BETTER FINANCE's Feedback on a Legislative proposal for an EU framework on crowd and peer to peer finance

http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5288649_en

BETTER FINANCE welcomes the initiative from the European Commission to consult stakeholders on a legislative proposal for an EU framework on crowd and peer to peer finance. BETTER FINANCE already raised the issue that only a limited number of the larger SMEs are likely to benefit from Capital Markets Union. As part of the 2015 CMU action plan, this initiative would broaden the access to finance for SMEs. Crowdfunding and peer to peer lending would thus represent an alternative source of financing for small SMEs.

BETTER FINANCE understands that the focus must be on the broadening of financing for SMEs. However, this initiative should not overlook investors' protection. In this impact assessment, the European Commission stressed that *"with appropriate safeguards and investor protection measures, the scaling-up of crowdfunding across the Single Market can be facilitated so that it becomes a more important source of market-based financing in support of job creation and growth".* BETTER FINANCE is thus expecting that EU legislators will find the right balance between the protection of financial services users and the promotion of crowd and peer to peer lending.

The initiative from the EC could pave the way towards a harmonized regulatory framework at EU level which could ensure a consistent protection of financial services users.

BETTER FINANCE agrees that a future regulatory framework should include provisions with regards to FinTech to put in place better financial services for consumers. BETTER FINANCE already pointed out the benefits of FinTech for consumers but also the need to adapt the current legislative framework in Financial Services[1]. BETTER FINANCE believes that, as a key part of FinTech, crowdfunding should be subject to a binding but proportionate regulatory framework to protect consumers.

As part of its Inception Impact Assessment, the European Commission submits 4 general policy options.

- **Option 2- Building on reputational capital- a self-regulatory approach with minimum EU standards:** BETTER FINANCE believes that, to ensure maximum protection for investors and trust, the regulatory framework should be binding to ensure a full harmonization and implementation of the legislation. A harmonized and binding framework would also facilitate cross-border operations and would enhance investors' confidence in SMEs (which would result in more capital raised).

[1] See our Research paper on Robo-investing
http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Robo_Investing_Report_070617.pdf

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BETTER FINANCE believes that this option is not appropriate.

- **Option 3- A comprehensive EU approach- treating crowdfunding platforms like regulated trading venues or payment institution:** as raised above, BETTER FINANCE believes that a comprehensive EU regulatory framework would be the best solution. Both SMEs and investors would benefit from a harmonized legislative framework. Investors would benefit from protection against financial risks since they are often not or not sufficiently equipped to assess them. SMEs would benefit from a harmonized framework: on the one hand they would act on a level playing field, and on the other, it would increase and secure cross-borders operations and, lastly, they would act in a secure legal environment (costs, jurisdictional procedures…).

  BETTER FINANCE believes that this option is the most appropriate.

- **Option 4- The cross-border solution- a standalone opt-in EU framework:** BETTER FINANCE believes that this option would not secure a level playing field for SMEs and would not ensure investor protection. Indeed, it would create a legal patchwork bringing about legal insecurity for investors and SMEs in cross-border operations. Those national platforms could benefit from more favorable rules compared to cross-border platforms.

  BETTER FINANCE believes that this option is not an appropriate solution to ensure harmonized protection for investors in cross-borders operations.

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