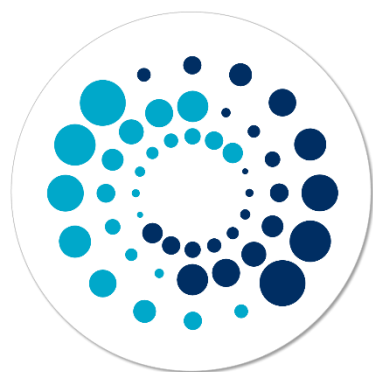


How to build a more competitive and innovative European Fintech sector?

FINANCEMENT PARTICIPATIF FRANCE

POSITION PAPER - ENGLISH



**Financement
Participatif
France**

Crowdfunding (*financement participative* in French) is an efficient tool to direct citizens' savings towards financing the real economy. Based on the principles of proximity, choice, transparency and traceability, crowdfunding allows an optimum allocation of resources through an intermediary platform which investigates, analyses and rigorously selects companies' projects before proposing to individual investors to finance them.

For instance, in Europe, alternative finance experienced a booming growth of 92% and reached € 5.4 billion in 2015. In France, in 2016, nearly € 235 million was collected by crowdfunding platforms, a growth of 40% of funds raised in one year¹. Research by Massolution published in 2014 forecasted that worldwide crowdfunding will collect up to \$ 1,000 billion in 2020.

However, the development of the crowdfunding sector could be greatly supported at the European level through the setting of a harmonized legal regulatory framework.

This European framework would ensure healthy and fair competition, protection of investors and issuers and fight against money laundering and terrorism financing.

i. The European context: disparate national regulations

Adopted over the past three years in the context of the exemptions of MiFID and Prospectus directives² implemented under the appreciation of each Member States, national regulations on crowdfunding generate distortions of competition on the European market and complexity for the platforms wishing to extend their services throughout the European Union. Thus, they make it difficult for investors and issuers to access the single European market for crowdfunding.

For example, platforms in the UK are registered with the Financial Conduct Authority which authorizes them to conduct the Reception and Transmission of Orders (RTO), but not placement, and to promote financial products. Moreover, the suitability test performed with investors is a test of relatively light "appropriateness" and not of "suitability".

In Germany, the regulators who had allowed platforms to communicate about their activities and their projects only with economic media just enlarged this possibility to all media, provided that the information disseminated respects the principles of clarity and transparency.

France has been a pioneer in Europe in setting up a regulatory framework dedicated to crowdfunding platforms with the creation of two regimes in October 2014. France now has a proven practice with firms who operate under these industry-specific statutes:

- The **crowdfunding intermediary** (*Intermédiaire en Financement Participatif (IFP)*), supervised by the ACPR, for lending platforms and donation platforms or rewards-based crowdfunding - this statute hitherto optional for donation and rewards-based crowdfunding platforms has become mandatory since the end of 2016. Some 100 IFPs are listed in the Orias register³.
- The **Participating Investment Advisor** (*Conseiller en Investissements Participatifs (CIP)*), supervised by the AMF, for the platforms intermediating specific financial instruments and minibons. Some 44 CIPs are listed in the Orias register.

The CIP statute permits a prospectus exemption for fundraising up to € 2.5 million, but this threshold is raised to € 5 million if the platform is approved as an investment firm.

¹ French Barometer of crowdfunding 2016 by KPMG for Financement Participatif France

² As amended from time to time.

³ Orias is the single register for intermediaries in insurance, bank and finance

If the French regulatory framework is particularly well construed for the advice and information of investors, it is finally less the case on two points: for the issuers' protection and for the process of exercise of the platform activities.

Besides, it fails to take into account the own specificities of an activity carried through an internet platform, notably the client relationship exclusively carried through digital channels, important number of clients for small individuals amounts, double client typology (investors and issuers), advice concept on numerous securities offers, etc.

In the end, the freedom of appreciation granted to each regulator has led to an over-implementation of key directives and to regulatory jungle for the concerned actors to the expense of the consumers.

ii. Proposal: creating a uniform European framework

Financement Participatif France (FPF) is the representative professional association of the crowdfunding sector. Created in August 2012, it now gathers 150 members, including 70 platforms of all crowdfunding categories. FPF wishes that the European Union set up the conditions for a long-term and structured development of the sector:

- The viability of economic models of the sector's professional;
- The development of innovation, compatible with the treatment process professionalisation;
- The conditions of a safe and loyal competition between the Member States' actors;
- The protection conditions essential for the investors and issuers, notably in term of conflict of interests' management; and
- The necessary rules to fight against money laundering and financing of terrorism.

For this purpose, Financement Participatif France, in association with **Paris Europlace**⁴, the **FINANCE INNOVATION** cluster, the **Office de Coordination Bancaire et Financière**⁵, the **European Crowdfunding Network** and the **France FinTech** association, asks for the creation of a European statutes aiming at:

- Defining the rules directly applicable below all the exemption thresholds of existing European legislations: MiFID II, Prospectus, PSD2, etc.;
- Making ineffective any "over-implementation" by a national authority;
- Allowing the possibility to have a European passport;
- Ensuring the supervision of the national regulators through direct application.

iii. Conclusion

Currently, national crowdfunding regulations do not promote fair competition in the European market. In addition, the advent of Brexit calls for particular attention to be placed on future evolution of regulation in the UK.

Europe needs to go towards a sectorial simplification and harmonization at the European level through the creation a common regime – based on a proportionality principle – to be directly applicable by the national regulators. Such European regulation would ensure the investors' and issuers' protection and the sector transparency, while remaining open to innovation.

⁴ Paris EUROPLACE represents all the major players of the Paris Financial Centre, French and international corporates, investors, banks and financial intermediaries

⁵ The Office de Coordination Bancaire et Financière (OCBF) is an organization that joins together 135 financial institutions, most of which are small and medium-sized French entities, subsidiaries or branches of major French or foreign groups.