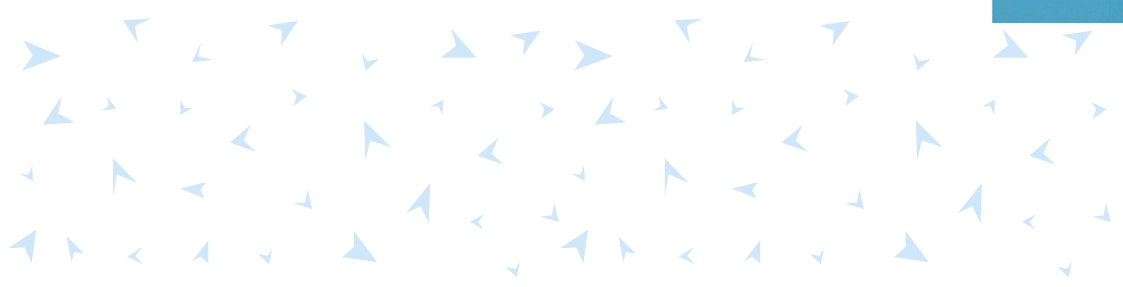




HOW TO SET UP PAYMENTS AS A CROWDFUNDING PLATFORM UNDER THE NEW EUROPEAN REGULATION?

VERSION JUNE 2021 | MAURICE JONGMANS

**CROWDFUNDING PLATFORMS FORCED TO MAKE
FUNDAMENTAL CHOICES.**



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“Many crowdfunding platforms for businesses are still far from complying with the European regulation with their working methods. Adapting the business processes and outsourcing payments and/or obtaining a license takes a lot of time, you need to start doing that now.”

Maurice Jongmans

WHAT IS THE EUROPEAN CROWDFUNDING SERVICE PROVIDERS REGULATION?

The regulation “European crowdfunding service providers for businesses (2020/1503)” (hereinafter: crowdfunding regulation) imposes several new requirements on crowdfunding platforms (referred to in the regulation as CSPs, Crowdfunding Service Providers). The Regulation has been implemented on 10 November 2020 and will be enforced by November 10th 2021. A European regulation has direct effect in EU member states and therefore does not need to be transposed into local legislation.

PURPOSE OF THE REGULATION

The regulation is intended to achieve harmonization within the EU in the field of crowdfunding and is part of the capital market union. By doing so, the EU tries to realize a level playing field within its internal market. Besides harmonization, the regulation is intended to improve the protection of investors and increase transparency.



TO WHOM DOES THE CROWDFUNDING REGULATION APPLY?

To date, the regulation only applies to CSPs that facilitate corporate financing of investors and project owners through an online and publicly accessible platform.

This regulation excludes CSPs that fund consumers or charities are excluded from this regulation. Crowdfunding platforms that offer a product or service in return, are not covered by this regulation either (for example, Kickstarter).

In many cases, these platforms are equally subject to local authorities.

However, it may be the case that these CSPs provide payment services to the users of the platform, meaning that they must comply with the requirements of the European Payment Services Directive (also known as PSD2). This white paper is therefore also relevant to these platforms.

The regulation has many organizational and operational requirements such as;

