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EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels,
D(2011)

Opinion

Title **DG MARKT - Impact Assessment on a Proposal for a European Venture Capital Framework**

(Re-submitted draft version of 31 October 2011)

(A) Context

Access to venture capital in the EU is characterised by the fragmentation of the market along national lines. Due to different legal rules applicable to the raising of venture capital, operators of venture capital funds sometimes face barriers when fundraising or investing outside their domestic markets. The Commission considers that this fragmentation limits the overall supply of capital for SMEs with the potential to carry out innovation and grow rapidly. Venture capital funds face problems reaching the critical mass they need in order to spread their portfolio risk, develop sectoral specialization and cover their costs. A new impetus for resolving market fragmentation came with the adoption of the Europe 2020 Strategy and Innovation Union in 2010. Supported by the European Council of February 2011 that called for removing the remaining regulatory obstacles to cross border venture capital, the Commission committed in the Single Market Act (SMA) to ensure that by 2012 venture capital funds established in any Member State can raise capital and invest freely throughout the EU. In addition, Member States were invited to ensure that differences in tax treatment would not lead to double taxation, which would hamper cross-border venture capital investments.

(B) Overall assessment

While the report has been significantly improved along the lines of the recommendations issued by the Board in its first opinion, a number of aspects should be further strengthened. First the report should provide a brief description of the process involved when a venture capital fund wants to operate in another Member State. The report should further strengthen the problem definition by discussing the extent to which the relatively low level of cross-border venture capital investment is attributable to fragmentation or other issues. The discussion of the options and their impacts should be more directly linked back to specific problems to establish more clearly the intervention logic. The report should provide a clearer description of the preferred option and should better integrate stakeholders' views throughout the text but specifically on the shortlisted options. The report should make a greater effort to quantify costs of compliance and should summarise the costs and benefits for each shortlisted option. A more operational plan for evaluation should be included.

(C) Main recommendations for improvements

(1) Further strengthen the context and the analysis of the problems. The report should briefly describe the process involved when a venture capital fund wants to operate in another Member State. Also, in light of the range of factors influencing cross-border venture capital funding, the report should better explain the extent to which the relatively low level of cross-border venture capital investment can be attributed to fragmentation of rules in the EU or other acknowledged issues such as the factors related to the financial crisis, other "natural factors" (linguistic barriers, geographical distances, etc.) or lack of taxation incentives. It should also develop further the explanation as to why previous measures aimed at improving access to funding by venture capital funds have not been effective.

(2) Strengthen the intervention logic and better integrate stakeholders' views on the options. The analysis of the options should be better linked back to the specific problems identified in the problem definition section (at present options are linked only to operational objectives). The report should provide a clearer description of the precise features of the preferred option and of how it will work in practice. In particular the report would benefit from a more in-depth description of how coherence will be ensured with other related measures, including timing and sequencing of implementation. The report should better integrate stakeholders' views on the options, in particular those of Member States which already have well-developed structures for venture capital investment and others which do not yet have significant national rules in place.

(3) Better assessment of impacts. While the assessment of the impacts has been improved, the report should contain a deeper explanation as to the extent to which the proposed measures will address the underlying problems in the absence of other measures, such as the avoidance of double taxation. The report should make a greater effort to quantify costs of compliance, or as a minimum better describe the nature of such costs, and should provide a summary table of costs and benefits for each shortlisted option.

(4) Further clarify monitoring and compliance arrangements. The report should provide more information on how cross-border cooperation will be implemented and on how the proposed regulation will be enforced in the Member States in order to ensure that the proposals are not circumvented. The report should clarify for all indicators what sources will be used and if this leads to additional administrative burdens. The report should also clarify arrangements for evaluation and its timing in accordance with future decision-making needs.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation.

While retaining the improvements made following the Board's first opinion, the report could be reduced in length (perhaps by moving some of the detail to annexes).

(E) IAB scrutiny process	
Reference number	2011/MARKT/050
External expertise used	No
Date of Board Meeting	Written procedure The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 21 October 2011