into force] or of up to 5% of the total annual turnover of that legal person according to the last available financial statements approved by the management body.</u></p>		<p><u>(d) in the case of a legal person, maximum administrative fines of at least EUR 500 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on ... [date of entry into force of this Regulation] or of up to 5% of the total annual turnover of that legal person according to the last available financial statements approved by the management body.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p>
795.			<p><u>Where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
796.	Art. 36a - para 2 - point e (new)		<u>(e) in the case of a natural person, maximum administrative pecuniary sanctions of at least EUR 500 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency [Publications Office please insert date of entry into force].</u>		<u>(e) in the case of a natural person, maximum administrative fines of at least EUR 500 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency on ... [date of entry into force of this Regulation].</u> GREY - Technical Meeting (TM) 20/11/19
797.	Art. 36a - para 3 - point a (new)		<u>3. Member States may provide for additional sanctions or measures and for higher levels of administrative pecuniary sanctions than those provided for in this Regulation.</u>		
798.	Art. 36b (new)		<u>Article 36b</u> <u>Exercise of supervisory powers and powers to impose sanctions</u>		<u>Article 36b</u> <u>Exercise of supervisory powers and powers to impose penalties</u> GREY - Technical Meeting (TM) 7/11/19
799.	Art. 36b - para 1 (new)		<u>1. Competent authorities, when determining the type and level of administrative sanctions and other administrative measures, shall take into account all relevant circumstances including, where appropriate:</u>		<i>2. Competent authorities, when determining the type and level of an administrative penalty or other administrative measure to be imposed under Article XX, shall take into account the extent to which the infringement is intentional or results from negligence and all other relevant</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<i>circumstances, including, where appropriate:</i> GREY - Technical Meeting (TM) 7/11/19
800.	Art. 36b - para 1 - point a (new)		<u>(a) the gravity and the duration of the infringement;</u>		<u>(a) the gravity and the duration of the infringement;</u> GREY - Technical Meeting (TM) 7/11/19
801.	Art. 36b - para 1 - point a (new)		<u>(b) the degree of responsibility of the person responsible for the infringement;</u>		<i>(b) the degree of responsibility of the natural or legal person responsible for the infringement;</i> GREY - Technical Meeting (TM) 7/11/19 <i>Use “natural or legal” throughout the text</i>
802.	Art. 36b - para 1 - point c (new)		<u>(c) the financial strength of the person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;</u>		<u>(c) the financial strength of the natural or legal person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;</u> GREY - Technical Meeting (TM) 7/11/19
803.	Art. 36b - para 1 - point d (new)		<u>(d) the impact of the infringement on investors’ interests;</u>		<i>(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as those can be determined;</i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 7/11/19
804.	Art. 36b - para 1 - point e (new)		<u>(e) the importance of the profits gained, losses avoided by the person responsible for the infringement or the losses for third parties derived from the infringement, insofar as they can be determined;</u>		<i>(e) the losses for third parties caused by the infringement, insofar as those can be determined;</i> GREY - Technical Meeting (TM) 7/11/19
805.	Art. 36b - para 1 - point f (new)		<u>(f) the level of cooperation of the person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;</u>		<i>(f) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;</i> GREY - Technical Meeting (TM) 7/11/19
806.	Art. 36b - para 1 - point g (new)		<u>(g) previous infringements by the person responsible for the infringement;</u>		<i>(g) previous infringements by the natural or legal person responsible for the infringement;</i> GREY - Technical Meeting (TM) 7/11/19
807.	Art. 36b - para 1 - point h (new)		<u>(h) measures taken after the infringement by the person responsible for the infringement to prevent its repetition.</u>		<u>(h) measures taken after the infringement by the person responsible for the infringement to prevent its repetition.</u> <u>(h) the impact of the infringement on investors' interests.</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					GREY - Technical Meeting (TM) 7/11/19
808.	Art. 36b - para 1a (new)		<u>1a. Competent authorities shall exercise their functions and powers referred to in Article 36a in accordance with Article 27b(2).</u>		
809.	Art. 36b - para 2 (new)		<u>2. In the exercise of their powers to impose administrative sanctions and other administrative measures under Article 36a, competent authorities shall cooperate closely to ensure that the exercise of their supervisory and investigative powers and the administrative sanctions and other administrative measures that they impose are effective and appropriate under this Regulation. They shall coordinate their action in order to avoid duplication and overlaps when exercising their supervisory and investigative powers and when imposing administrative sanctions and other administrative measures in cross-border cases.</u>		
810.	Art. 36c (new)		<u>Article 36c Right of appeal</u>		<u>Article 36c Right of appeal</u>
811.			<u>Member States shall ensure that decisions taken under this Regulation are properly reasoned and subject to a right of appeal before a tribunal.</u>		<i>Member States shall ensure that any decision taken under this Regulation is properly reasoned and is subject to the right of appeal before a tribunal. <u>The right of appeal before a tribunal shall also</u></i>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p><u>apply where, in respect of an application for authorisation which provides all the information required, no decision is taken within XXX months of its submission.</u></p> <p><u>Underlined part is an addition from MiFID II - to be discussed at political level in conjunction with authorisation process</u></p> <p>GREY - Technical Meeting (TM) 7/11/19</p>
812.	Art. 36d (new)		<u>Article 36d</u> <u>Reporting of infringements</u>		<p><u>Pending political agreement - provisionally added</u></p> <p><u>Article 36d</u> <u>Reporting of infringements</u></p>
813.	Art 36d - para 1 (new)		<u>1. Competent authorities shall establish effective mechanisms to encourage and enable reporting of actual or potential infringements of this Regulation to them.</u>		<u>1. Competent authorities shall establish effective mechanisms to encourage and enable the reporting of actual or potential infringements of this Regulation to them.</u>
814.	Art 36d - para 2 (new)		<u>2. The mechanisms referred to in paragraph 1 shall include at least:</u>		<u>2. The mechanisms referred to in paragraph 1 shall include at least:</u>
815.	Art 36d - para 2 - point a (new)		<u>(a) specific procedures for the receipt of reports of actual or potential infringements and their follow-up, including the establishment of secure communication channels for such reports;</u>		<u>(a) specific procedures for the receipt of reports of actual or potential infringements and their follow-up, including the establishment of secure communication channels for such reports;</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
816.	Art 36d - para 2 - point b (new)		<u>(b) appropriate protection for employees working under a contract of employment who report infringements at least against retaliation, discrimination and other types of unfair treatment by their employer or third parties;</u>		<u>(b) appropriate protection for employees working under a contract of employment who report infringements at least against retaliation, discrimination and other types of unfair treatment by their employer or third parties;</u>
817.	Art 36d - para 2 - point c (new)		<u>(c) protection of the identity and personal data of both the person who reports the infringements and the natural person who is allegedly responsible for an infringement, at all stages of the procedure unless such disclosure is required by national law in the context of further investigation or subsequent judicial proceedings.</u>		<u>(c) protection of the identity and personal data of both the person who reports the infringements and the natural person who is allegedly responsible for an infringement, at all stages of the procedure unless such disclosure is required by national law in the context of further investigation or subsequent judicial proceedings.</u>
818.	Art 36d - para 3 (new)		<u>3. Member States may provide for financial incentives to persons who offer relevant information about actual or potential infringements of this Regulation to be granted in accordance with national law where such persons do not have other pre-existing legal or contractual duties to report such information, and provided that the information is new, and that it results in the imposition of an administrative or criminal sanction, or the taking of another administrative measure, for an infringement of this Regulation.</u>		<u>3. Member States may provide for financial incentives to persons who offer relevant information about actual or potential infringements of this Regulation to be granted in accordance with national law where such persons do not have other pre-existing legal or contractual duties to report such information, and provided that the information is new, and that it results in the imposition of an administrative or criminal penalty, or the taking of another administrative measure, for an infringement of this Regulation.</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
