



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

The Director-General

Brussels
FISMA.B.1/GG (2023)4382479

Mr José Manuel Campa
Chair
European Banking Authority
20 avenue André Prothin
92927 Paris –France

Dear Mr Campa,

On 10 May 2022, the European Banking Authority (hereafter ‘EBA’) submitted to the European Commission a draft Regulatory Technical Standard (hereafter ‘draft RTS’) on credit scoring and pricing disclosure, credit risk assessment and risk management requirements for crowdfunding service providers. That draft RTS fulfilled the mandate under Article 19(7) Regulation (EU) 2020/1503 (the European Crowdfunding Service Providers Regulation, hereafter ‘ECSPR’) by specifying the requirements for disclosure of the method used by crowdfunding service providers for credit scoring of crowdfunding projects and pricing of crowdfunding offers, the information and factors to consider in credit risk assessments of crowdfunding projects, the factors to ensure a fair and appropriate price of a loan, and the minimum contents and governance of credit risk assessment and risk management policies and procedures.

With this letter I would like to inform the EBA that the Commission intends to endorse the proposed RTS with amendments. The reasons for endorsement with amendments can be summarised as follows:

- On 13 December 2022, the draft RTS was sent to the European Data Protection Supervisor (EDPS), as it contains rules affecting personal data. The EDPS issued an opinion on 10 January 2023, noting that Article 5(2) of the draft RTS may be incompatible with the principle established in Article 5(1)(e) of the General Data Protection Regulation (EU) 2016/679 (‘GDPR’), which requires that personal data should only be stored for the time necessary to fulfil the original purpose of their collection and use.
- Notably, Article 5(2) of the draft RTS included an open clause that personal data should be stored for ‘at least 5 years’, which implies that data could be stored indefinitely without justification.

- The Commission agrees with the EDPS's opinion that an open clause on personal data storage would conflict with the 'storage limitation' principle under Article 5(1)(e) of the GDPR.
- The Commission therefore considers that a maximum time period for the storage of personal data ('no longer than 5 years') would ensure that there is no conflict with the rules the processing of personal data under the GDPR.

As a result, I would like to inform you that the Commission, acting in accordance with the procedure set out in the sixth point of the European Supervisory Authorities and European Commission (ESA/COM) working arrangements and Article 10(1) of Regulation (EU) No 1093/2010, intends to endorse the draft RTS submitted by the EBA with the amendments necessary to ensure compatibility of the draft RTS with the GDPR.

I nonetheless express our appreciation for the work undertaken by the EBA to deliver the draft RTS and look forward to continuing our good cooperation on these acts.

I am looking forward to continuing our good cooperation on these acts.

Yours sincerely,

Electronically signed

John BERRIGAN

Enclosure: Draft delegated regulation supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements on credit scoring of crowdfunding projects, pricing of crowdfunding offers, and risk management policies and procedures;

c.c.: Irene Tinagli MEP, Chair of the Committee on Economic and Monetary Affairs, European Parliament; Thérèse Blanchet, Secretary-General of the Council of the European Union