1 Complaint Procedure(s)

2 Conflict of Interest Procedure

3 Business continuity plan

4 Capability test

5 Simulation capacity to bear loss

6 Sheet of essential investment information

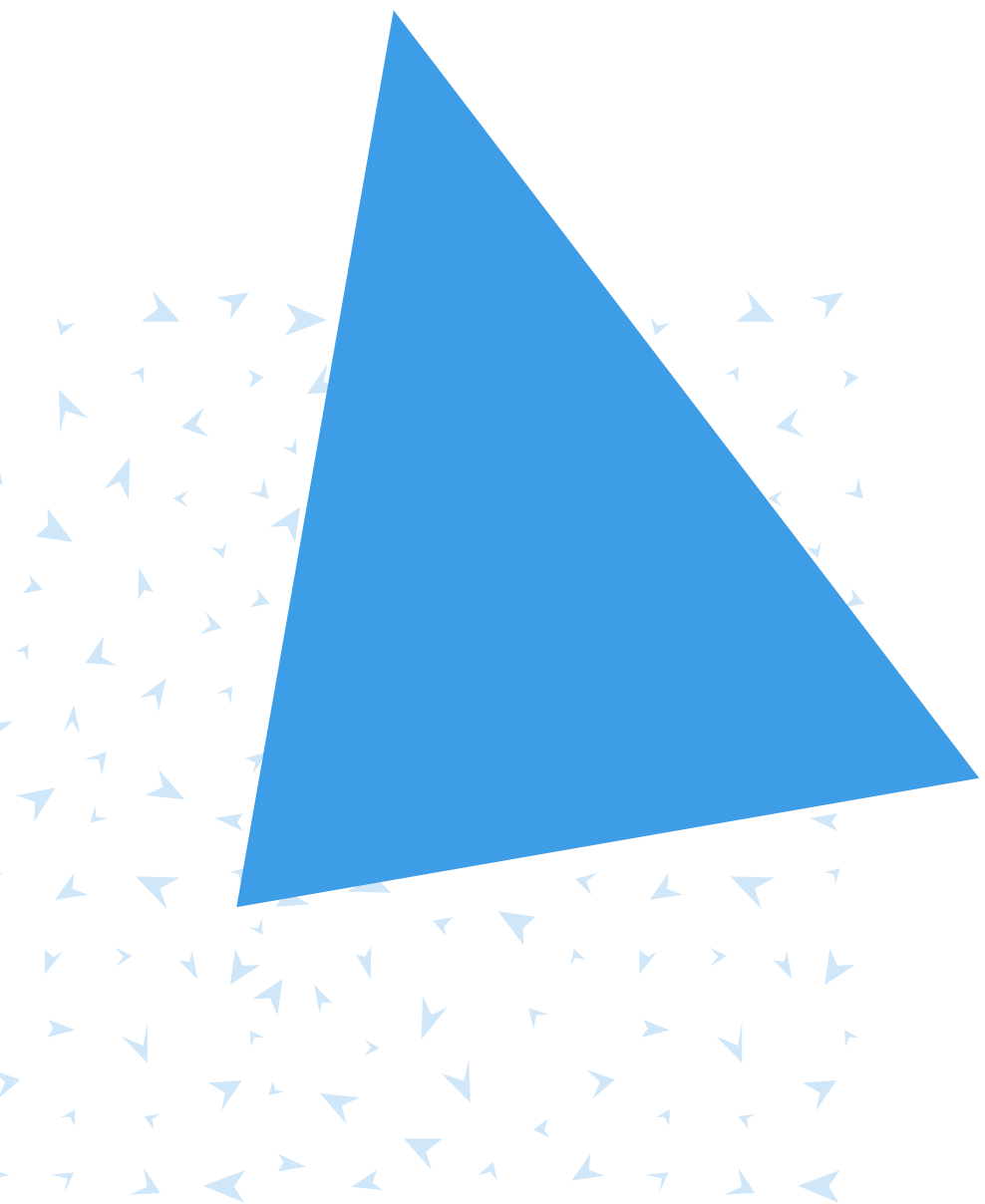
7 Rules on outsourcing

8 Prudential guarantees

A CSP is required to hold a minimum amount of €25,000. The costs may be higher than the minimum as a result of the institutional costs and fees in the previous year.

9 Payment Services

If the platform facilitates payment services (transactions) between the users of the platform, it must comply with the European Payment Services Directive. **This requirement is discussed in more detail in this white paper.**



The regulation will be enforced on November 10, 2021. If an institution already offered crowdfunding services before that time, mostly within permits or exemptions of the European member state where the platform is located, the institution has one year to apply for a (new) permit. Thus, an existing CSP must obtain a (new) license by November 11, 2022.

A licensing process can take several months, especially if many institutions wait until the last minute to apply for their license. To avoid the risk that you have to (temporarily) stop your crowdfunding services, it is advisable to start the application procedure on time. In the application you must also indicate how you have set up the payment services.

Besides the organizational requirements in the Regulation, Additional Regulatory Technical Standards (RTS) could apply. The ESMA (European Securities and Markets Authority) has been given the task of drawing up technical standards to elaborate on the content of certain articles. This concerns the complaints procedure, conflict of interest, the application for authorization, the business continuity plan, the admission knowledge test and simulation of the capacity to bear losses, the essential investment information sheet and the calculation of the default rate. Some RTS are prepared in cooperation with EBA (European Banking Authority). The elaboration of the various RTS are currently under consultation until the end of May 2021.

The regulation refers to the crowdfunding platform as the Crowdfunding Service Provider (CSP).