819.	Art 36d - para 4 (new)		<u>4. Member States shall require employers engaged in the provision of crowdfunding services to have in place appropriate procedures for their employees to report actual or potential infringements internally through a specific, independent and autonomous channel.</u>		<u>4. Member States shall require employers engaged in the provision of crowdfunding services to have in place appropriate procedures for their employees to report actual or potential infringements internally through a specific, independent and autonomous channel.</u>
820.	Art. 36e (new)		<u>Article 36e</u> <u>Publication of decisions</u>		<u>Article 36e</u> <u>Publication of decisions</u> GREY - Technical Meeting (TM) 20/11/19 <i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i>
821.	Art. 36e - para 1 (new)		<u>1. A decision imposing an administrative sanction or other administrative measure for infringement of this Regulation shall be published by competent authorities on their official websites immediately after the person subject to that decision has been informed of that decision. The publication shall include at least information on the type and nature of the infringement and the identity of the persons responsible. That obligation does not apply to decisions imposing measures that are of an investigatory nature.</u>		<u>1. A decision imposing an administrative sanction or other administrative measure for infringement of this Regulation shall be published by competent authorities on their official websites immediately after the person subject to that decision has been informed of that decision. The publication shall include at least information on the type and nature of the infringement and the identity of the persons responsible. That obligation does not apply to</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p>decisions imposing measures that are of an investigatory nature.</p> <p>GREY - Technical Meeting (TM) 20/11/19</p> <p><i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i></p>
822.	Art. 36e - para 2 (new)		<p><u>2. Where the publication of the identity of the legal entities, or identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise an on-going investigation, Member States shall ensure that the competent authorities do one of the following:</u></p>		<p>2. Where the publication of the identity of the legal entities, or identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise an on-going investigation, Member States shall ensure that the competent authorities do one of the following:</p> <p>GREY - Technical Meeting (TM) 20/11/19</p> <p><i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i></p>
823.	Art. 36e - para 2 - point a (new)		<p><u>(a) defer the publication of the decision to impose a sanction or a measure until the moment</u></p>		<p>(a) defer the publication of the decision to impose a sanction or a measure until the moment</p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>where the reasons for non-publication cease to exist;</u>		<u>where the reasons for non-publication cease to exist;</u> GREY - Technical Meeting (TM) 20/11/19 <i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i>
824.	Art. 36e - para 2 - point b (new)		<u>(b) publish the decision to impose a sanction or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned;</u>		<u>(b) publish the decision to impose a sanction or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned;</u> GREY - Technical Meeting (TM) 20/11/19 <i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i>
825.	Art. 36e - para 2 - point c (new)		<u>(c) not publish the decision to impose a sanction or measure in the event that the options laid down in points (a) and (b) are considered to be insufficient to ensure the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.</u>		<u>(c) not publish the decision to impose a sanction or measure in the event that the options laid down in points (a) and (b) are considered to be insufficient to ensure the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<p>GREY - Technical Meeting (TM) 20/11/19</p> <p><i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i></p>
826.			<p><u>In the case of a decision to publish a sanction or measure on an anonymous basis, as referred to in point (b) of the first subparagraph, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist.</u></p>		<p><u>In the case of a decision to publish a sanction or measure on an anonymous basis, as referred to in point (b) of the first subparagraph, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist.</u></p> <p>GREY - Technical Meeting (TM) 20/11/19</p> <p><i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i></p>
827.	Art. 36e - para 3 (new)		<p><u>3. Where the decision to impose a sanction or measure is subject to appeal before the relevant judicial or other authorities, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous</u></p>		<p><u>3. Where the decision to impose a sanction or measure is subject to appeal before the relevant judicial or other authorities, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous</u></p>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>decision to impose a sanction or a measure shall also be published.</u>		<u>decision to impose a sanction or a measure shall also be published.</u> GREY - Technical Meeting (TM) 20/11/19 <i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i>
828.	Art 36e - para 4 (new)		<u>4. Competent authorities shall ensure that any publication, in accordance with this Article shall remain on their official website for a period of at least five years after its publication. Personal data contained in the publication shall be kept on the official website of the competent authority only for the period which is necessary in accordance with the applicable data protection rules.</u>		<u>4. Competent authorities shall ensure that any publication, in accordance with this Article shall remain on their official website for a period of at least five years after its publication. Personal data contained in the publication shall be kept on the official website of the competent authority only for the period which is necessary in accordance with the applicable data protection rules.</u> GREY - Technical Meeting (TM) 20/11/19 <i>Note: see line 641 >, order of Articles under this Chapter tbd at finalisation</i>
829.	Art. 36f (new)		<u>Article 36f Reporting sanctions to ESMA</u>		<u>Article 36f The reporting of penalties to ESMA</u> GREY - Technical Meeting (TM) 20/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
830.	Art 36f - para 1 (new)		<u>1. The competent authority shall, on an annual basis, provide ESMA with aggregate information regarding all administrative sanctions and other administrative measures imposed in accordance with Article 36a. ESMA shall publish that information in an annual report.</u>		<u>1. The competent authority shall, on an annual basis, provide ESMA with aggregate information regarding all administrative penalties and other administrative measures imposed in accordance with Article 36a. ESMA shall publish that information in an annual report.</u> GREY - Technical Meeting (TM) 20/11/19
831.			<u>Where Member States have chosen, in accordance with Article 36a(1), to lay down criminal sanctions for the infringements of the provisions referred to in that paragraph, their competent authorities shall provide ESMA annually with anonymised and aggregated data regarding all criminal investigations undertaken and criminal sanctions imposed. ESMA shall publish data on criminal sanctions imposed in an annual report.</u>		<u>Where Member States have chosen, in accordance with Article 36a(1), to lay down criminal penalties for the infringements of the provisions referred to in that paragraph, their competent authorities shall provide ESMA annually with anonymised and aggregated data regarding all criminal investigations undertaken and criminal penalties imposed. ESMA shall publish data on criminal penalties imposed in an annual report.</u> GREY - Technical Meeting (TM) 20/11/19
832.	Art 36f - para 2 (new)		<u>2. Where the competent authority has disclosed administrative sanctions, other administrative measures or</u>		<u>2. Where the competent authority has disclosed administrative penalties, other administrative measures or</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>criminal sanctions to the public, it shall simultaneously report them to ESMA.</u>		<u>criminal penalties to the public, it shall simultaneously report them to ESMA.</u> GREY - Technical Meeting (TM) 20/11/19
833.	Art 36f - para 3 (new)		<u>3. Competent authorities shall inform ESMA of all administrative sanctions or other administrative measures imposed but not published in accordance with point (c) of the first subparagraph of Article 36e(2) including any appeal in relation thereto and the outcome thereof. Member States shall ensure that competent authorities receive information and the final judgment in relation to any criminal sanction imposed and submit it to ESMA. ESMA shall maintain a central database of sanctions communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be accessible only to competent authorities and it shall be updated on the basis of the information provided by the competent authorities.</u>		<u>3. Competent authorities shall inform ESMA of all administrative penalties or other administrative measures imposed but not published in accordance with point (c) of the first subparagraph of Article 36e(2) including any appeal in relation thereto and the outcome thereof. Member States shall ensure that competent authorities receive information and the final judgment in relation to any criminal penalty imposed and submit it to ESMA. ESMA shall maintain a central database of penalties communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be only accessible to ESMA, the EBA, EIOPA and the competent authorities That database shall be accessible only to competent authorities and it shall be updated on the basis of the</u>

