



EDPS
EUROPEAN DATA PROTECTION SUPERVISOR

EDPS formal comments on draft Commission Delegated Regulation supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council with regard to regulatory technical standards 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

1. Introduction

- The European Commission issued a draft Commission Delegated Regulation supplementing Regulation (EU) 2020/1503 of the European Parliament and of the Council ('the Basic Act')¹ with regard to regulatory technical standards 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 ('the draft Delegated Regulation').
- The objective of the draft Delegated Regulation is to lay down the regulatory technical standards pursuant to Article 19(7) of the Basic Act.
- These comments are provided in reply to the formal request by the Commission of 13 December 2022, pursuant to Article 42(1) the EUDPR. We limited our comments below to the provisions of the draft Delegated Regulation that are relevant from a data protection perspective.
- These formal comments do not preclude any future additional comments by the EDPS, in particular if further issues are identified or new information becomes available. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of the EUDPR.

¹ Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, OJL 347, 20.10.2020, p. 1–49.

2. Comments

- According to Article 5(2) of the draft Delegated Regulation, crowdfunding service providers must document decisions on the credit risks of crowdfunding projects or project owners, including the assessment of the project owner's ability to meet the financial obligations, and must keep such documentation for at least 5 years after the repayment of the final instalment of the loan.

In this regard, since the discharge of these obligations is likely to entail the processing of personal data, the EDPS recommends specifying the appropriate maximum data retention period for the documentation to be kept, in accordance with the 'storage limitation' principle under Article 5(1)(e) of Regulation (EU) 2016/679 ('the GDPR')².

- The EDPS notes that main legal elements of the draft Delegated Regulation concern: the method used to calculate credit scores for crowdfunding projects and the prices of crowdfunding offers (Chapter I); credit risk assessments and loan evaluations (Chapter II); the pricing of loans (Chapter III); policies and procedures to ensure sufficient information for clients and to enable credit risk assessment, loan evaluation and pricing (Chapter IV). In this regard, the EDPS does not have specific comments.

Brussels, 17 January 2023

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJL 119, 4.5.2016, p. 1–88.