

Toelichting: Dit is een kopie van online vragenlijst. Alle vragen zijn hieronder opgenomen. Bij het invullen van de online vragenlijst vervallen bepaalde vragen op basis van eerder gegeven antwoorden (zou krijgen regelgevers en toezichthouders bijvoorbeeld andere vragen dan crowd funding platformen). De voor Nederland relevante vragen zijn gemarkeerd. De gegeven antwoorden zijn vetgedrukt.

Crowdfunding in the EU

Answering this questionnaire will take about 10-15 minutes. You are allowed to skip questions that you cannot, or do not wish to, answer. Please note that you cannot save your answers to continue at a later time. However you can print out the questionnaire and prepare your answers. (Certain questions will only appear if you replied to an earlier question. To see all the questions, give preliminary answers without clicking the "Submit" button at the end.)
Please submit your answers before 31 December 2013.

Questions marked with an asterisk * require an answer to be given.

Identification

Please tell us who you are

1. First name
(maximum 35 characters)
2. Family name* (maximum 35 characters)

3. What category describes you best?

*

I might give money to crowdfunding (or already did so)
I might raise money through crowdfunding (or already did so)
Crowdfunding platform manager
Regulatory or supervisory authority representative
Bank / financial institution
Venture capital fund
Business angel
Academic
Association / interest representative
Other

4. Please specify (maximum 100 characters)

Targeted questions based on your previous answer, in this section we will ask you some targeted questions.

5. Organisation's name* (maximum 100 characters)

The Netherlands Authority for the Financial Markets and the Dutch Central Bank, Relevant ministries

6. Transparency register ID number (If you do not indicate your ID, your response will count as an individual contribution)

Not yet registered? You can register your organisation here:
<http://ec.europa.eu/transparencyregister/info/homePage.do>

7. Gender

*

male

female

8. Country (of residence or establishment)*

EU (active/present in several EU countries)

Austria Hungary Romania

Belgium Iceland Slovakia

Bulgaria Ireland Slovenia

Croatia Italy Spain

Cyprus Latvia Sweden

Czech Republic Lithuania Switzerland

Denmark Luxembourg United Kingdom

Estonia Malta US

Finland **Netherlands** Other

France Norway

Germany Poland

9. Please specify* (maximum 20 characters)

10. Do you agree to publishing your replies on the European Commission's website?*

If you wish to contribute to the public consultation, you have to agree to publishing your replies. You have the option to request anonymity.

Yes

Only anonymously (without mentioning my name and organisation)

11. Have you already given money to a crowdfunding campaign?

No

Yes, in my country

Yes, in another EU country

12. Were you satisfied with your crowdfunding experience?

yes

too early to tell

no

13. What was wrong? (maximum 500 characters)

14. Would you consider contributing to a crowdfunding project from another EU country, if the campaign is in your language?

Yes, it is the same to me wherever the project comes from

Yes, but only if it is a project I really believe in

Yes, but only if there is a guarantee that I will not be cheated

No, I want to support local projects

No, it is too risky to give money to people from other countries

15. How would you describe your project?

artistic
innovative
social / philanthropic
ecological / green technology
entrepreneurial
other

16. Have you already launched a crowdfunding campaign?

no
yes

17. What was / is your campaign's funding target amount? (in €)

18. What type of campaign did you launch?

donation
rewards
product development / pre-sales
profit sharing
equity (shares)
debt (bonds)
borrowing

19. Did you use a crowdfunding platform to host your campaign?

yes
no

20. Have you tried to get financing from other sources launching your campaign?before

No
Yes - a bank loan
Yes - venture capital
Yes - business angels
Yes - friends and family

21. Was your campaign successful?

yes
no
it is still ongoing

22. After the successful campaign, did you obtain financing from other sources for the same project?

No
Yes

23. What form(s) of post-campaign financing did you obtain?

business angel investment
venture capital

bank loan
equity (IPO)
other

24. BUSINESS MODEL

What types of crowdfunding campaigns does your platform host?*

Donations
Reward-based campaigns
Product pre-sales
Profit-or royalty sharing
Equity-based (shares)
Debt-based (bonds)
Lending
other

25. Please specify*

26. Is your platform authorised by a national authority?

no
yes, as a bank
yes, as another category
yes, as a payment service provider
yes, as an investment firm