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
					<u>information provided by the competent authorities.</u> GREY - Technical Meeting (TM) 20/11/19
834.	Chapter VII - title	Chapter VII Delegated acts	CHAPTER VII DELEGATED ACTS	Chapter VII Delegated acts	Chapter VII Delegated acts
835.	Art. 37 - title	<i>Article 37</i> Exercise of the delegation	Article 37 Exercise of the delegation	<i>Article 37</i> Exercise of the delegation	<i>Article 37</i> Exercise of the delegation
836.	Art. 37 - para 1	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
837.	Art. 37 - para 2	2. The power to adopt delegated acts referred to in Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3) shall be conferred on the Commission for an indeterminate period from [Publications Office: Date of entry into force of this Regulation].	2. The power to adopt delegated acts referred to in Article 3(2) , Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9) , Article 31(10) and Article 34(3) 16(9) shall be conferred on the Commission for an indeterminate period from [Publications Office: Date please insert date of entry into force of this Regulation].	2. The power to adopt delegated acts referred to in Article 3(2), Article 31(10) and Article 34(3) shall be conferred on the Commission for a period of five years from... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for period of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
838.	Art. 37 - para 3	3. The delegation of powers referred to in Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of powers referred to in Article 3(2) , Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9) , Article 31(10) and Article 34(3) 16(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of powers referred to in Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	<i>To change in the end</i> GREY - Technical Meeting (TM) 20/11/19
839.	Art. 37 - para 4	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
840.	Art. 37 - para 5	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
841.	Art. 37 - para 6	6. A delegated act adopted pursuant to Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3) shall enter into force only if no objection has been	6. A delegated act adopted pursuant to Article 3(2) , Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9) , Article 31(10) and Article 34(3) 16(9) shall enter into force only if no objection	6. A delegated act adopted pursuant to Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3) shall enter into force only if no objection has been	<i>To change in the end</i> GREY - Technical Meeting (TM) 20/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
		expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	
842.	Chapter VIII - title	Chapter VIII Final provisions	Chapter CHAPTER VIII Final provisions FINAL PROVISIONS	Chapter VIII Final provisions	Chapter VIII Final provisions
843.	Art. 38 - title	<i>Article 38</i> Report	Article 38 Report	<i>Article 38</i> Report	<i>Article 38</i> Report
844.	Art. 38 - para 1	1. Before [publications office please insert 24 months of entry into application of this Regulation] the Commission shall, after consulting ESMA, present a report to the European Parliament and the Council on the application of this Regulation, accompanied where appropriate by a legislative proposal.	1. Before [publications office Publications Office please insert <u>date</u> 24 months off <u>from</u> entry into application of this Regulation] the Commission shall, after consulting ESMA <u>and the EBA</u> , present a report to the European Parliament and the Council on the application of this Regulation, accompanied where appropriate by a legislative proposal.	1. Before [publications office please insert 24 months of entry into application of this Regulation] the Commission shall, after consulting ESMA, present a report to the European Parliament and the Council on the application of this Regulation, accompanied where appropriate by a legislative proposal.	
845.	Art. 38 - para 2	2. The report shall assess the following:	2. The report shall assess the following:	2. The report shall assess the following:	2. The report shall assess the following:

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
846.	Art. 38 - para 2 - point a	(a) the functioning of the market for crowdfunding service providers in the Union, including market development and trends, taking into account supervisory experience acquired by ESMA, the number of crowdfunding service providers authorised by ESMA and their market share and in particular examining whether any adjustments are needed to the definitions set out in this Regulation and whether the scope of services covered by this Regulation remains appropriate;	(a) the functioning of the market for crowdfunding service providers in the Union, including market development and trends, taking into account supervisory experience acquired by ESMA, the number of crowdfunding service providers authorised by ESMA and their market share and in particular examining whether any adjustments are needed to, as well as the definitions set out in <u>impact of this Regulation and whether in relation to other relevant legislation of the scope of services covered by this Union, including Directive 2014/65/EU, Regulation remains appropriate (EU) 2017/1129, Directive 97/9/EC and Directive 2011/61/EU;</u>	(a) the functioning of the market for crowdfunding service providers in the Union, including market development and trends, ■ their market share and in particular examining whether any adjustments are needed to the definitions and thresholds set out in this Regulation and whether the scope of services covered by this Regulation remains appropriate;	
847.	Art. 38 - para 2 - point aa (new)		<u>(aa) whether the scope of services covered by this Regulation remains appropriate, in relation to the threshold amount set out in Article 2(2)(d) and the use of the provisions in Article 2(2a);</u>		
848.	Art. 38 - para 2 - point ab (new)		<u>(ab) the use of admitted instruments for crowdfunding purposes notified under Annex III of this Regulation in cross-border crowdfunding service provision;</u>		
849.	Art. 38 - para 2 -		<u>(ac) whether the scope of services covered by this Regulation</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point ac (new)		<u>remains appropriate, taking into account the development of:</u>		
850.	Art. 38 - para 2 - point ac - point i (new)		<u>(i) business models involving the service of individual portfolio management, as part of the facilitation of granting of loans, where such portfolios include one or more investments in crowdfunding projects and the service is carried out in accordance with mandates given by investors;</u>		
851.	Art. 38 - para 2 - point ac - point ii (new)		<u>(ii) business models involving the intermediation of financial claims, including the assignment or sale to third-party investors of loan claims via the crowdfunding platform;</u>		
852.	Art. 38 - para 2 - point ad - (new)		<u>(ad) whether any adjustments are needed to the definitions set out in this Regulation, including the definition of a sophisticated investor set out in Article 3(1)(ga) and the criteria in Annex II in the light of their effectiveness in ensuring investor protection;</u>		
853.	Art. 38 - para 2 - point b	(b) the impact of this Regulation on the proper functioning of the internal market of crowdfunding services, including the impact on access to financing by SMEs and on investors and other categories of persons affected by those services;	(b) the impact of this Regulation on the proper functioning of the internal market of crowdfunding services, including the impact on access to financing by SMEs and on investors and other categories of persons affected by those services;	(b) the impact of this Regulation on the proper functioning of the internal market of crowdfunding services, including the impact on access to financing by SMEs and on investors and other categories of persons affected by those services;	(b) the impact of this Regulation on the proper functioning of the <i>Union's internal market for crowdfunding services</i> , including the impact on access to financing by SMEs and on investors and other categories of persons affected by those services;

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
854.	Art. 38 - para 2 - point c	(c) the implementation of the technological innovation in the crowdfunding sector, including the application of the new innovative business models and technologies;	(c) the implementation of the technological innovation in the crowdfunding sector, including the application of the new innovative business models and technologies;	(c) the implementation of the technological innovation in the crowdfunding sector, including the application of <i>non-bank financing methods (including initial coin offering)</i> , new innovative business models and technologies;	
