

Country Crowdfunding Factsheet

Ireland

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EUROPEAN
CROWDFUNDING
NETWORK



European Crowdfunding Network

The European Crowdfunding Network AISBL (ECN) is the professional network promoting adequate transparency, (self) regulation and governance while offering a combined voice in policy discussion and public opinion building, incorporated as an international not-for-profit organization in Brussels, Czech Republic.

We support our members in carrying initiatives aimed at innovating, representing, promoting and protecting the European crowdfunding industry. We aim to increase the understanding of the key roles that crowdfunding can play in supporting entrepreneurship of all types and its role in funding the creation and protection jobs, the enrichment of European society, culture and economy, and the protection of our environment.

In that capacity we help developing professional standards, providing industry research, as well as, professional networking opportunities in order to facilitate interaction between our members and key industry participants. On behalf of our members, the ECN will maintain a dialogue with public institutions and stakeholders as well as the media at European, international and national levels.



This document has been extracted from Annex II of the study " Identifying market and regulatory obstacles to crossborder development of crowdfunding in the EU", published in November 2017 and funded by the European Commission (DG FISMA).

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Ireland

Overview

Ireland has one of the smallest Crowdfunding industries in Europe. The country raised EUR 3m with alternative finance in 2015, according to the 2nd European Alternative Finance Industry Report.

A. Role of alternative finance

Market size

In 2015, Ireland raised about EUR 3m with alternative finance. The country has a limited record with respect to Crowdfunding. This is highlighted by the low amount of per capita volume dedicated to alternative finance, in comparison to GDP per capita.

Trend

Recent industry figures have shown growth in the sector since 2014.¹

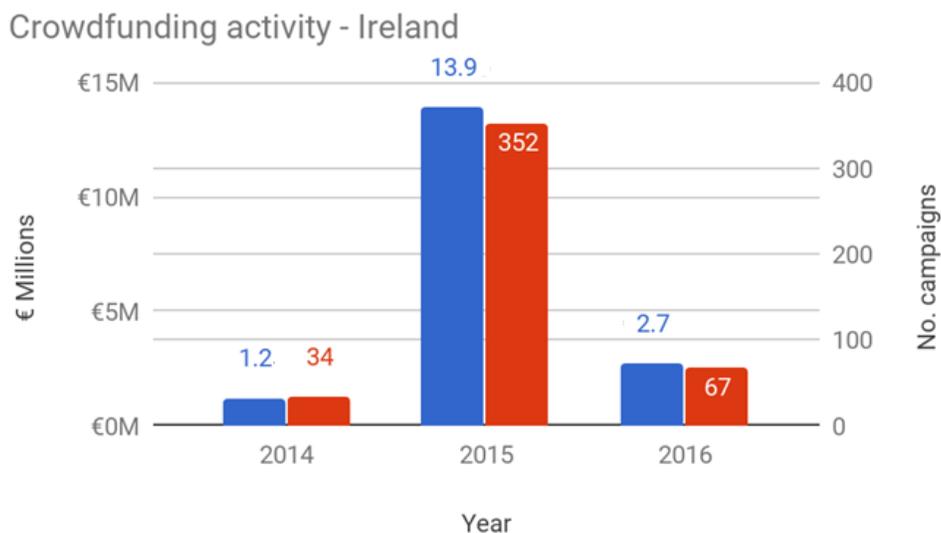


Figure: Crowdfunding activity in Ireland from 2014 to 2017, Source: TAB

¹ Expert opinion of Eoin Cullina in CrowdfundingHub (undated, likely 2016) – “The Current State of Crowdfunding in Ireland” ([link](#))

Total Crowdfunding Platforms

Three Crowdfunding Platforms operate in Ireland.²

FundIt.ie (donation and rewards) is run by Business to Arts, a not-for-profit organisation working to support resilience and transformation in the cultural sector. FundIt is presently supported by The Bank of Ireland.

Linked Finance (peer-to-peer) is the leading P2P platform in the country at the moment. Through this platform thousands of local lenders provide business loans to Irish SMEs.

CoFunder (peer-to-peer) finds its origins in SeedUps and has operations in Ireland, the UK and USA. CoFunder provides peer-to-peer lending to growth-based companies looking to expand but who lack the capital to do so.