27. Please specify (maximum 500 characters)

28. How much money was raised through your platform in 2012 (in € terms)?

29. Does your platform accept projects and contributions from other EU countries (other than the country of establishment)?*

no, we do not want to operate outside the country
no, although we would like to yes

30. What are the biggest obstacles that prevent your platform from being active in several Member States?

we cannot check foreign projects' reliability
we cannot operate in multiple languages
we cannot process payments in multiple currencies
we are required to get an authorisation abroad which is costly
we do not have enough information about legal requirements abroad
other

31. Please specify (maximum 2000 characters)

32. What was the average value of individual contributions through your platform in 2012? (€ terms)
In case you do not have this data for 2012, you can provide approximate figures for 2013. Please convert to €.

33. What was the highest individual contribution? (€ terms)

34. What was the average campaign target amount? (€ terms)

35. What was the highest campaign target? (€ terms)

36. What was the success rate of campaigns?

%

37. Does your platform adhere to a code of conduct?*

yes

no

38. What type of functions does your platform perform?

Checking identity of project owners

Preliminary screening of projects (legality, compliance with platform's conditions)

Guarantee the return of reclaimable funds

Informing project owners and contributors of applicable fees

Informing contributors of risks

Facilitating the communication between contributors and project owners

Assessing the profile of the contributors, E.g. income or wealth, risk profile.

Providing investment advice

Pooling funds from contributors and allocating funds to projects

Creditworthiness or profitability assessment of proposed projects (before campaign)

Monitoring the performance of projects after the campaign

Acting as nominee shareholders or contributors' representative in legal proceedings

managing conflict of interest for the platform

Professional insurance or compensation scheme coverage to compensate contributors' losses

Other(s)

39. Please specify (maximum 500 characters)

40. How many crowdfunding platforms operate in your jurisdiction?

15

41. How many platforms are authorised as investment firm?

2

42. How many platforms are authorised as payment service provider?

0

43. How many platforms are authorised as other category of firm? Describe category and indicate the number.

2 platforms - license for credit intermediation;

8 platforms - exemption for intermediation in callable funds;

3 platforms non regulated

44. Are you aware of any consumer / investor complaints relating to any form of crowdfunding?

no

yes

45. Please provide details

46. What rules apply to crowdfunding in your jurisdiction?

we do not have any cases of crowdfunding so far
we apply the existing national and EU law to crowdfunding
we have a specific legislation / regulation on crowdfunding

47. What rules apply to peer-to-peer lending? (maximum 2000 characters)

Payment Services Directive

Consumer Credit Directive

Distance marketing of consumer financial service Directive

Anti Money Laundering Directive

Other local regulation when there is not harmonised EU regulation

- In case of business loans, the AFM treats Crowdfunding platforms as an intermediary in repayable funds under the FSA. For this activity an exemption of the AFM is needed (article 4:3 FSA).
- In the case of consumer credit, the the AFM treats Crowdfunding platforms as an intermediary in consumer credit. For this activity a license of the AFM is needed (article 2:80 FSA).
- DNB is the supervisor on article 3:5 FSA with states that is forbidden to invite repayable funds. This article could be applicable on the legal entities that Crowdfunding platforms use as an escrow account. According to DNB collecting crowd money during the funding period is allowed if there is technical or organizational necessity to collect the money for a considerable amount of time.

We also refer to the uploaded file for additional explanation.

48. What rules apply to equity crowdfunding? (maximum 2000 characters)

MiFID

Prospectus Directive

Payment Services Directive

UCITS Directive

AIFMD

Anti Money Laundering Directive

No Other local regulation. We use the existing regulatory framework for investment firms.

- In case of investments in equity or debt instruments, the AFM treats Crowdfunding platforms as an investment The platform will need a permit for reception and transmission of orders (2:96 FSA)

We also refer to the uploaded file for additional explanation.

49. Up to which amount can issuers raise equity without having a prospectus? (€terms) (between 100000 and 5000000)

The Prospectus Directive leaves Member States the freedom to decide as of which amount, between €100 000 and €5 000 000, they oblige issuers to have a prospectus.