855.	Art. 38 - para 2 - point ca (new)		<u>(ca) whether the prudential requirements set out in Article 9a remain appropriate to pursue the objectives set out in this Regulation, in particular as regards the level of the minimum own funds requirements, the definition of own funds, the use of insurance and the combination between own funds and insurance;</u>		
856.	Art. 38 - para 2 - point cb (new)		<u>(cb) whether any changes are needed to the requirements on information to clients set out in Article 14 or to the investor protection safeguards set out in Article 15;</u>		
857.	Art. 38 - para 2 - point d	(d) whether the threshold set out in Article 2(2)(d) remains appropriate to pursue the objectives set out in this Regulation;	<u>(d) whether the threshold amount set out in Article 2(2)(d)15a(1) remains appropriate to pursue the objectives set out in this Regulation;</u>	(d) whether the threshold set out in Article 2(2)(d) remains appropriate to pursue the objectives set out in this Regulation;	
858.	Art. 38 - para 2 - point d a (new)		<u>(da) the use of bulletin boards referred to in Article 17, including the impact on the secondary market for loans, transferable securities and admitted instruments for crowdfunding purposes;</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
859.	Art. 38 - para 2 - point e	(e) the effects that national laws, regulations and administrative provisions governing marketing communications of crowdfunding service providers have on the freedom to provide services, competition and investor protection;	(e) the effects that national laws, regulations and administrative provisions governing marketing communications of crowdfunding service providers have on the freedom to provide services, competition and investor protection;	(e) the effects that national laws, regulations and administrative provisions governing marketing communications of crowdfunding service providers have on the freedom to provide services, competition and investor protection;	(e) the effects that national laws, regulations and administrative provisions governing marketing communications of crowdfunding service providers have on the freedom to provide services, competition and investor protection;
860.	Art. 38 - para 2 - point f	(f) the application of the administrative sanctions and in particular any need to further harmonise the administrative sanctions set out for the infringement of this Regulation.	(f) the application of the administrative sanctions and in particular any need to further harmonise the administrative sanctions set out for the infringement of this Regulation;	(f) the application of the administrative sanctions and in particular any need to further harmonise the administrative sanctions set out for the infringement of this Regulation.	(f) the application of the administrative penalties and in particular any need to further harmonise the administrative penalties set out for the infringement of this Regulation;
861.	Art. 38 - para 2 - point g	(g) the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849.	(g) the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849.	(g) the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849.	(g) the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorist financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849. <i>LL changes</i>
862.	Art. 38 - para 2 - point h (new)			<i>(ga) the appropriateness of expanding the scope of this Regulation to third countries;</i>	
863.	Art. 38 - para 2 - point i (new)			<i>(gb) the cooperation between national competent authorities and ESMA and the appropriateness of</i>	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
				<i>national competent authorities as the supervisor of this Regulation;</i>	
864.	Art. 38 - para 2 - point j (new)			<i>(gc) the possibility of introducing specific measures in this Regulation to promote sustainable and innovative crowdfunding projects, as well as the use of EU Funds.</i>	
865.	Art. 38a (new) - title			<i>Article 38a Amendment to Regulation (EU) 2017/1129</i>	<i>Article 38a Amendment to Regulation (EU) 2017/1129</i> GREY - Technical Meeting (TM) 7/11/19
866.	Art. 38a (new) - para 1 - subpara 1 - intro			<i>In Article 1(4) of Regulation (EU) 2017/1129, the following point is added:</i>	<i>In Article 1(4) of Regulation (EU) 2017/1129, the following point is added:</i> GREY - Technical Meeting (TM) 7/11/19
867.	Art. 38a (new) - para 1 - subpara 2 Regulation (EU)2017/1129 - Art. 1 - para 4 - point k			<i>(k) a crowdfunding offer from a European crowdfunding service provider as defined in Article 3(1)(c) of Regulation (EU) No .../... , provided that it does not exceed the threshold laid down in Article 2(2)(d) of that Regulation. ”</i>	<i>Pending political agreement</i>
868.	Art. 38a (new) - title		<i>Article 38a Transition period</i>		
869.	Art. 38a - para 1 (new)		<u>1. Crowdfunding service providers may continue in</u>		

* *OJ: please insert the number and publication details for this Regulation.*

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>accordance with the applicable national law to carry out crowdfunding services which are now included within the scope of this Regulation until [X of Month 20xx – insert a date 12 months from the date of application mentioned in paragraph 2 of Article 39] or until the authorization mentioned in Article X of this Regulation is granted, whichever is sooner.</u>		
870.	Art. 38a - para 2 (new)		<u>2. For the duration of the transition period referred to in paragraph 1, Member States may have in place simplified authorisation procedures for entities that, at the time of entry into force of this Regulation, are authorised under national laws to carry out crowdfunding services. The competent authorities shall ensure that the requirements laid down in Article 10 are complied with before granting authorisation pursuant to such simplified procedures.</u>		
871.	Art. 38a1 (new)		<u>Article 38a1</u> <u>Crowdfunding service providers operating on a national basis only</u>		
872.	Art. 38a1 - para 1 (new)		<u>1. A Member State may decide to grant their competent authorities the power to extend the transition period referred to in Article 38a(1) for an additional 12 months for crowdfunding</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<u>service providers that meet all of the following conditions:</u>		
873.	Art. 38a1 - para 1 point a (new)		<u>(a) the crowdfunding services are provided only to project owners that have their registered office in that Member State; and</u>		
874.	Art. 38a1 - para 1 point b (new)		<u>(b) the crowdfunding services are provided only to investors resident in that Member State; and</u>		
875.	Art. 38a1 - para 1 point c (new)		<u>(c) the crowdfunding service provider has suitable arrangements in place to comply with the requirements referred to in points (a) and (b).</u>		
876.	Art. 38a1 - para 2 (new)		<u>2. Member States shall notify the decision referred to in paragraph 1 to the Commission and ESMA.</u>		
877.	Art. 38a1 - para 3 (new)		<u>3. The extension referred to in paragraph 1 shall be requested to the competent authorities by the crowdfunding service provider. The competent authorities shall only grant the extension where it is fully satisfied that the crowdfunding services meet the conditions set out paragraph 1.</u>		
878.	Art. 38a1 - para 4 (new)		<u>4. The competent authorities shall have in place the necessary policies and procedures to ensure that the crowdfunding services meet the conditions set out in paragraph 1 at all times.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
879.	Art. 38a1 - para 5 (new)		<u>5. The competent authorities shall publish on its website a list containing the crowdfunding service providers that have been granted an extension.</u>		
880.	Art. 38a1 - para 6 (new)		<u>6. Where the conditions in paragraph 1 cease to apply, the competent authorities shall require that the crowdfunding service provider seeks an authorisation according to Article 10 and complies with the provisions set out in this Regulation.</u>		
881.	Art. 38a1 - para 7 (new)		<u>7. By [36 months after the entry into force of this Regulation], the Commission shall make an assessment, after consulting ESMA, on the application of this Regulation to crowdfunding service providers that provide crowdfunding services only on a national basis and its impact on the development of national crowdfunding markets and access to finance. On the basis of this assessment, the Commission shall be empowered to adopt delegated acts in accordance with Article X to extend the 12 month period referred to in paragraph 1 once by a further 12 month period.</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
882.	Art. 38b (new)		<u>Article 38b</u> <u>Amendments to Regulation (EU) No 2017/1129</u>		
883.			<u>In Article 1(4) of Regulation (EU) No 2017/1129, the following point is added:</u>		
884.			<u>‘(k) an offer of securities which falls within the scope of Regulation (EU) No xxxx/xxxx’</u>		
885.	Art. 39 - title	<i>Article 39</i> Entry into force and application	Article 39 Entry into force and application	<i>Article 39</i> Entry into force and application	
886.	Art. 39 - para 1	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 enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	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 enter into force on the twentieth day following that of its publication in the Official Journal of the European Union
887.	Art. 39 -para 2	It shall apply from [Publications Office please insert 12 months from entry into force].	It shall apply from [Publications Office please insert <u>date</u> 12 months from entry into force].	It shall apply from [Publications Office please insert 12 months from entry into force].	