Crowdfunding models

Equity-based Crowdfunding	Due to the perceived risk and the lack of regulation, equity Crowdfunding has yet to find traction in the Irish market. Secondly, the question remains as to whether or not other non-equity types of Crowdfunding require specific legislative provision in Ireland. ³
Lending-based Crowdfunding	Lending to corporates is not a regulated activity in Ireland. As for lending to consumers, a Crowdfunding Platform that provides such a service could be considered a "credit intermediary", falling under the provisions of the Consumer Credit Act of 1995, and would therefore have to obtain an authorisation as such. It should be noted that it is not a difficult process to obtain such an authorisation, since the process is more of a notification than a real application for authorisation. ⁴

² Expert opinion of Eoin Cullina in CrowdfundingHub (undated, likely 2016) – “The Current State of Crowdfunding in Ireland” ([link](#))

³ Ibid.

⁴ Osborne Clarke Germany (2016): “Review of Crowdfunding Regulation & Market Developments”. In: CrowdFundRES – “Unleashing the Potential of Crowdfunding for Financing Renewable Energy Projects”. Deliverable 3.1 (PU) ([link](#))

B. Regulatory context

Country	Ireland
Summary	
Recent developments in Crowdfunding regulation	<ul style="list-style-type: none"> • Currently no bespoke regulation of Crowdfunding in Ireland • Public consultation launched on 21 April 2017 regarding the potential regulation of Crowdfunding in Ireland
Current/planned Crowdfunding regulation	
General regulation	<ul style="list-style-type: none"> • Currently no bespoke regulation of Crowdfunding in Ireland • Public consultation launched on 21 April 2017 regarding the potential regulation of Crowdfunding in Ireland • Large body of related financial services legislation that is not expressly intended to apply to Crowdfunding but may nevertheless be applicable to Crowdfunding Platforms in certain circumstances
Prospectus requirement	<ul style="list-style-type: none"> • Prospectus (Directive 2003/71/EC) Regulations 2005 Implements the Prospectus Directive (2003/71/EC). • New Prospectus Regulation <ul style="list-style-type: none"> – Designed to repeal and replace the existing body of European prospectus law. – The two key changes from a Crowdfunding perspective are: <ol style="list-style-type: none"> 1. a higher threshold to determine when companies must issue a prospectus: EUR 1m (up from EUR 100,000); and 2. "EU growth prospectus" aimed at SMEs and other small companies.
AIFMD	<ul style="list-style-type: none"> • European Union (Alternative Investment Fund Managers) Regula-

regulation	<p>tions 2013</p> <ul style="list-style-type: none"> - Implements the Alternative Investment Fund Managers Directive ("AIFMD"). - Only applies to funds that manage assets of EUR 100m or more. - Alternative investment funds must be authorised by the CBI and are subject to strict marketing conditions. - The most recent version of the AIF Rulebook was published by the Central Bank of Ireland in March 2017.
Payment service regulation	<ul style="list-style-type: none"> • European Communities (Payment Services) Regulations 2009 <ul style="list-style-type: none"> - Implements the first Payment Services Directive. - Aspects of Crowdfunding business models may involve the provision of certain regulated payment services. - Exemption from authorisation as a payment institution may be possible if payment transactions are conducted through a commercial agent acting on behalf of both the payer and payee. - Revised commercial agent exemption is much narrower in PSD 2 and may give rise to a requirement to obtain an authorisation as a payment institution from January 2018. • Part V of the Central Bank Act 1997 <ul style="list-style-type: none"> - Regulates a "money transmission business". - Crowdfunding Platforms should consider whether their business model may require them to obtain a regulatory authorisation as a money transmission business.
Further possible requirements	<ul style="list-style-type: none"> • Anti-Money Laundering <ul style="list-style-type: none"> - Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended by Part 2 of the Criminal Justice Act 2013. - A draft Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill is currently being prepared to amend this framework to give effect to the 4th EU Anti-Money Laundering Directive.

- Data Protection
 - The Data Protection Acts 1988 and 2003 are due to be replaced by the EU’s General Data Protection Regulation, which will make businesses more accountable for data privacy compliance, and will offer citizens extra rights and more control over their personal data from 25 May 2018.
- Consumer Credit
 - Consumer Credit Act 1995.
 - ⇨ Regulates “credit intermediaries” who in the course of business arrange or offer to arrange for a consumer the provision of credit in return for a commission, payment or consideration of any kind from the provider of the credit.
 - ⇨ Lending-based Crowdfunding is most likely to fall within the Consumer Credit Act and the platform would therefore require a regulatory authorisation as a credit intermediary and compliance with the relevant obligations.
 - ⇨ The Competition and Consumer Protection Commission (“CCPC”) is the statutory body responsible for the regulation of credit intermediaries in Ireland.
 - ⇨ The authorisation process is relatively simple and inexpensive compared to other regulatory authorisations.
 - Part V of the Central Bank Act 1997
 - ⇨ Regulates all non-bank lenders of consumer credit operating in Ireland, known as “retail credit firms”.
 - ⇨ The lender must hold a retail credit firm authorisation issued by the CBI.
 - ⇨ Significant authorisation and considerable human and financial resources are required.
- Company Law
 - Companies Act 2014

