

# Country Crowdfunding Factsheet

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Malta

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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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## Malta

### Overview

The Crowdfunding industry has yet to emerge in Malta. Nevertheless, the one platform that is active constitutes a good example of how cooperation between universities and entrepreneurship can be enhanced.

### A. Role of alternative finance

#### Market size

There is not much information available about Crowdfunding in Malta. However, the volume of online alternative finance per capita compared to the GDP per capita indicates a very small market.

#### Trend

No data available

#### Total Crowdfunding Platforms

There is one operating platform, [ZAAR](#). It was launched in December 2015. Since its launch, approximately EUR 55,000 has been collected, ranging from EUR 200 projects up to EUR 15,000 for the most successful project.

#### Crowdfunding models

|                            |                   |
|----------------------------|-------------------|
| Equity-based Crowdfunding  | No data available |
| Lending-based Crowdfunding | No data available |

## B. Regulatory context

| Country   | Malta  |
|---|--|
| <b>Summary</b>  |  |
| <b>Recent developments in Crowdfunding regulation</b> | MFSA's consultation paper on investment-based Crowdfunding   |
| <b>Current/planned Crowdfunding regulation</b>        |  |
| <b>General regulation</b>                             | If investment-based Crowdfunding contributors opt for the purchase of financial instruments, the intermediary role played by the Crowdfunding Platform may be considered an investment service. The investment service activity most likely to be provided is "the reception and transmission of orders without firm commitment", which would fall under Category 1A of the investment services licence. |
| <b>Prospectus requirement</b>                         | If a Crowdfunding Platform facilitates the offering of shares in collective investment schemes, it may be considered to be providing an investment service under the Investment Services Act. As a consequence, it may be required that an Offering Memorandum be provided to investors.   |
| <b>AIFMD regulation</b>                               | If a Crowdfunding Platform facilitates the offering of securities, or shares in a collective investment scheme, it may be considered to be providing an investment service under the Investment Services Act.<br><br>An MFSA authorisation may be required.  |
| <b>Payment service regulation</b>                     | If a Crowdfunding Platform acts — even from a payment service point of view — as an intermediary between the parties involved in the transaction, it may be considered a payment service provider.<br><br>An MFSA authorisation may be required.   |
| <b>Further possible requirements</b>                  | <ul style="list-style-type: none"> <li>• Prevention of Money Laundering Act ("PMLA")</li> <li>• Prevention of Money Laundering and Funding of Terrorism Regulations ("PMLFTR")</li> <li>• Distance Selling (Retail Financial Services) Regulations</li> </ul>  |
| <b>Regulatory barriers</b>                            |  |
| <b>Inbound</b>  | There appears to be a need for more clarity from the European in-  |

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|--------------------------------|--|
|                                | stitutions in respect of Crowdfunding Platforms. Should a platform hold a MiFID (or MiFID II) licence as envisaged by the MFSA for local Crowdfunding platforms, it could reach a larger market and pool of investors thanks to the ability to take advantage of the passport and market the platform in the various EU territories. Therefore, in theory, an EU-based Crowdfunding Platform which holds a MiFID licence can passport into Malta.  |
| <b>Outbound</b>                | <p>Based on the assumption that the platform might undertake licensable activities, passporting rights shall be granted to the licensed platform. Therefore, we can differentiate between providing services on a remote basis setting up a branch.</p> <p>In the first case, the notification to the overseas Authority shall be accompanied by:</p> <ul style="list-style-type: none"> <li>• information relating to the services the platform intends to provide, together with a programme of operations also indicating whether it intends to operate through tied agents;</li> <li>• an indication of the Member States that will be targeted.</li> </ul> <p>Moreover, in the hypothetical event that the platform opts for the setting up of a branch, it would therefore need to provide a notice accompanied by:</p> <ul style="list-style-type: none"> <li>• an indication of the Member States within the territory for which the platform plans to establish a branch;</li> <li>• a programme of operations identifying the operations it seeks to carry out through the branch, also indicating whether there is an envisaged use of tied agents;</li> <li>• the address of the proposed branch;</li> <li>• the proposed organisational structure of the branch.</li> </ul> |
| <b>Impact of EU regulation</b> |  |
| <b>Prospectus regulations</b>  | Due to the current lack of harmonisation, a negligible portion of the Crowdfunding market is likely to fall under the regulation of European law and subsequently be transposed into the Maltese Law. Hence, Crowdfunding would be more under the purview of the national regulators.  |
| <b>AIFM Directive</b>          | It is yet to be determined whether Crowdfunding would be affected by the AIFMD, at least from a Malta perspective, since the MFSA has yet to provide the industry with its position.   |
| <b>MiFID/MiFID II</b>          | Since the MFSA considers Crowdfunding a potentially licensable activity, it is likely that MiFID/MiFID II will have an impact in this  |

|                   |  |
|-------------------|--|
|                   | respect. These directives might apply to the licencing requirements as well as to passporting.   |
| <b>PSD/PSD II</b> | <p>The requirements of the PSD have been transposed into the Maltese Financial Institutions Act ("FIA"). The FIA covers not only the payment service activities but also the activity of money remittance, which could be seen as an activity that might potentially be undertaken by the Crowdfunding Platform; therefore, the PSD directive shall be taken into consideration.</p> <p>However, as previously stated, it might be advisable for Crowdfunding Platforms to set up partnerships with already-existing credit/payment institutions, rather than acting as a mere intermediary between the project owner and the investors.</p> |

### C. Disclosures & safeguards

No professional industry association exists. To foster the professional and transparent development of the local market, it might be advisable for a national Crowdfunding association to establish a Code of Conduct with which platforms should be obliged to comply. Examples exist in a number of countries, such as the UK, France, Germany or the Netherlands. Alternatively, the open adoption of the European Crowdfunding Network Code of Conduct and its Charter of Crowdfunders' Rights by market players could help in markets without a critical mass of platforms.

Platforms themselves, to the extent that they can serve as marketplaces, have the potential to aid regulatory developments through early self-regulation and transparency. But this will require credible and enforceable quality and transparency standards as well as level playing fields. Any such initiative should aim to cover key performance indicators for the industry, conflict of interest rules and platforms remuneration. However, regulation will always play the main role in establishing and ensuring a functioning market with an adequate level of safeguards and disclosures.

### D. Support policies

The Malta Business Bureau and the University of Malta have set up the Foundation for the Promotion of Entrepreneurial Initiatives. ZAAR is the first offering: a Donation/Rewards-based Crowdfunding Platform for promoting entrepreneurship in Malta and supporting local start-ups. ZAAR offers an alternative way to raise finance for their projects and business ideas.

## Market Supervision

Malta Financial Services Authority (MFSA)<sup>1</sup>

## E. Additional insights

### Best practice initiatives

The Malta Business Bureau and the University of Malta have set up the Foundation for the Promotion of Entrepreneurial Initiatives. ZAAR is the first offering: a Donation/Rewards-based Crowdfunding Platform for promoting entrepreneurship in Malta and supporting local start-ups. ZAAR offers an alternative way to raise finance for their projects and business ideas.

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<sup>1</sup> Malta Financial Services Authority (MFSA) ([link](#))