888.	Art. 39 -para 3	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.
889.		Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at ..., <i>LL Changes</i>
890.	Annex	ANNEX	ANNEX	<u>ANNEX</u>	
891.	Title	INFORMATION TO BE PROVIDED IN THE KEY INVESTMENT INFORMATION SHEET	Information to be provided in the key investment information sheet <u>ANNEX I</u> <u>KEY INVESTMENT INFORMATION SHEET</u>	INFORMATION TO BE PROVIDED IN THE KEY INVESTMENT INFORMATION SHEET	

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
892.	Part A	Part A: Information about the project owner(s) and the crowdfunding project	I. Part A: Information about the project owner(s) and the crowdfunding project	Part A: Information about the project owner(s) and the crowdfunding project	Part A: Information about the project owner(s) and the crowdfunding project
893.	Part A - point a	(a) Identity, legal status, ownership, management and contact details;	A. Identity, legal status, ownership, management and contact details;	(a) Identity, legal status, ownership, management and contact details;	(a) Identity, legal status, ownership, management and contact details;
894.	Part A - point aa - para 1 (new)		AA. <u>All persons responsible for the information given in the KIIS. In the case of natural persons, including members of the project owner's administrative, management or supervisory bodies indicate, the name and function of the person; in case of legal persons indicate the name and the registered office</u>		
895.	Part A - point aa - para 3 (new)		The following responsibility statement:		
896.	Part A - point aa - para 3 (new)		<u>"The project owner declares that, to the best of its knowledge, no information has been omitted and is materially misleading or inaccurate. The project owner is responsible for the preparation of this KIIS."</u>		
897.	Part A - point b	(b) Principle activities; products or services offered;	B. Principle activities; products or services offered;	(b) Principle activities; products or services offered;	(b) Principal activities; products or services offered; <i>LL Changes</i>
898.	Part A - point c	(c) A hyperlink to the most recent financial statement of the project owner, if available;	C. A hyperlink to the most recent financial statement of the project owner, if available;	((e) Key financial figures and ratios for the project owner for the last three years;	C. A hyperlink to the most recent financial statement of the project owner, if available; GREY - Technical Meeting (TM) 29/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
898a.				((c) <i>Key financial figures and ratios for the project owner for the last three years;</i>	((c) <i>Key annual financial figures and ratios for the project owner for the last three years, if available;</i> GREY - Technical Meeting (TM) 29/11/19
899.	Part A - point d	(d) Description of the crowdfunding project, including its the purpose and the main features.	<u>D.</u> Description of the crowdfunding project, including its the purpose and the main features.	(d) Description of the crowdfunding project, including its the purpose and the main features.	(d) Description of the crowdfunding project, including its the purpose and the main features GREY - Technical Meeting (TM) 29/11/19
900.	Part B - Title	Part B: Main features of the crowdfunding process and conditions for the capital raising or funds borrowing, as applicable	<u>II.</u> Part B: Main features of the crowdfunding process and conditions for the capital raising or funds borrowing, as applicable	Part B: Main features of the crowdfunding process and conditions for the capital raising or funds borrowing, as applicable	Part B: Main features of the crowdfunding process and conditions for the capital raising or funds borrowing, as applicable
901.	Part B - point a	(a) Minimum target capital to be raised or target funds to be borrowed in a single crowdfunding offering and the number of offerings that have been completed by the project owner or crowdfunding service provider for the crowdfunding project;	<u>A.</u> Minimum target capital to be raised or target funds to be borrowed in a single crowdfunding offering and the number of offerings that have been completed by the project owner or crowdfunding service provider for the crowdfunding project;	(a) Minimum target capital to be raised or target funds to be borrowed in a single crowdfunding offering and the number of offerings that have been completed by the project owner or crowdfunding service provider for the crowdfunding project;	(a) Minimum target capital to be raised or target funds to be borrowed in a single crowdfunding offering and the number of offerings that have been completed by the project owner or crowdfunding service provider for the crowdfunding project;
902.	Part B - point b	(b) Deadline for reaching the target to raise capital or borrow funds;	<u>B.</u> Deadline for reaching the target to raise capital or borrow funds;	(b) Deadline for reaching the target to raise capital or borrow funds;	(b) Deadline for reaching the target to raise capital or borrow funds;
903.	Part B - point c	(c) Information on the consequences if the target capital is not raised or the targeted funds are not borrowed by the deadline;	<u>C.</u> Information on the consequences if the target capital is not raised or the targeted funds are not borrowed by the deadline;	(c) Information on the consequences if the target capital is not raised or the targeted funds are not borrowed by the deadline;	(c) Information on the consequences if the target capital is not raised or the targeted funds are not borrowed by the deadline;

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
904.	Part B - point d	(d) The maximum offering amount when different from the target capital set out in point (a);	D. The maximum offering amount when different from the target capital set out in point (a); A.;	(d) The maximum offering amount when different from the target capital set out in point (a);	(d) The maximum offering amount when different from the target capital set out in point (a); GREY - Technical Meeting (TM) 29/11/19
905.	Part B - point e	(e) Amount of own funds committed to the crowdfunding project by the project owner;	E. Amount of own funds committed to the crowdfunding project by the project owner;	(e) Amount of own funds committed to the crowdfunding project by the project owner;	(e) Amount of own funds committed to the crowdfunding project by the project owner; GREY - Technical Meeting (TM) 29/11/19
906.	Part B - point f	(f) Change of the composition of the issuer's capital or loans related to the crowdfunding offer.	F. Change of the composition of the issuer's project owner's capital or loans related to the crowdfunding offer.	(f) Change of the composition of the issuer's capital or loans related to the crowdfunding offer.	F. Change of the composition of the issuer's project owner's capital or loans related to the crowdfunding offer.