3 OPPORTUNITIES FOR CSPS TO OFFER PAYMENT SERVICES

In order to comply with financial legislation, marketplaces and trading platforms have 3 options when they would like to offer payment services:

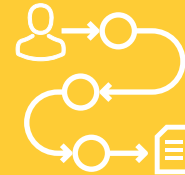
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Apply for a license exemption



2

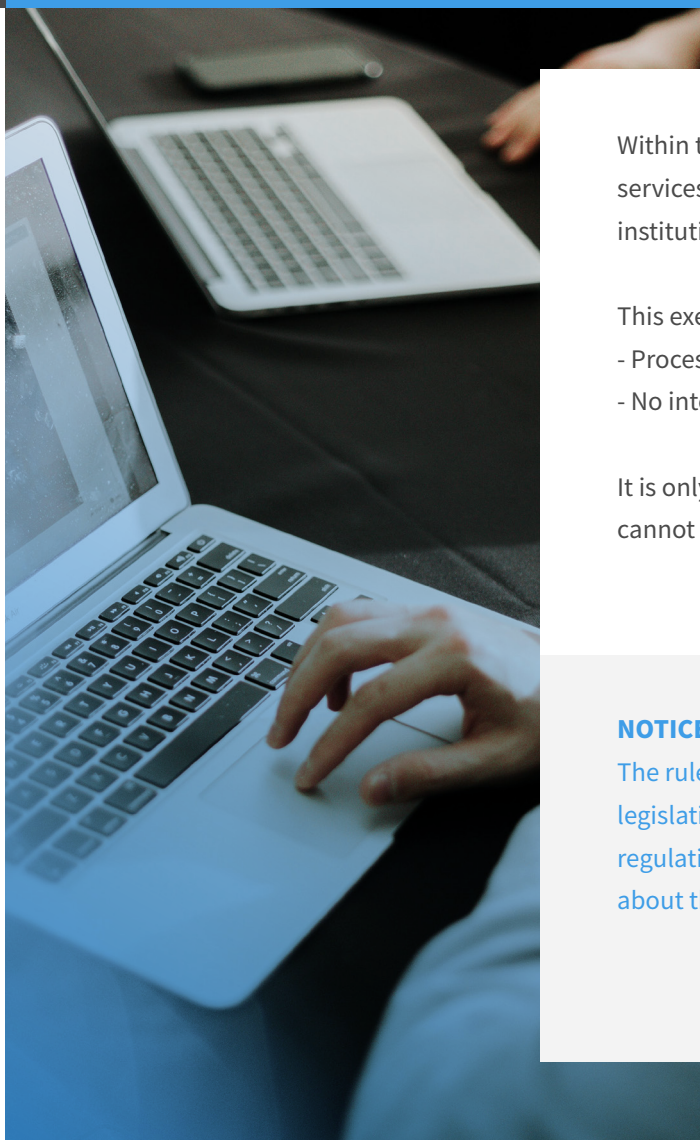
Apply for a license at the supervisory authority



3

Outsource payments to a platform-PSP





Within the financial legislation it is possible to apply for an exemption from the license to provide payment services. With this exemption, however, you must comply with almost all requirements imposed on payment institutions (such as the requirements surrounding Anti-Money Laundering (AML) and Sanctions legislation).

This exemption limits your options, for example:

- Process a maximum of 3 million € per month in payment volume
- No international passport possible

It is only possible to apply for an exemption in the European member state where your platform is based. You cannot then 'passport' your license to another European member state.