250000

50. Do crowdfunding platforms qualify for an exemption under Art 3 of the Markets in Financial Instruments Directive (MiFID)?

yes

no

51. What rules apply to profit-sharing or any other forms of crowdfunding? (maximum 2000 characters)

None. Supervision is obligatory for only those platforms that offer investments or loans. Other types of crowdfunding models are not considered to be financial in nature. For further reading we refer the uploaded file (step by step plan).

52. What rules apply to campaigns / platforms using pre-sales, rewards or donations? (maximum 2000 characters)

None. View answer question number 51.

53. Are there specific taxation rules that may apply to certain forms of crowdfunding? Please describe these. (maximum 1000 characters)

No

54. What do you think of financial forms of crowdfunding (lending, securities, profit sharing)?

It contains high risks to contributors

It has many advantages to firms and contributors

We might start our own platform

We might cooperate with a platform

Definition and models of crowdfunding

1. WHAT IS CROWDFUNDING?

Which elements should always be present in a crowdfunding campaign?

open call to the public
through the internet
to collect funds
during a specified time period
for a specific project
in the form of small contributions
from a large number of individuals
other elements

2. Which (further) elements should define crowdfunding?* (maximum 300 characters)

3. Should crowdfunding be reserved to projects with smaller financing needs?

No **Yes**

4. Please indicate a ceiling amount **Should be investigated**

5. CATEGORIES

Crowdfunding can take many forms, depending on what contributors get in return for their money.

Which of these models are you familiar with?

donations

profit- or royalty sharing (Contributors get a share in future profits or royalties)

equity (shares) (Contributors are buying shares in the company)

I think some of the above categories should be treated as one
rewards (contributors get something of a lower / symbolic value in
exchange (e.g. CD or autograph)

lending (Contributors lend money that they get back with or without
interests)

hybrid models

pre-sales (Collecting money to develop a new product. Contributors order and pay for the product before it is being produced).

debt (bonds) (Contributors are buying bonds other models / comments).

6. What categorisation would you propose? What comments would you like to make?* (maximum 1000 characters)

Debt and equity models can be treated as one because it concerns both
financial instruments.

7. Which models should be treated as one category and why? (maximum 1500 characters)

8. Other than donations, there is also lending- or investment-based crowdfunding with . Should these be treated social objectives differently than any other lending or investment campaign for profits?

E.g. 'social lending' with or without interests or 'impact investing'

yes **no**

Benefits of crowdfunding

1. BENEFITS OF CROWDFUNDING

How high are the potential benefits of crowdfunding for the following categories?

	small	medium	high
1.1. Growth & jobs		X	
1.2. Entrepreneurs & SMEs SMEs = small and medium enterprises			X
1.3. Social entrepreneurs			X
1.4. Innovation		X	
1.5. Research and development (R&D)	X		
1.6. Small retail investors	X		

4. ARE THERE OTHER BENEFITS FROM CROWDFUNDING? (maximum 2000 characters)

YES. Business proposals that are validated by successful crowdfunding campaigns can contribute to bankfinancing (hybrid financing)

5. WHAT SPECIFIC ADVANTAGES DO FINANCIAL FORMS OF CROWDFUNDING HAVE? (PROFIT-SHARING, LENDING, EQUITY AND DEBT) If earlier you suggested different categories, please describe the advantages of those. (maximum 1000 characters)

YES. It can function as a pre-stage of angel investing (non-equity part). For smaller contributions it seems not to be very attractive. Main benefit is that this form of crowdfunding can function as a Community based instrument. In comparison with other forms of equity instruments equity crowdfunding can be lean and cost-effective. One benefit that is not mentioned yet is the benefit for entrepreneurs who does not direct access to banking facilities can create access to finance with debt crowdfunding.

Risks of crowdfunding

1. Risks to project owners

Please rate the following risks for project owners.

1.1. IPR PROTECTION Business ideas described on the internet are not adequately protected

IPR stands for intellectual property rights

1.2. REPUTATIONAL RISKS that project (owner) is considered as second class because (s)he could not obtain traditional sources of finance.

1.3. FAILURE IN PUBLIC - If the campaign is not succesful, it is a failure in public

1.4. OVERFUNDING RISKS - if too much money is collected entrepreneur may need to substantially revise the business plan

6. Risks of crowdfunding (all crowdfunding models)

How would you rate the following risks? Do you think any of these risks are too high and should be reduced in order for people to trust crowdfunding?