907.	Part B - point g (new)		G. <u>The existence and conditions of a pre-contractual reflection period for non-sophisticated investors.</u>		
908.	Part C - Title	Part C: Risk Factors	III. Part C: Risk Factors	Part C: Risk Factors	III. Part C: Risk Factors GREY - Technical Meeting (TM) 29/11/19
909.	Part C - para 1	Presentation of the main risks associated with financing the crowdfunding project, with the sector, the project, the project owner and the investment instrument, including geographic risks, where relevant.	Presentation of the main risks associated with financing funding the crowdfunding project, with the sector, the project, the project owner and the investment instrument transferable securities, admitted instruments for crowdfunding purposes or loan agreements , including geographic risks, where relevant.	Presentation of the main risks associated with financing the crowdfunding project, with the sector, the project, the project owner and the investment instrument, including geographic risks, where relevant.	Presentation of the main risks associated with financing funding the crowdfunding project, with the sector, the project, the project owner and the investment instrument transferable securities, admitted instruments for crowdfunding purposes or loans , including geographic risks, where relevant. GREY - Technical Meeting (TM) 29/11/19

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
910.	Part D - Title	Part D: Information related to the offering of securities	IV. Part D: Information related to the offering of <u>transferable securities and admitted instruments for crowdfunding purposes</u>	Part D: Information related to the offering of securities	IV. Part D: Information related to the offering of <u>transferable securities and admitted instruments for crowdfunding purposes</u> GREY - Technical Meeting (TM) 29/11/19
911.	Part D - point a	(a) Total amount and type of investment instruments to be offered;	A. Total amount and type of <u>investment transferable securities or admitted instruments for crowdfunding purposes</u> to be offered;	(a) Total amount and type of investment instruments to be offered;	A. Total amount and type of <u>investment transferable securities or admitted instruments for crowdfunding purposes</u> to be offered; GREY - Technical Meeting (TM) 29/11/19
912.	Part D - point b	(b) Subscription price;	B. Subscription price;	(b) Subscription price;	(b) Subscription price;
913.	Part D - point c	(c) Whether oversubscriptions are accepted and how they are allocated;	C. Whether oversubscriptions are accepted and how they are allocated;	(c) Whether oversubscriptions are accepted and how they are allocated;	(c) Whether oversubscriptions are accepted and how they are allocated;
914.	Part D - point d	(d) Terms of subscription and payment;	D. Terms of subscription and payment;	(d) Terms of subscription and payment;	(d) Terms of subscription and payment;
915.	Part D - point e	(e) Custody and delivery of investment instruments to investors;	E. Custody and delivery of <u>investment transferable securities or admitted instruments for crowdfunding purposes</u> to investors;	(e) Custody and delivery of investment instruments to investors;	E. Custody and delivery of <u>investment transferable securities or admitted instruments for crowdfunding purposes</u> to investors; GREY - Technical Meeting (TM) 29/11/19
916.	Part D - point f	(f) Where the investment is secured by a guarantor or a collateral;	F. Where the investment is secured by a guarantor or a collateral;	(f) Where the investment is secured by a guarantor or a collateral;	(f) Where the investment is secured by a guarantor or a collateral;
917.	Part D - point f - point i	(i) whether that guarantor or collateral provider is a legal person;	(i) whether that guarantor or collateral provider is a legal person;	(i) whether that guarantor or collateral provider is a legal person;	(i) whether that guarantor or collateral provider is a legal person;

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918.	Part D - point f - point ii	(ii) the identity, legal status and contact details of that guarantor or collateral provider;	(ii) the identity, legal status and contact details of that guarantor or collateral provider;	(ii) the identity, legal status and contact details of that guarantor or collateral provider;	(ii) the identity, legal status and contact details of that guarantor or collateral provider;
919.	Part D - point f - point iii	(iii) information on the nature and the terms of the guarantee or collateral;	(iii) information on the nature and the terms of the guarantee or collateral;	(iii) information on the nature and the terms of the guarantee or collateral;	(iii) information on the nature and the terms of the guarantee or collateral;
920.	Part D - point g	(g) Where applicable, a firm commitment to buy back securities and the time period for such a buy-back;	G. Where applicable, a firm commitment to buy back the transferable securities or admitted instruments for crowdfunding purposes and the time period for such a buy-back;	(g) Where applicable, a firm commitment to buy back securities and the time period for such a buy-back;	G. Where applicable, a firm commitment to buy back the transferable securities or admitted instruments for crowdfunding purposes and the time period for such a buy-back; GREY - Technical Meeting (TM) 29/11/19
921.	Part D - point h	(h) For non-equity instruments, the nominal interest rate, the date from which interest becomes payable, the due dates for interest payments, the maturity date and the applicable yield.	H. For non-equity instruments, the nominal interest rate, the date from which interest becomes payable, the due dates for interest payments, the maturity date and the applicable yield.	(h) For non-equity instruments, the nominal interest rate, the date from which interest becomes payable, the due dates for interest payments, the maturity date and the applicable yield.	(h) For non-equity instruments, the nominal interest rate, the date from which interest becomes payable, the due dates for interest payments, the maturity date and the applicable yield.
922.	Part E - Title	Part E: Issuer's information, where the issuer is different from the project owner and therefore is an SPV	V. Part E: Issuer's SPV information, where the issuer is different from the project owner and therefore is an SPV	Part E: Issuer's information, where the issuer is different from the project owner and therefore is an SPV	V. Part E: Issuer's SPV information, where the issuer is different from the project owner and therefore is an SPV GREY - Technical Meeting (TM) 29/11/19
923.	Part E - point a	(a) Whether there is an SPV interposed between the project owner and the investor;	A. Whether there is an SPV interposed between the project owner and the investor;	(a) Whether there is an SPV interposed between the project owner and the investor;	(a) Whether there is an SPV interposed between the project owner and the investor;
924.	Part E - point b	(b) Contact details of the issuer.	B. Contact details of the issuer SPV .	(b) Contact details of the issuer.	B. Contact details of the issuer SPV . GREY - Technical Meeting (TM) 29/11/19
925.	Part F - title	Part F: Investor rights	VI. Part F: Investor rights	Part F: Investor rights	VI. Part F: Investor rights GREY - Technical Meeting (TM) 29/11/19

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926.	Part F - point a	(a) Key rights attached to the securities;	A. Key rights attached to the <u>transferable securities or admitted instruments for crowdfunding purposes</u> ;	(a) Key rights attached to the securities;	A. Key rights attached to the <u>transferable securities or admitted instruments for crowdfunding purposes</u> ; GREY - Technical Meeting (TM) 29/11/19
927.	Part F - point b	(b) Restrictions to which the securities are subject;	B. Restrictions to which the <u>transferable securities or admitted instruments for crowdfunding purposes</u> are subject, <u>including shareholder agreements or other arrangements preventing their transferability</u> ;	(b) Restrictions to which the securities are subject;	B. Restrictions to which the <u>transferable securities or admitted instruments for crowdfunding purposes</u> are subject, <u>including shareholder agreements or other arrangements preventing their transferability</u> ; GREY - Technical Meeting (TM) 29/11/19
928.	Part F - point c	(c) Description of any restrictions on the transferring of securities;	C. Description of any restrictions on the transferring of <u>the transferable securities or admitted instruments for crowdfunding purposes</u> ;	(c) Description of any restrictions on the transferring of securities;	C. Description of any restrictions on the transferring of <u>the transferable securities or admitted instruments for crowdfunding purposes</u> ; GREY - Technical Meeting (TM) 29/11/19
929.	Part F - point d	(d) Opportunities for exit;	D. Opportunities for exit;	(d) Opportunities for exit;	(d) Opportunities for exit;
930.	Part F - point e	(e) For equity securities, distribution of capital and voting rights before and after the capital increase resulting from the offer (assuming that all the securities will be subscribed).	E. For equity securities <u>instruments</u> , distribution of capital and voting rights before and after the capital increase resulting from the offer (assuming that all the <u>transferable securities or admitted instruments for crowdfunding purposes</u> will be subscribed).	(e) For equity securities, distribution of capital and voting rights before and after the capital increase resulting from the offer (assuming that all the securities will be subscribed).	E. For equity securities <u>instruments</u> , distribution of capital and voting rights before and after the capital increase resulting from the offer (assuming that all the <u>transferable securities or admitted instruments for crowdfunding purposes</u> will be subscribed). GREY - Technical Meeting (TM) 29/11/19

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931.	Part G - Title	Part G: Disclosure related to the loan agreement	VII. Part G: Disclosure related to the loan agreement	Part G: Disclosure related to the loan agreement	Part G: Disclosure related to the loan agreement
932.	Part G - para 1	Where the crowdfunding offer involves credit intermediation, the key investment information sheet shall, instead of the information referred to in Parts D, E and F, contain the following information:	Where the crowdfunding offer involves credit intermediation the facilitation of granting loans , the key investment information sheet shall, instead of the information referred to in Parts D, E and F, contain the following information:	Where the crowdfunding offer involves credit intermediation, the key investment information sheet shall, instead of the information referred to in Parts D, E and F, contain the following information:	Where the crowdfunding offer involves credit intermediation the facilitation of granting loans , the key investment information sheet shall, instead of the information referred to in Parts D, E and F, contain the following information: GREY - Technical Meeting (TM) 29/11/19
933.	Part G - para 1- point a	(a) Nature and duration of the credit agreement;	A. Nature and duration and terms of the credit loan agreement;	(a) Nature and duration of the credit agreement;	A. Nature and duration and terms of the credit loan ; GREY - Technical Meeting (TM) 29/11/19
934.	Part G - para 1- point b	(b) Applicable interest rates or, where applicable, other compensation to the investor;	B. Applicable interest rates or, where applicable, other compensation to the investor;	(b) Applicable interest rates or, where applicable, other compensation to the investor;	(b) Applicable interest rates or, where applicable, other compensation to the investor;
935.	Part G - para 1- point c	(c) Risk mitigation measures, such as whether credit is secured;	C. Risk mitigation measures, such as whether credit is secured including the collateral provider or guarantor or other types of guaranties ;	(c) Risk mitigation measures, such as whether credit is secured;	
936.	Part G - para 1- point d	(d) Amortisation schedule of the principle and repayment of interest.	D. Amortisation schedule of the principle and repayment of interest;	(d) Amortisation schedule of the principle and repayment of interest.	(d) Amortisation schedule of the <i>principal</i> and repayment of interest. LL Changes
937.	Part G - para 1- point e (new)		E. Any default on credit agreements by the project owner within the past five years.		
