

## “ECSP aims at market integrity and investor protection”



**Diego Valiante, Senior Officer/Team Leader with the European Commission & Adjunct Professor with the Università di Bologna, reviews the ECSP legislative process for us, explains why we do not have a 28th regime, and why a good risk and compliance management builds confidence.**

**VdK:** Dear Diego, first, let's take a look back: Does the final text of the regulation meet your expectations with respect to supporting SME financing Europe?

**Diego Valiante:** The final text comes a long way since our original proposal in 2018 of an opt-in regime, as it now fully harmonises national regimes across the EU. There is always space for improvements, but I believe this text strikes the right balance between introducing EU-wide rules for a market that is currently struggling to develop cross-border in a fragmented regulatory environment and the need for these rules to be proportionate to the size of a still young industry. As a result, this Regulation can be an enabler of growth for the crowdfunding sector in the years to come, to complement other sources of funding for SMEs, in particular start-ups and scale-ups.

**VdK:** Why was the Commission's idea of establishing a 29th regime abandoned?

**Diego Valiante:** When the Commission first looked into the merits of a European framework, the market was much smaller and only located in a few Member States. In that context, it made sense to create an enabling opt-in regime only for those entities that really wanted to grow cross-border and to become a European player. Since then, things have changed rather dramatically, with crowdfunding platforms mushrooming across the EU at a pace that made inevitable for Member States to create their bespoke regimes, which ended up being very different and so creating significant barriers to the Single Market for such services. The Council and the European Parliament decided to take another (understandable) path towards full harmonisation. It was a positive surprise that was hard not to support.

**VdK:** What are your expectations for the ECSP to take effect on 10 November 2021?

**Diego Valiante:** I expect to see a gradual and smooth implementation of the regime across the EU up to November 2022, as many Member States plan to use the transitional period granted by the Regulation for existing platforms. As most level 2 measures will be already publicly available (while not officially adopted) at the start, I hope in a rapid take-up. In the medium to long-term, we see the ECSPR being a driver of cross-border growth for crowdfunding platforms, but I also expect interaction with other regimes to create more sophisticated one-stop-shop platforms not only for SMEs and crowdfunding investors.

**VdK:** There are market participants who are bothered by the high requirements for risk and compliance management or even for investor protection. What do you tell them?

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**Diego Valiante:** Considering how other financial services providers are regulated, the crowdfunding regime is generally considered a flexible and agile framework that minimises the requirements imposed on service providers. However, we hear the market and we are aware that some of these requirements may be perceived as burdensome. The role of regulation is, nonetheless, also to ensure market integrity and investor protection. Regulation also helps the market to grow by creating confidence among investors that providers are solid and transparent institutions.

**VdK:** Securities issues of up to EUR 8 million do not require a prospectus under the EU Prospectus Regulation. This was adopted with the aim of facilitating access to the capital market for small and medium-sized enterprises. Why couldn't the Council, Parliament and Commission agree on this for the ECSP as well in the trilogue?

**Diego Valiante:** The exemption up to EUR 8 million under the Prospectus Regulation only applies for the Member States that decide to use it at the full extent. The current median value in the EU for such threshold is in fact EUR 5 million. As a result, the EUR 5 million was a compromise solution that sought to find the middle ground between the larger Member States with higher issuances on average, which are using higher exemption thresholds under the Prospectus Regulation, and the smaller Member States, with smaller issuances on average.

**VdK:** Thank you for the interview, Diego.

Views expressed in this interview are personal and cannot be attributed to the European Commission.

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