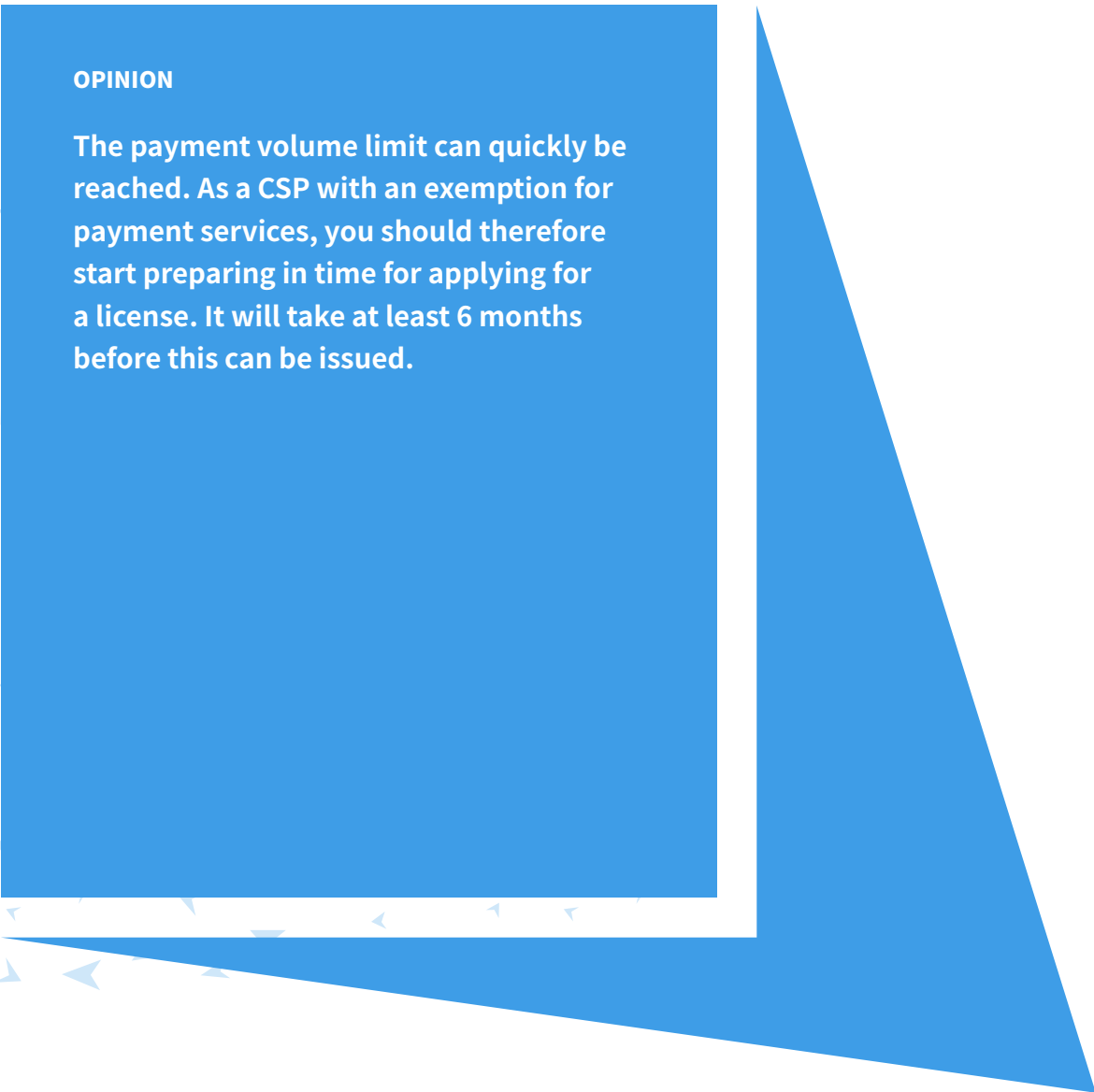
NOTICE:

The rules surrounding the exemption may differ from one EU-country to another. This is because the PSD2 legislation has been transposed into national legislation, in contrary to the Crowdfunding legislation, a regulation which is directly applicable. It is important to check with your national payment services regulator about the possibilities of an exemption and the requirements.



OPINION

The payment volume limit can quickly be reached. As a CSP with an exemption for payment services, you should therefore start preparing in time for applying for a license. It will take at least 6 months before this can be issued.





A license will provide the highest security and flexibility when offering payment services. For example, it allows you to manage and distribute third-party funds yourself. A license also gives you the opportunity to passport the services to other member states. However, applying for a license comes with considerable requirements, which go beyond the requirements of the Crowdfunding Regulation.

THE MAIN REQUIREMENTS ARE:

- 1 Declaration of no objection (DNO)
- 2 Controlled remuneration policy
- 3 Equity (Minimum own funds) and solvency requirements
- 4 Foundation for third-party funds
- 5 Recovery and Exit plan
- 6 Controlled operations (auditor's report, compliance function, risk management function)
- 7 Adequate and secure business management (Incidents, sanctions law, transaction monitoring, checking all beneficiaries through client due diligence (CDD))

As a payment service provider, you also pay annually for the supervision of the supervisory authority. Both the direct supervisory costs (costs charged by the supervisor to the payment service provider based on the volume that you have processed) and the indirect supervisory costs (costs incurred in order to comply with the various supervisory requirements, such as reports, documentation and plans). These costs, by the way, vary considerably from one country to another.