938.	Part G - para 1- point f (new)		F. Information about the servicing of the loan, including in the situation when the project		

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			<u>owner does not meet its obligations.</u>		
939.	Part H - Title	Part H: Fees, information and legal redress	<u>VIII.</u> Part H: Fees, information and legal redress	Part H: Fees, information and legal redress	<u>VIII.</u> Part H: Fees, information and legal redress GREY - Technical Meeting (TM) 29/11/19
940.	Part H - point a	(a) Fees charged to, and the costs incurred by, the investor in relation to the investment;	<u>A.</u> Fees charged to, and the costs incurred by, the investor in relation to the investment, <u>including administrative costs resulting from the resale of admitted instruments for crowdfunding purposes;</u>	(a) Fees charged to, and the costs incurred by, the investor in relation to the investment;	<u>A.</u> Fees charged to, and the costs incurred by, the investor in relation to the investment, <u>including administrative costs resulting from the resale of admitted instruments for crowdfunding purposes;</u> GREY - Technical Meeting (TM) 29/11/19
941.	Part H - point b	(b) Where and how additional information about the crowdfunding project, the project owner and issuer can be obtained free of charge;	<u>B.</u> Where and how additional information about the crowdfunding project, the project owner and issuer <u>where applicable the SPV</u> can be obtained free of charge;	(b) Where and how additional information about the crowdfunding project, the project owner and issuer can be obtained free of charge;	<u>B.</u> Where and how additional information about the crowdfunding project, the project owner and issuer <u>where applicable the SPV</u> can be obtained free of charge; GREY - Technical Meeting (TM) 29/11/19
942.	Part H - point c	(c) How and to whom the investor may address a complaint about the investment or about the conduct of the project owner or about the crowdfunding service provider.	<u>C.</u> How and to whom the investor may address a complaint about the investment or about the conduct of the project owner or about the crowdfunding service provider.	(c) How and to whom the investor may address a complaint about the investment or about the conduct of the project owner or about the crowdfunding service provider.	(c) How and to whom the investor may address a complaint about the investment or about the conduct of the project owner or about the crowdfunding service provider.
943.	Annex II (new)		<u>ANNEX II</u> <u>SOPHISTICATED INVESTORS</u> <u>FOR THE PURPOSE OF THIS</u> <u>REGULATION</u>		
944.	Annex II - para I - Title (new)		<u>I.</u> <u>Identification criteria</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
945.	Annex II - para I - subpara 1 (new)		<u>A sophisticated investor is an investor who possesses the awareness of the risks associated with investing in capital markets and adequate resources to undertake those risks without exposing itself to undue financial consequences. Sophisticated investors may be categorized as such if they meet the identification criteria and the procedure set out in Section II is followed.</u>		
946.	Annex II - para 1 - subpara 2 (new)		<u>The following persons shall be regarded as sophisticated investors in all services offered by crowdfunding service providers according to this Regulation:</u>		
947.	Annex II - para 1 - subpara 2 - point A (new)		<u>A. Legal entities meeting at least one of the following criteria:</u>		
948.	Annex II - para 1 - subpara 2 - point A - point 1 (new)		<u>- own funds of at least EUR 100 000</u>		
949.	Annex II - para 1 - subpara 2 - point A - point 2 (new)		<u>- net turnover of at least EUR 2 000 000</u>		
950.	Annex II - subpara 2 -		<u>- balance sheet of at least EUR 1 000 000</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point A - point 3 (new)				
951.	Annex II - para 1 - subpara 2 - point B (new)		<u>B. Natural persons meeting at least two of the following criteria:</u>		
952.	Annex II - para 1 - subpara 2 - point B - point i (new)		<u>(i) personal gross income of at least EUR 60 000 per fiscal year or -a financial instrument portfolio, defined as including cash deposits and financial assets, that exceeds EUR 100 000;</u>		
953.	Annex II - para 1 - subpara 2 - point B - point ii (new)		<u>(ii) the investor works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged, or the investor has held an executive position for at least twelve months in an undertaking as identified in part A;</u>		
954.	Annex II - para 1 - subpara 2 - point B - point iii (new)		<u>(iii) the investor has carried out transactions, in significant size, on the capital markets at an average frequency of 10 per quarter, over the previous four quarters.</u>		
955.	Annex II - para II - Title (new)		<u>II. Request for being treated as a sophisticated investor</u>		
956.	Annex II - para II -		<u>Crowdfunding service providers shall make available to its investors a template that they</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	subpara 1 (new)		<u>may use to submit the request to be treated as a sophisticated investor. The template shall contain the identification criteria set out in Section I and a clear warning specifying the investor protection that a sophisticated investor will lose as a consequence of being classified as such.</u>		
957.	Annex II - para II - subpara 2 (new)		<u>The request referred to above shall contain the following:</u>		
958.	Annex II - para II - subpara 2 - point A (new)		<u>A. Attestation specifying the identification criteria set out in Section I that the requesting investor meets;</u>		
959.	Annex II - para II - subpara 2 - point B (new)		<u>B. Statement that the requesting investor is aware of the consequences of losing the investor protection attached to the status of non-sophisticated investors.</u>		
960.	Annex II - para II - subpara 2 - point C - para 1 (new)		<u>C. Statement that the requesting investor remains liable for the veracity of the information provided in the request.</u>		
961.	Annex II - para II - subpara 2 - point C - para 2 (new)		<u>The crowdfunding service provider shall take reasonable steps to ensure that the investor qualifies as a sophisticated investor and shall implement appropriate written internal</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