	Negligible	Acceptable	Too high	I'm not sure
6.1. FRAUD - project owner or platform does not use the money for the stated purpose				X
6.2. PROJECT FAILURE - project owner tries his best, but the project fails and does not deliver what was promised to crowdfunders				X
6.3. MISLEADING ADVERTISING - project is presented as all rosy, and people contribute without knowing the risks they take				X
6.4. CONTRIBUTORS DO NOT GET BACK THE MONEY they				X

could reclaim in case of an unsuccessful campaign				
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7. ARE THERE OTHER RISKS IN THE DONATION, REWARD OR PRE-SALE MODELS OF CROWDFUNDING?

(maximum 1000 characters)

We are of the opinion that all risks mentioned under question 6, as well as the specific risks under question 9 and 10, are applicable to crowdfunding. However we are of the opinion that rating these risks on the basis of three categories is too simplistic and can lead to misunderstanding (to give only one example: is the rating of these risks based on the situation where there is no regulation of crowdfunding at all, or based on the situation, like in the Netherlands, that there is a form regulation and supervision of crowdfunding to mitigate these risks?. Under question 6, 9 and 10 we have therefore chosen 'I'm not sure', while we have a clear view on the relevant risks. For our view on the risks of crowdfunding we refer to the attached file. Besides the four risks mentioned under question 6 we observe at least four other risks: 1. Difficulty to carry out correct valuation and due diligence, 2. Operational risk, 3. Money laundering. 4. Unfair contract terms.

8. Could a scandal undermine contributors' confidence?

Yes no

9. Equity crowdfunding (contributors buying shares) - risks and complexity

How would you rate the following risks and the overall complexity of crowdfunding where contributors are offered shares in a company?

	Negligible	Acceptable	Too high	I'm not sure
9.1. Investors overvalue the project (pay more for the shares than what they are worth)				X
9.2. Project fails and investors lose the capital they invested				X
9.3. Investors are not able to exercise shareholder rights				X
9.4. The company issues new equity and dilutes the investment value of				X

first round investors				
9.5. Lack of exit options (investors are not able to sell-on the equity)				X
9.6. Investment not being profitable (even if the project does not fail, it may not be able to pay dividends)				X
9.7. Complexity				X

10. Lending - risks and complexity

How would you rate the following risks and the overall complexity of crowdfunding where contributors lend money?

	Negligible	Acceptable	Too high	I'm not sure
10.1. Lenders do not know the credit-risk of the borrower				X
10.2. Project fails and lenders do not get back the money they lent				X
10.3. Lenders do not receive the promised interests				X
10.4. Complexity How difficult is it for a contributor to understand and manage this form of crowdfunding				X

- compared to other forms?				
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11. DO YOU SEE OTHER RISKS IN FINANCIAL FORMS OF CROWDFUNDING (profit-sharing, lending, securities)? (maximum 1500 characters)

Difficulty to carry out correct valuation and due diligence, 2. Operational risk, 3. Money laundering. 4. Unfair contract terms. We refer to the uploaded file for our view on the risks of crowdfunding and the potential role of the EU.

Identifying the role of the EU

1. Where would EU action be useful?

What EU level action(s) would help reap the benefits of crowdfunding? For which forms of crowdfunding would these actions be useful?

	a: donations	b: rewards	c: pre- sales	d: profit sharing	e: lending	f: equity/debt (shares/bonds)
1.1. Raising awareness	X	X	X	X	X	X
1.2. Combining public funding and crowdfunding						
1.3. Coordinating self-regulation						
1.4. Sharing national experiences & regulatory best-practices	X	X	X	X	X	X
1.5. Providing easier market access to all EU countries						
1.6. Protecting contributors from risks						

2. What are the obstacles to market access for donation, reward or pre-sale campaigns/platforms?*(maximum 500 characters)

3. Do you have in mind other areas of action for the EU that would help reap the benefits of crowdfunding? (maximum 1000 characters)

Crowd funding is relatively new and initiatives are diverse in set up. The Dutch supervisory authorities try to mitigate the risks, without

unnecessarily hindering the development of crowd funding which can have an added value for the financing of a variety of projects. In our view further research is needed before drawing any conclusions with respect to the (European) legal framework can be drawn.

