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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2020) 356 final

Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning
of the European Union concerning the position of the Council on the
adoption of a regulation of the European Parliament and of the Council on
European crowdfunding service providers for business and amending
Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 and a Directive
amending Directive 2014/65/EU on markets in financial instruments This
Communication refers to both COM(2018) 113 final - 2018/0048(COD) and
COM(2018) 99 final - 2018/0047(COD)

Delegations will find attached document COM(2020) 356 final.

Encl.: COM(2020) 356 final



Brussels, 29.7.2020
COM(2020) 356 final

2018/0047 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a regulation of the European Parliament and
of the Council on European crowdfunding service providers for business and amending
Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 and a Directive amending
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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 08 March 2018.
(document COM(2018) [113] final – 2018/0048 COD; COM(2018) [99] final – 2018/0047 COD):

Date of the opinion of the European Economic and Social Committee: 11 July 2018.

Date of the position of the European Parliament, first reading: 27 March 2019.

Date of transmission of the amended proposal: N/A.

Date of adoption of the position of the Council: 20 July 2020.

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

As part of the Capital Markets Union (CMU) and the Fintech action plans, the European Commission has presented a proposal for a regulation on crowdfunding service providers. The goal of the proposal is to provide crowdfunding platforms with an enabling regulatory framework that allows access to the entire single market through a single authorisation based on a single set of rules. The proposal also introduces investor protection requirements tailored to the type of service covered by the legislative action. Overall, the legislation is aiming to make the cross-border offer of these financial services easier across the EU. As the EU market for crowdfunding is underdeveloped, the new rules have a great potential to increase access to innovative forms of finance for small and medium enterprises, particularly start-ups, in the context of the CMU and help the EU economy grow more rapidly.

3. COMMENTS ON THE POSITION OF THE EUROPEAN PARLIAMENT

The European Parliament's first reading position, adopted on 27 March 2019, suggested amendments to the Commission proposal, notably to:

- empower national competent authorities to authorise and supervise crowdfunding service providers instead of the European Securities Markets Authority proposed by the Commission;
- expand the scope of permitted services to investment advice and portfolio management;
- raise the threshold for the issuance of crowdfunding offers to EUR 8 000 000.

Following the Council's adoption of its first reading position on 20 July 2020, the European Parliament is expected to formally endorse the political agreement reached in the interinstitutional procedure.

4. COMMENTS ON THE POSITION OF THE COUNCIL

In line with the political agreement, the Council's first reading position introduces a list of changes to the Commission's proposal, which include:

- Establishing a harmonised EU-wide framework under the licensing and supervision of national competent authorities to replace the original optional EU regime proposed by the Commission for crowdfunding services provided by crowdfunding service providers. A few selected tasks are left to the European Securities Markets Authority, among which the preparation of implementing measures, binding mediation and data collection;
- Increasing the issuance threshold to EUR 5 million, with a temporary derogation of 24 months for Member States whose prospectus threshold is less than EUR 5 million;
- Extending the scope to include admitted instruments for crowdfunding purposes (shares of limited liability companies);
- Extending the scope of services to include individual portfolio management of loans;
- Differentiating between sophisticated and non-sophisticated investors as well as additional investor protection measures for non-sophisticated investors.

The Council's position fully reflects the political agreement reached between the European Parliament and the Council on 18 December 2019. The Commission believes that these amendments to the proposal do not undermine its original policy objectives. Therefore, the Commission can endorse the Council's position.

5. CONCLUSION

While there are important deviations from the original proposal, the Commission expresses a positive opinion on the position adopted by the Council in first reading, as the text remains in line with the proposal's original objectives. Moreover, the position fully reflects the outcome of the inter-institutional negotiations, which culminated with a political agreement on 18 December 2019.

The European Parliament's adoption of the agreed text in second reading will mark an important milestone towards delivering on the shared objectives of improving access to finance for small and medium businesses, including start-ups and scale-up companies. In doing so, this should help the EU economy to recover even more rapidly from the current economic and health crisis.