

Consultation Document on Fees for European Crowdfunding Services Providers ('ECSPs')

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NOTE: The documents circulated by the MFSA for the purpose of consultation are in draft form and consist of proposals. Accordingly, these proposals are not binding and are subject to changes and revisions following representations received from licence-holders and other involved parties. It is important that persons involved in the consultation bear these considerations in mind.

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Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European Crowdfunding Service Providers (hereinafter referred to as the 'Regulation' or the 'ECSPR') is novel and applicable as of 10 November 2021.

The Regulation inter alia lays down requirements for the provision of lending-based and equity-based crowdfunding services for the first time at EU level. It introduces a single set of requirements applicable to European Crowdfunding Service Providers ('ECSPs') across the EU, including strict rules to protect investors.

In view of the fact that the Malta Financial Services Authority ('MFSA' or the 'Authority') has always sought to generate stable and proportionate regulatory fees charged to licence-holders, the Authority is issuing this Consultation Document and related draft Legal Notice proposing a new home-grown fee structure for ECSPs.

Proposal

Legal entities that intend to provide crowdfunding services within the meaning of the ECSPR will need to obtain authorisation from the Competent Authority ('CA') in their Member State of establishment. Furthermore, it is also pertinent to note that the imposition of fees is not catered for in the said Regulation. Consequently, diverging approaches between Member States in the structure and amount of fees payable to their CA is expected.

As a result, the MFSA is seeking to publish a Legal Notice entitled "*Malta Financial Services Authority Act (European Crowdfunding Service Providers for Business) (Fees) Regulations, 2021*" establishing a fee structure for ECSPs. In this respect, a draft version of the Legal Notice has been attached to this Consultation Paper.

Following research based on public information from other similar regimes outside of the Maltese shores and considering other similar services to crowdfunding which may already be provided locally, the MFSA is suggesting the following fee structure for ECSPs licensed in Malta:

1. Application Fee;
2. Extension Fee;
3. Annual Supervisory Fee.

Application Fee

The MFSA proposes an application fee of almost the same amount of that of the (previous) Category 2 Investment Firm (as per the [Investment Services Act](#)) and in the sum of €4,500.

The application fee will be non-refundable and payable within one month from the submission of the relevant application to the competent authority. With respect to those applications submitted prior to the coming into force of these Regulations, the applicants shall pay the application fee to the competent authority within one month from the day of entry of application of these Regulations.

Extension Fee

The MFSA proposes a non-refundable extension fee in the sum of €2,000 in relation to European crowdfunding service providers seeking authorisation to extend their business to additional crowdfunding services not foreseen at the time of the authorisation granted under Article 12 of the ECSP Regulation.

The said fee will be payable by the European crowdfunding service provider to the Authority upon the submission of a request for extension of its authorisation.

Annual Supervisory Fee

The MFSA proposes an annual supervisory fee in the sum of €3,500, for revenue up to €250,000, and €400 per further tranche of €250,000 or part thereof, up to a maximum of €5,000,000. The supervisory fee is payable upon the submission of the annual report to the MFSA.

Furthermore, a newly authorised crowdfunding platform would be required to pay the minimum annual supervisory fee for the first year of operation upon receipt of the licence. The fee payable shall be proportionate to the period remaining between the date of the granting of the licence and the date of the submission of the annual report.

The proposed annual supervisory fee will be the same as the one imposed on the (previous) Category 2 Investment Firm, equal to €4,500, as per the [Investment Services Act](#).

Contact and Way Forward

Any comments and feedback in relation to the Consultation Document are to be addressed to the Securities and Markets Supervision Function and submitted via email on Crowdfunding@mfsa.mt, by not later than **31 May 2021**.