	<ul style="list-style-type: none"> - ⇒ A company may be considered to be a "credit institution". - ⇒ If a company constitutes a credit institution, then it must be registered as a Designated Activity Company (DAC). <ol style="list-style-type: none"> 1. The DAC must have a minimum of two directors; 2. the DAC must have a memorandum and articles of association, including an objects clause in the memorandum of association; and 3. the DAC cannot dispense with holding physical AGMs in the same way as an LTD. • Investment Services <ul style="list-style-type: none"> - European Communities (Markets in Financial Instruments) Regulations 2007 (as amended) - ⇒ Implements the EU Markets in Financial Instruments Directive ("MiFID"). - ⇒ Regulates provision of "investment services" in respect of "financial instruments". - ⇒ Authorisation as an investment firm from the CBI. - ⇒ Regulation 5(3) of the MiFID Regulations sets out exemption in specific circumstances. - ⇒ Complex, expensive and lengthy process. - ⇒ Substantial ongoing regulatory obligations. - ⇒ MiFID II coming into effect in January 2018. - Investment Intermediaries Act 1995 - ⇒ Apply to the CBI for authorisation as an investment business firm. - ⇒ More restrictive authorisation than a MiFID investment firm.
Regulatory barriers	
Inbound	<ul style="list-style-type: none"> • Crowdfunding is primarily currently carried out on a national basis and there is a low volume of cross-border activity. • If a foreign Crowdfunding Platform wishes to address Irish inves-

	<p>tors, then that Crowdfunding Platform may be subject to Irish laws if it is deemed to be operating in Ireland.</p> <ul style="list-style-type: none"> • If a foreign Crowdfunding Platform wishes to address Irish companies and/or projects, then those companies and/or projects may be subject to Irish laws if the companies are incorporated under the laws of Ireland or the projects are deemed to be operating in Ireland. • A multitude of financial services legislation could apply to in-bound Crowdfunding activities.
Outbound	<ul style="list-style-type: none"> • Crowdfunding is primarily currently carried out on a national basis and there is a low volume of cross-border activity. • If an Irish Crowdfunding Platform wishes to address foreign (EU) investors, then that Crowdfunding Platform will be subject to all applicable Irish, EU and local laws which regulate the operation of Crowdfunding Platforms. • If an Irish Crowdfunding Platform wishes to address foreign (EU) companies and/or projects, then that Crowdfunding Platform will be subject to all applicable Irish, EU and local laws which regulate such companies and/or projects. • A multitude of financial services legislation could apply to out-bound Crowdfunding activities.
Impact of EU regulation	
Prospectus regulations	See above
AIFM Directive	See above
MiFID/MiFID II	See above
PSD/PSD II	See above

C. Disclosures & safeguards

Fundraisers' protection

Fundraisers are also protected by the Consumer Credit Sourcebook (CONC) and the Conduct of Business Sourcebook (COBS).

A platform should consider highlighting key risks to the borrower, including the consequences of missing payments or underpaying, which include, where applicable, the risk of repossession of the borrower's property⁵.

Before a P2P agreement is made, the platform must grant that the agreement is adapted to the borrower's needs and financial situation⁶.

D. Support policies

The harmonisation would introduce into the Crowdfunding space the protection applicable to investors in or consumers of other financial products.

"Fintech" is becoming an increasingly important area of focus for business and regulatory attention, which provides an opportunity to encourage a standardised approach across the common market. There is also consideration for adapted company law positions.⁷

E. Additional insights

In September 2015, the Bank of Ireland announced a three-year investment in and partnership with the Irish non-profit Crowdfunding Platform Fundit.ie, to further its support of Ireland's entrepreneurs and creative sectors ([link](#)).

Following recent financial crises, Irish businesses, charities and artists have looked to Crowdfunding to overcome challenges in the financing of projects and ideas (Kennedy, 2011). In recent years, there has been increased interest from organisations in the area of Crowdfunding both at a public and private level. Several noted Crowdfunding Platforms can be found both in The Republic of Ireland and Northern Ireland such as the platform "Seedups".⁸ Furthermore, public sponsored research has looked at the prospect of using Crowdfunding in Ireland to assist national scientific research funding agencies.⁹

⁵ Further explanations: P2P agreements Article 4.3.3 (CONC).

⁶ Further explanations: P2P agreements Article 4.3.4 (CONC).

⁷ Ibid.

⁸ Coyne, 2016, Faulkner, 2016.

⁹ Cullina et al., 2014.