

Eurofinas response to the European Commission's consultation on Crowdfunding

December 2013

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Eurofinas is entered into the European Transparency Register of Interest Representatives with ID n° 83211441580-56



Summary of position

1. Clear definitions are a pre-requisite for any follow-up action in the field of crowdfunding.
2. A comprehensive sizing and analysis of the crowdfunding market should then be conducted.
3. Regarding peer-to-peer lending platforms, we do not see the necessity for EU-wide action. If action is taken, it should be proportionate to the risks involved in the consumer lending sector, be consistent with existing frameworks and take into account the technical characteristics of such operators.
4. Protection of investors and borrowers requires high consumer protection standards, regardless of the type of lending organisations or intermediaries.

General Observations

Eurofinas welcomes the opportunity to respond to the European Commission's consultation on crowdfunding. As reported by the Commission in its consultation document, crowdfunding is an emerging form of financing that includes different forms of systems/platforms. Our interest in the issue essentially lies in peer-to-peer lending models. Hence our comments below will be limited to the latter (unless explicitly mentioned otherwise).

As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers. The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, education, furniture, electronic appliances, etc. It is estimated that together the Eurofinas members financed over 312 billion Euros worth of new loans during 2012 with outstandings reaching 828 billion Euros at the end of the year.

Why are we responding to this consultation? We consider peer-to-peer lending as an interesting financial innovation. As all businesses, it presents risks and opportunities for both investors and end-users. It is therefore important that such an activity is carried out in a flexible yet secure business and regulatory environment taking due account of local competition characteristics.

Depending on market structures, peer-to-peer lending can potentially represent a business opportunity or a new form of competition for the consumer credit industry. **Because peer-to-peer lending platforms can offer similar products as credit or financial institutions while currently not necessarily being subject to the same rules and standards, it is important to avoid reputational damage to the wider consumer finance industry and ensure the highest standards of consumer protection.**

What makes peer-to-peer lending innovative and challenging is that:

- It is a consumer to consumer (so-called C2C) transaction.
- It involves a third party whose role may vary depending on the actual business model of the lending platform.
- It is mainly a web-based activity.
- It combines investment and lending activities.
- It is a new type of business and legislation in force does not necessarily match its characteristics.



We believe these specificities should necessarily be taken into account when assessing the functioning of crowdfunding activities. Crowdfunding activities can play a role in promoting access to finance for households and small and medium sized enterprises. An appropriate framework should however be in place to ensure its sustainability. Where crowdfunding has developed, some national authorities have taken actions to better understand its characteristics and implications. Supervisory and/or regulatory guidance may also have been proposed.

Peer-to-peer lending platforms are part of a very fragmented market, they do not exist across the entire EU. Their models can also widely differ and their market shares remain limited. Against this background, **at the moment we do not see the necessity for EU-wide action in the specific field of peer-to-peer lending platforms.** A good first step could be to carry out a comparative market study including a comprehensive assessment of the different models in place. The sharing of national experiences and regulatory best practices could also be considered.

Definitions and scope

Clear definitions are a pre-requisite for any follow-up action in the field of crowdfunding. As mentioned in the European Commission's consultation document, crowdfunding encompasses various types of activities. In practice, reward-based funding of an artistic project by a group of fans has little to do with investing in equity or debt raised by an SME through crowdfunding. The level of risks involved in these transactions also differs. It is therefore critical to ensure that these activities are treated differently.

Most business and regulatory elements related to peer-to-peer lending platforms are specific to the lending sector and should not be confused with other activities. Lending, and in particular consumer lending, is a highly regulated business sector. There is no single aspect of consumer lending that is not subject to international, European or national regulation and/or guidance: access to the market and licensing regime, advertising and marketing of products, pre-contractual information, pricing, treatment of repayment difficulties, etc.

Not only must the consumer lending sector adhere to general consumer protection standards (for example in the field of commercial practices) but it must also comply with sector-specific technical rules such as the calculation and the presentation of the Annual Percentage Rate of Charge (APRC). **Should any action be envisaged by the European Commission in the field of peer-to-peer lending, it should be proportionate to the risks involved in the consumer lending sector, be consistent with existing frameworks and take into account the technical characteristics of such operators.**

Market size and features

We do not believe that there is sufficient data and detailed breakdowns available to draw general conclusions on the development of crowdfunding activities. We would therefore support a comprehensive sizing and analysis of the crowdfunding market. In this context, it would be particularly interesting to get a detailed picture of investors and users i.e. in the field of peer-to-peer lending, of lenders and borrowers. Also, a comparison of the various lending/intermediation models would be an asset.



Responsible lending

Responsible lending is a priority for the consumer credit providers that Eurofinas represents. Lenders have mechanisms in place to assess applicant borrowers' creditworthiness as objectively and accurately as possible, estimate their risk level, provide adequate information and explanation on credit agreements, etc. These key elements are covered by various pieces of legislation including the Consumer Credit Directive¹.

Additionally, a high number of Eurofinas members have also in recent years developed and implemented codes of good practice². These codes set out guidance and general principles by which member-lending institutions must operate and establish the standards of behaviour which are expected from them. These codes help to promote a consistent, balanced and safe business environment where both consumers and credit providers' interests are taken into account. The existence of these codes and the strict adherence thereto are testament to the commitment of the consumer credit industry to sound lending practices and safe credit markets.

We take the view that peer-to-peer lending platforms should be subject to their local responsible lending standards. Against this backdrop, access to, and exchange of, credit data by peer-to-peer lending platforms should be encouraged to help ensure sound lending practices. Facilitated access to, and exchange of, credit data will also encourage responsible borrowing as users of these platforms will pay more attention to their credit histories.

Fraud prevention

We disagree with the Commission's statement that Internet-based communication "easily lends itself to fraudulent representation and false statements". We fail to understand the reasoning behind this assertion which suggests that online business is, in general, unreliable.

What is clear however is that web-based operators, including peer-to-peer lending platforms, should be clearly identifiable and provide sufficient and clear information on their licensing regime, standards to which they abide and ways to resolve potential disputes. Additionally, they should have appropriate systems in place to prevent fraudulent applications as well as detect potential misuse of their business model, for example for money laundering purposes.

Financial education

In a context where the contracting parties may not benefit from professional information, explanations and, where applicable, advice, it is key to ensure that both investors and borrowers understand the risks involved in the lending/borrowing transaction. Eurofinas strongly supports educational programmes undertaken by trade associations, consumer representatives and firms which aim to increase consumers' financial literacy. In this context, local authorities have a leading role to play in coordinating existing actions. An overview of the initiatives taken by Eurofinas members in this field can be found in the Eurofinas Financial Education Publication³.

¹ Directive 2008/48/EC on credit agreements for consumers, OJEU L 133/66

² *Eurofinas Brochure on national codes of conduct for consumer lending*, 2012, available upon request from a.valette@eurofinas.org

³ Available here: http://www.eurofinas.org/uploads/documents/reports/EUROFINAS_FinanEduc_2012_WEB.pdf