

COMMISSION IMPLEMENTING REGULATION (EU) 2022/2123**of 13 July 2022****laying down implementing technical standards for the application of Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to the standard forms, templates and procedures for the notifications of national marketing requirements applicable to crowdfunding service providers by competent authorities to ESMA**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ⁽¹⁾, and in particular Article 28(5), third subparagraph, thereof,

Whereas:

- (1) Regulatory divergences between Member States regarding national requirements on marketing communications may create obstacles for crowdfunding service providers operating across the Union. Standard forms, templates and procedures for the notifications by national competent authorities to ESMA ensure that publications to be made by ESMA pursuant to Article 28(6) of Regulation (EU) 2020/1503 are clear and reduce legal uncertainty. To ease the processing of those notifications and facilitate ESMA in meeting the publication requirements laid down in Article 28(6) of Regulation (EU) 2020/1503, competent authorities should be required to notify ESMA, through a dedicated address, within specific timeframes and using harmonised standard forms and templates.
- (2) To facilitate the processing of notifications by ESMA, competent authorities should use one of the two different templates, depending on whether they make a notification pursuant to Article 28(2) or (3) of Regulation (EU) 2020/1503.
- (3) This Regulation is based on the draft implementing technical standards submitted to the Commission by ESMA.
- (4) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾.
- (5) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾ and delivered an opinion on 1 June 2022,

⁽¹⁾ OJ L 347, 20.10.2020, p. 1.

⁽²⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁽³⁾ 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).

HAS ADOPTED THIS REGULATION:

Article 1

Contact point

ESMA shall communicate to competent authorities the contact details, including the electronic address, that shall be used for the notifications under Article 28(2) and (3) of Regulation (EU) 2020/1503.

Article 2

Timeframe

1. Competent authorities shall make the notification referred to in Article 28(2) of Regulation (EU) 2020/1503 within 2 months after 28 November 2022.
2. Competent authorities shall make the notification referred to in Article 28(3) of Regulation (EU) 2020/1503 before the date of application in the relevant Member State of the change being notified.

Article 3

Templates and submission

1. When making a notification in accordance with 28(2) of Regulation (EU) 2020/1503, competent authorities shall use the template set out in Annex I to this Regulation.
2. When making a notification in accordance with Article 28(3) of Regulation (EU) 2020/1503, competent authorities shall use the template set out in Annex II to this Regulation.
3. Competent authorities shall submit the templates referred to in paragraphs 1 and 2 using the electronic address provided by ESMA pursuant to Article 1.

Article 4

Entry into force

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

Done at Brussels, 13 July 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Template for the notifications referred to in Article 28(2) of Regulation (EU) 2020/1503

SECTION A

General information

Date of notification:

FROM:

Member State:

Competent authority:

Legal address:

Details of the person in charge of the notification:

Name:

Telephone:

Email:

SECTION B

Information concerning the notified national laws, regulations and administrative provisions applicable to marketing communications

Field	Subfield	Description	
1	<i>In case a notification involves multiple national measures, subfields 1 to 7 shall be repeated and completed for each notified national measure.</i>		
	1	Type of national measure	Explain whether the notified national measure is a law, regulation or administrative provision.
	2	Official title in original language of the notified national law, regulation or administrative provision applicable to marketing communications of crowdfunding service providers	
	3	Translation of the official title of the law, regulation or administrative provision provided under point 2 in a language customary in the sphere of international finance	
	4	Date of entry into application in the national legal system of the notified law, regulation or administrative provision	
	5	Hyperlink to the relevant section of the Member State's official website containing the full text of the national law, regulation or administrative provision	
	6	Summary of the notified national law, regulation or administrative provision (in a language customary in the sphere of international finance)	
	7	Additional information (optional)	

ANNEX II

Template for the notifications referred to in Article 28(3) of Regulation (EU) 2020/1503

SECTION A

General information

Date of notification:

FROM:

Member State:

Competent authority:

Legal Address:

Details of the person in charge of the notification:

Name:

Telephone:

Email:

SECTION B

Information concerning the changes in the national laws, regulations or administrative provisions applicable to marketing communications

Field	Subfield	Description
1	<p><i>In case a notification involves multiple changes to a single national law, regulation or administrative provision, subfields 1 to 8 shall be completed once and include all changes made to such national measure.</i></p> <p>In case the notification involves changes to multiple national measures, subfields 1 to 8 shall be repeated and completed for each modified national measure.</p>	
1	Type of national measure	<i>Explain whether the notified national measure that changes the national law, regulation or administrative provision is a law, regulation or administrative provision.</i>
2	Official title in original language of the notified national law, regulation or administrative provision applicable to marketing communications of crowdfunding service providers	
3	Translation of the official title of the law, regulation or administrative provision provided under point 2 in a language customary in the sphere of international finance	
4	Date of adoption of the notified law, regulation, administrative provision or other act that change the information initially provided pursuant to Article 28(2) of Regulation (EU) 2020/1503	
5	Date of entry into application of the notified law, regulation, administrative provision or other act that change the information initially provided under Article 28(2) of Regulation (EU) 2020/1503	
6	Hyperlink to the relevant section of the Member State's official website containing the full text of the notified national law, regulation, administrative provision or other act	
7	Summary of the national law, regulation or administrative provision notified pursuant to Article 28(2) of Regulation (EU) 2020/1503 as updated further to the changes notified in this form (in a language customary in the sphere of international finance)	
8	Additional information (optional)	