			<p><u>policies to categorise investors.</u></p> <p><u>The crowdfunding service provider shall approve the request unless it has reasonable doubt that the information provided in the request is correct.</u></p> <p><u>Investors shall receive an explicit notification when their status is confirmed.</u></p>		
962.	Annex II - para II - subpara 2 - point C - para 3 (new)		<p><u>The approval referred to in the previous paragraph shall have a validity of two years. Investors that wish to maintain their sophisticated investor status must submit a new request to the crowdfunding service provider.</u></p>		
963.	Annex II - para II - subpara 2 - point C - para 4 (new)		<p><u>Sophisticated investors are responsible for keeping the crowdfunding service provider informed about any change which could affect their current categorisation. Should the crowdfunding service provider become aware, however, that the investor no longer fulfils the initial conditions, which made him eligible for a sophisticated treatment, the crowdfunding service provider shall inform the investor that he or she will be treated as a non-sophisticated investor.</u></p>		
964.	Annex II - para III - (new)		<p><u>III. Sophisticated investor that are professional clients</u></p>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
965.	Annex II - para III - subpara 1		<u>By derogation from the procedure set out in section II above, entities referred to in points (1), (2), (3) and (4) of Section I of Annex II to Directive 2014/65/EU shall be regarded as sophisticated investors if they provide proof of their status to the crowdfunding service provider.</u>		
966.	Annex III - Title		<u>ANNEX III TYPES OF COMPANIES REFERRED TO IN ARTICLE 3(1)(ia)</u>		<i>Pending political agreement</i>
967.	Annex III - Para 1(new)		<u>[List to be completed by each Member State to indicate the types of private limited liability companies established under the law of that Member State, the shares of which that Member State wishes to include within the scope of the Regulation. The list shall be kept up-to-date in accordance with the procedure set out in Article 3(2)]</u>		
968.	Annex III - Para 1 - point 1 (new)		<u>— Austria</u>		
969.	Annex III - Para 1 - point 2 (new)		<u>[insert company type if applicable]</u>		
970.	Annex III - Para 1 - point 3 (new)		<u>— Belgium:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
971.	Annex III - Para 1 - point 4 (new)		<u> [insert company type if applicable]</u>		
972.	Annex III - Para 1 - point 5 (new)		<u>— Bulgaria:</u>		
973.	Annex III - Para 1 - point 6 (new)		<u> [insert company type if applicable]</u>		
974.	Annex III - Para 1 - point 7 (new)		<u>— the Czech Republic:</u>		
975.	Annex III - Para 1 - point 8 (new)		<u> [insert company type if applicable]</u>		
976.	Annex III - Para 1 - point 9 (new)		<u>— Denmark:</u>		
977.	Annex III - Para 1 - point 10 (new)		<u> [insert company type if applicable]</u>		
978.	Annex III - Para 1 - point 11 (new)		<u>— Estonia:</u>		
979.	Annex III - Para 1 - point 12 (new)		<u>osaühing;</u>		
980.	Annex III - Para 1 -		<u>— Ireland:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point 13 (new)				
981.	Annex III - Para 1 - point 14 (new)		<u>[insert company type if applicable]</u>		
982.	Annex III - Para 1 - point 15 (new)		<u>— Germany:</u>		
983.	Annex III - Para 1 - point 16 (new)		<u>[insert company type if applicable]</u>		
984.	Annex III - Para 1 - point 17 (new)		<u>— Greece:</u>		
985.	Annex III - Para 1 - point 18 (new)		<u>[insert company type if applicable]</u>		
986.	Annex III - Para 1 - point 19 (new)		<u>— Spain:</u>		
987.	Annex III - Para 1 - point 20 (new)		<u>la sociedad de responsabilidad limitada;</u>		
988.	Annex III - Para 1 - point 21 (new)		<u>— Sweden:</u>		
989.	Annex III - Para 1 - point 22 (new)		<u>[insert company type if applicable]</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
990.	Annex III - Para 1 - point 23 (new)		<u>— France:</u>		
991.	Annex III - Para 1 - point 1 (new)		<u>[insert company type if applicable]</u>		
992.	Annex III - Para 1 - point 24 (new)		<u>— Croatia:</u>		
993.	Annex III - Para 1 - point 25 (new)		<u>[insert company type if applicable]</u>		
994.	Annex III - Para 1 - point 26 (new)		<u>— Italy:</u>		
995.	Annex III - Para 1 - point 27 (new)		<u>società a responsabilità limitata;</u>		
996.	Annex III - Para 1 - point 28 (new)		<u>— Cyprus:</u>		
997.	Annex III - Para 1 - point 29 (new)		<u>[insert company type if applicable]</u>		
998.	Annex III - Para 1 - point 30 (new)		<u>— Latvia:</u>		
999.	Annex III - Para 1 -		<u>[insert company type if applicable]</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point 31 (new)				
1000.	Annex III - Para 1 - point 32 (new)		<u>— Lithuania:</u>		
1001.	Annex III - Para 1 - point 33 (new)		<u> [insert company type if applicable]</u>		
1002.	Annex III - Para 1 - point 34 (new)		<u>— Luxembourg:</u>		
1003.	Annex III - Para 1 - point 35 (new)		<u> [insert company type if applicable]</u>		
1004.	Annex III - Para 1 - point 36 (new)		<u>— Hungary:</u>		
1005.	Annex III - Para 1 - point 37 (new)		<u> [insert company type if applicable]</u>		
1006.	Annex III - Para 1 - point 38 (new)		<u>— Malta:</u>		
1007.	Annex III - Para 1 - point 39 (new)		<u> [insert company type if applicable]</u>		
1008.	Annex III - Para 1 - point 40 (new)		<u>— the Netherlands:</u>		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
1009.	Annex III - Para 1 - point 41 (new)		<u>_____</u> [insert company type if applicable]		
1010.	Annex III - Para 1 - point 42 (new)		<u>—</u> Poland:		
1011.	Annex III - Para 1 - point 43 (new)		<u>_____</u> [insert company type if applicable]		
1012.	Annex III - Para 1 - point 44 (new)		<u>—</u> Portugal:		
1013.	Annex III - Para 1 - point 45 (new)		<u>_____</u> [insert company type if applicable]		
1014.	Annex III - Para 1 - point 46 (new)		<u>—</u> Romania:		
1015.	Annex III - Para 1 - point 47 (new)		<u>_____</u> [insert company type if applicable]		
1016.	Annex III - Para 1 - point 48 (new)		<u>—</u> Slovenia:		
1017.	Annex III - Para 1 - point 49 (new)		<u>_____</u> [insert company type if applicable]		
1018.	Annex III - Para 1 -		<u>—</u> Slovakia:		

Nr.	Ref.	COMMISSION	COUNCIL	PARLIAMENT	COMPROMISE
	point 50 (new)				
1019.	Annex III - Para 1 - point 51 (new)		<u> [insert company type if applicable]</u>		
1020.	Annex III - Para 1 - point 52 (new)		<u>— Finland:</u>		
1021.	Annex III - Para 1 - point 53 (new)		<u> [insert company type if applicable]</u>		
1022.	Annex III - Para 1 - point 54 (new)		<u>— the United Kingdom:</u>		
1023.	Annex III - Para 1 - point 55 (new)		<u> [insert company type if applicable]</u>		