

NJORD LATVIA: How to Obtain a Permit for Crowdfunding Platform in Latvia

In this article, we will explore the requirements for obtaining a permit to operate a crowdfunding platform in Latvia. Crowdfunding has emerged as a popular method of financing projects, and Latvia has established specific regulations to ensure the protection of investors and project initiators while facilitating the growth of this alternative financing model. This article concerns both, i.e. lending-based crowdfunding and investment-based crowdfunding, since those types of crowdfunding can be structured as comparable funding alternatives within the scope of existing legal framework.

1. Legal Framework: Latvia's crowdfunding platforms are primarily regulated by the Law on Crowdfunding Platforms, in line with EU Regulation 2020/1503 on European crowdfunding service providers. These regulations aim to foster transparency, protection of the rights of investor and consumers, and the overall development of crowdfunding activities within Latvia.

2. Requirements for obtaining a permit: To obtain a permit for operating a crowdfunding platform in Latvia, the following requirements must be met:

a. Legal Entity:

- The crowdfunding platform must be established as a legal entity registered in Latvia: joint stock (AS) or limited liability company (SIA).

b. Fit and Proper Criteria:

- Founders, managers, and significant shareholders of the crowdfunding platform must meet the fit and proper criteria established by the Latvian Crowdfunding Services Law and the Bank of Latvia. These criteria ensure that individuals possess the necessary qualifications, expertise, and integrity to operate the platform successfully. Namely –

o Persons involved in management must possess adequate education and experience to effectively manage the crowdfunding service provider.

o Persons involved in management, as well as shareholders holding 20% or more of the share capital or voting rights, must have a good reputation and no criminal record, meeting the requirements outlined in Article 12(3) of Regulation No 2020/1503.

o The crowdfunding service provider must have own funds amounting to at least 25,000 euros or meet the capital requirement (a quarter of fixed overheads in the previous year) if it exceeds 25,000 euros, or provide an insurance policy, or a combination of own funds and insurance policy.

c. Compliance:

- It is mandatory to establish a compliance function within the crowdfunding platform. This function is responsible for ensuring adherence to the Latvian Crowdfunding Services Law, EU Regulation 2020/1503, and other relevant regulations. The compliance team must have the appropriate knowledge and resources to carry out their duties effectively.

d. Risk Management:

- Robust risk management policies and procedures must be implemented to identify, assess, and mitigate risks associated with crowdfunding activities. These policies should address concerns such as money laundering, terrorist financing, and fraudulent activities.

e. Reporting Obligations:

- Crowdfunding platforms are required to submit regular reports to the Bank of Latvia, covering information on their operations, financials, and compliance with regulatory requirements. Detailed guidelines on reporting obligations can be found on the Bank of Latvia's official website.

3. Investor Protection: The Latvian Crowdfunding Services Law places a strong emphasis on investor protection. Crowdfunding platforms are obligated to:

a. Conduct Due Diligence:

- Thorough due diligence must be conducted on project initiators. The platform should verify their identity and assess the viability of their projects.

b. Provide Risk Disclosure:

- Clear and comprehensive risk disclosures must be provided to investors. These disclosures should highlight the risks associated with crowdfunding investments, including the potential loss of invested capital.

c. Implement Investor Limits:

- The Latvian Crowdfunding Services Law may impose additional requirements, such as limits on investments made by non-professional investors in a single project or across multiple projects within a specific period.

4. EU Regulation 2020/1503: The Latvian regulatory framework for crowdfunding platforms is based on the EU Regulation 2020/1503 on European crowdfunding service providers. This regulation provides a harmonized framework for crowdfunding activities within the European Union, ensuring consistency and investor protection across member states. Regulation No 2020/1503 does not apply to the following:

- Crowdfunding services provided to project owners who are consumers.
- Crowdfunding offers with a total consideration exceeding 5,000,000 euros within a 12-month period. In such cases, the financing offer must adhere to the requirements of the Financial Instruments Market Law.
- Commercial activities related to the marketing of credit claims issued by credit providers on web platforms, which require authorization from an investment firm or credit institution. For details on the licensing of other financial market participants, refer to the relevant regulations.

5. The process of obtaining authorization for providing crowdfunding services typically involves the following steps:

- Preparation for the Submission of Application: This phase involves gathering all the necessary documentation and fulfilling the prerequisites outlined by the Bank of Latvia. Detailed information on this step can be found on the Bank of Latvia's official website.
- Submission of Application: Once the preparation phase is complete, the applicant must submit the application for authorization to the Bank of Latvia.
- Assessment of Application: The Bank of Latvia thoroughly evaluates the application, ensuring compliance with the requirements of Regulation No 2020/1503 and other relevant regulations.
- Receipt of Authorization: If the application meets all the criteria and requirements, the Bank of Latvia grants the necessary authorization for the provision of crowdfunding services.
- Supervision: Latvijas Banka supervises activities of the enterprise in accordance with requirements of Regulation No 2020/1503 and among other things, is entitled to initiate inspections, impose fines, suspend or annul the permit, etc.

6. State fees:

- 2500 euro for examining documents and information submitted for authorisation (should be paid upon official submitting of the application)
- After registration in the register of crowdfunding service providers, the enterprise pays to Latvijas Banka 4000 euro per year and up to 1.4 percent (inclusive) per year of gross revenue, but not more than 100 000 euro per year.

7. Time limit for examining the application: Bank of Latvia starts examining the application within 3 months from confirmation that the application is complete. The time limit for examining the application may be extended if the information provided in the application is not sufficient to take a decision on the issue of authorisation.

In conclusion, obtaining a permit for operating a crowdfunding platform in Latvia involves adhering to the requirements specified in the Latvian Crowdfunding Services Law, EU Regulation 2020/1503, and other applicable law. We advise to consult the official sources, such as the Bank of Latvia's website, the relevant legislation, and the experts of our law firm in order to obtain the most accurate and up-to-date information regarding the specific requirements and processes for obtaining the permit.



ANDRIS STRAZDS
ASSOCIATE
(+371) 67 313 315
AST@NJORDLAW.LV



DMITRI KOLESNIKOV
ATTORNEY AT LAW,
PARTNER
(+371) 67 313 315
DK@NJORDLAW.LV