

THE SOUND OF THE CROWD

Regular readers of my TISAtalk blogs will have seen references to the project TISA is involved in with the Treasury, looking at building the framework to allow investment into ISA's via crowdfunding.

Some of the structure of the framework has since arrived - PS14/4: The FCA's regulatory approach to crowdfunding over the internet, and the promotion of non-readily realisable securities by other media has now been published.

In this policy statement the FCA summarise and give response feedback to CP13/13 - The FCA's regulatory approach to crowdfunding (and similar activities). The FCA also publishes rules that will come into force on 1 April 2014.

In this paper the regulator outlines the new regime that will apply to firms operating loan-based crowdfunding platforms (including peer-to-peer lending platforms). There is also an update on the regime applying to firms that either operate investment-based crowdfunding platforms or carry on similar regulated activities.

This policy statement will interest:

- consumers and consumer organisations with an interest in the investments offered on crowdfunding platforms
- firms that operate peer-to-peer or peer-to-business lending platforms
- firms that operate investment-based crowdfunding platforms
- firms that use offline media to communicate direct offer financial promotions for non-readily realisable equity or debt securities

The new and amended rules come into force on 1 April 2014, subject to certain transitional arrangements. The FCA plan to review the crowdfunding market and its regulatory framework in 2016, to identify whether further changes are required.

The FCA has clearly outlined stricter capital and reporting requirements as well as marketing restrictions for certain firms in the crowdfunding sector. It appears that the regulator has

followed through to confirm a level playing field following its ban on retail promotion of unregulated collective investment schemes, by applying controls on the marketing of crowdfunding platforms to retail investors unless they were advised and certified as sophisticated or high net worth. This area is certain to be subject to some debate amongst the financial advisor community.

The rules state investment-based crowdfunding can only be promoted to sophisticated or high net worth investors, or to retail clients, either advised or non-advised clients, who are investing only 10% or less of their net investible assets. However, when an investor 'self-certifies' themselves as sophisticated, they have to meet only one of the four following criteria: that they have been a member of a network or syndicate of business angels for at least six months; they have made more than one investment in an unlisted company; they are working or have worked in private equity or SME finance or they are, or have been, a director of a company with an annual turnover of at least £1m.

The FCA stated: "The 10% rule means inexperienced investors will have to limit how much they can invest, making clear the risks involved. If an investor gains sufficient experience, they can self-certify as sophisticated and, to do so, will be acknowledging they understand and accept the risks."

Such restrictions will apply to both loan-based and investment-based crowdfunding platforms. In outlining the paper it is clear that the FCA want to ensure that consumers are appropriately protected but not prevented from investing.

This information is now in the public domain and for your interest the following may be useful -

- see FCA information on [crowdfunding](#)
- read [CP13/13 - The FCA's regulatory approach to crowdfunding \(and similar activities\)](#):
- look at the [Handbook](#)
- the paper can be found at <http://www.fca.org.uk/static/documents/policy-statements/ps14-04.pdf>

Further updates from TISA will follow.

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