4. Should all crowdfunding platforms be obliged to

Inform project owners and contributors of applicable fees

Guarantee the processing of payments

Check the identity of the project owner

Check the legality of the projects proposed

5. What other measures would protect contributors appropriately, especially in the case of "direct crowdfunding campaigns" that do not use a platform?

(maximum 1500 characters)

Financial forms of crowdfunding (profit sharing, equity, debt, lending)

12. What do you think of EU law on financial services as applied to crowdfunding today?

I am not familiar with EU law on financial services

It is adequate and does not need to be changed

It should be calibrated to better fit crowdfunding

It is not well suited to crowdfunding; a new, tailor-made legal framework is needed

13. Which specific measures should be calibrated and how? (maximum 5000 characters)

In the uploaded file we have identified which European directives and regulations can be applicable to crowd funding. It is not always entirely clear when a directive or regulation applies to a certain model of crowd funding and to what extent. These directives and regulations are clearly not written to regulate crowd funding, and they do not always take into account the specific characteristics of crowd funding. It could for example be helpful if the EU could clarify when and to what extent existing directives and regulations apply to different models of crowd funding.

14. A European legal framework for financial forms of crowdfunding should be

optional - campaigns / platforms with cross-border reach can choose to comply with EU rules, rather than several national rules

some common minimum standards applying to every campaign / platform

exactly the same rules applying to every campaign/platform

other

15. Please specify what other would be optimal for an EU framework (you can elaborate on the specific design rules later) (maximum 250 characters)
Access to markets and protection of contributors

We refer to the uploaded file for our view on the risks of crowdfunding and the potential role of the EU.

Access to markets and protection of contributors

Crowdfunding platforms' responsibilities - financial models

16. Crowdfunding platforms' responsibilities - financial models
 Should responsibilities of platforms hosting campaigns with lending or equity/debt (shares / bonds) be harmonised at a European level?

	No harmonisation Crowdfunding platforms can decide	Yes, for lending	Yes, for equity / debt
16.1. to inform contributors of investment risk or credit risk		X	X
16.2. to assess the profile of the investor Risk profile, income, wealth, education, etc.	X		
16.3. to perform due diligence / credit risk assessment of projects		X	X
16.4. to monitor the performance of the projects after a successful campaign		X	X
16.5. to act as nominee shareholder or contributors' representative in legal proceedings related to a project	X		
16.6. to manage		X	X

conflicts of interest within the platform			
16.7. to cover eventual losses to contributors through compensation scheme or insurance	X		

17. What other duties should financial crowdfunding platforms have? (maximum 300 characters)

At this moment it is too early to draw any conclusions with respect to the need for a (European) legal framework for crowd funding. The question which responsibilities should be regulated, if a separate legal framework would be set up, is even more difficult to answer at the moment. Moreover, question 16 only gives three possibilities to regulate certain responsibilities. There is at least one other option, namely no harmonization at EU level, but regulation at a national level. The latter could be a good idea, among other reasons, because of the fact that until now crowdfunding is mainly a local phenomenon, that might best be regulated at a national level.

18. Should contributors be advised to diversify their investments into crowdfunding?

yes no

19. Should there be a minimum or a maximum amount set for individual contributions?

No Minimum **Maximum**

20. What minimum amount for which crowdfunding model(s) (€ terms) (maximum 200 characters)

21. What maximum amount for which crowdfunding model(s)? (maximum 250 characters)

In the Netherlands we introduced the following maximum for consumers: 40.000 Euro for lending platforms or 20.000 Euro for equity/debt platforms. It is better to introduce a treshold (%) that depends on how much a consumer can spent.

22. What other measures would be needed to grant access to markets but also address the risks of financial forms of crowdfunding? (maximum 2000 characters)

No suggestions

23. What framework would suit crowdfunding with social goals? How to verify social objectives or impact?
What level of investor protection is needed? (maximum 3000 characters)

24. Do you have any other comments?
(maximum 2000 characters)

We advise you to read the uploaded files for our view on the risks of crowdfunding and the potential role of the EU (including answers to question 6, 9, 10, 11 under 'risks of crowdfunding', and question 1 and 16 under 'identifying the role of the EU' as well).