It is important to be aware of the fact that by obtaining a license and maintaining it, the associated costs are significant. In order to bear these costs the number of transactions would need to be substantial. In addition, the question must be asked whether the processing of payment transactions is the core business of the platform, since this usually involves bringing together supply and demand.

COSTS AND DISTRIBUTION TIME

Applying for a license as a payment service provider is a time-consuming process. The lead time for applying for a license is easily 6 months. Also, the costs for a license (based on 2020) within Europe can amount to 10% of your turnover (commission income) on payment services.

TWO REGULATORS

As a crowdfunding platform, in a number of cases you will therefore need a license on the basis of the Crowdfunding Regulation and, in addition, when you offer payment services, a separate exemption or license for the payments / transactions. In that case you will often have to deal with two different supervisory authorities and regulatory regimes.



Webshops usually rely on a payment service provider (PSP) to facilitate payments via SEPA, iDEAL, Bancontact, Sofort or other payment methods. Crowdfunding platforms may also engage a payment service provider to handle the (payment) transactions on their platform. As a crowdfunding platform you can thus remain outside the PSD2 legislation. It is important that you select a payment service provider that specialises in platforms and marketplaces. This way, you can benefit from the specialised expertise and services of the platform PSP. A ground rule is that the platform itself cannot get hold of the third-party funds. Simply using a PSP and having the money deposited into your own account (or that of a third-party foundation) does not comply with PSD2.

IMPORTANT FEATURES AND BENEFITS OF WORKING WITH A PLATFORM PSP

- 1 Crowdfunding platform is not covered by PSD2**
This legislation applies to the platform-PSP (which is already licensed);
- 2 Customer Due Diligence (Know Your Customer, KYC or CDD)**
Onboarding should be performed by the platform PSP on all users. This will result in reliable users and officially registered merchants' of record;
- 3 Multi-Split Payments**
Directly settle the platform fee and/or other splits of funds for parties at the time of transaction;
- 4 Escrow possibilities**
Keep (partial) funds in escrow until certain obligations are met, such as the delivery of a product or until the crowdfunding target amount is reached;
- 5 Payment methods**
Always up to date (API) connections with payment methods and easily expand to other countries;
- 6 C2C license**
For payments between consumers (in case of C2C-crowdfunding) with payment methods like iDEAL, the platform-PSP must have a C2C-license with the scheme-owner of the payment method;
- 7 Fraud reduction**
By using the broad knowledge and information of the payment service provider, fraud on the platform can significantly be reduced;

PLATFORM CASE: SamenInGeld

SamenInGeld finances real estate projects from crowdfunding. The projects range from a few tens of thousands of euros to projects of 750,000 euros with a duration of up to 5 years. Among the investors are both individuals and entities. Starting from 250 euros, one can invest in a project(s) of his or her choice. One can also choose from four risk levels or even divide the money between these risk brackets and possibly between different projects. The incoming funds from the investors for the financing run through Online Payment Platform. The profits from investments also run through Online Payment Platform towards the investors.

“Online Payment Platform enables GetFunded to do what the platform does best: allowing users to set up a crowdfunding campaign as quickly and easily as possible. In doing so, they can raise money to make their own or someone else’s dream come true; without having to worry about the security of the online donation platform they are using.”

GetFunded



Maurice Jongmans

PAYMENT INNOVATOR | CEO



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Maurice Jongmans (1978) is an independent entrepreneur who has been present in the world of internet applications since 2000. From 2011 onwards, Maurice has been operating as payment innovator and director of Online Payment Platform in Delft. He is chairman of the Dutch Association of Payment Institutions (VBIN).

With a heart for innovation and a feeling for rules & regulations, he is always personally involved in the developments of the financial and fintech market. He has a critical but open mind towards regulators and legislators.

Besides the fintech world, he has a passion for sailing and boats and contributed as Nautical Coordinator to the Koningsvaart in 2013 and Sail Amsterdam in 2015, where he was responsible for the presence and sailing schedules of all ships on the water.

Maurice enjoys driving a Tesla but regularly chooses other forms of electric transportation such as the train, subway and electric scooter.



Online Payment Platform enables payment processes on platforms and marketplaces; not only from business to business (B2B), but also business to consumer (B2C) and is a first-mover in the consumer to consumer (C2C) payments. Online Payment Platform aims to make the world of online payments easier and safer in a place we believe in: platforms and marketplaces.

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