EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
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Opinion

Title **DG FISMA – Proposal for a Regulation amending Regulation (EU) 345/2013 on European Venture Capital Funds (EuVECA) and Regulation (EU) 346 on European Social Entrepreneurship Funds (EuSEF)**

(draft version of 14 April 2016)*

(A) Context

The EuVECA and EuSEF Regulations introduced in 2013 a "European Venture Capital Fund" and a "European Social Entrepreneurship" legal entity. The EuVECA and EuSEF funds aim at supporting young and innovative companies or enterprises with the intention to generate positive social impact. The fund structures were created to offer new opportunities for market participants to raise and invest capital in small companies throughout Europe in a simplified way. The uptake of these two fund structures has been judged to remain below expectation. The Commission therefore decided to anticipate the reviews required under the EuVECA and EuSEF Regulations in 2017 by starting a legislative review as part of its 2016 Regulatory Fitness and Performance programme (REFIT). The review of the EuVECA and EuSEF Regulations is closely linked to the Capital Markets Union (CMU) objectives focusing on facilitating the SME financing, diversifying financing sources and strengthening cross-border capital flows.

Building on the results of the early evaluation, the impact assessment concerns a foreseen revision of the existing regulations that would aim at increasing investments into venture capital and social enterprises via EuVECA and EuSEF funds mainly through (i) removing limitations for larger managers to manage EuVECA and EuSEF funds and dual registration requirements, (ii) decreasing costs for EuVECA and EuSEF funds, (iii) broadening the range of eligible assets EuVECA funds may invest in.

(B) Overall opinion: POSITIVE

The Board gives a positive opinion, on the understanding that the impact assessment report will be further improved, in particular with respect to the following aspects:

1) Context and timing: The report should provide more background on the challenges and potential of the EU venture capital market in general and situate the specific EuVECA/EuSEF labels in that context. It should explain why the regulation is considered as not delivering on the take up of the funds and what are the bottlenecks to a higher take up? In particular, it should also analyse to what extent the demand side is playing a role in the slow start of the funds. In addition, the report should justify the timing of the legislative revision: on which ground is the

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

take up of the funds assessed to be low at this early stage? Why should the review take place now and why will it not be undertaken in the context of the subsequent review exercises like the review of the Alternative Investment Fund Managers Directive (AIFMD)?

2) Options: First, the report should better argue why enlarging the scope of the regulation to mid-caps would not dilute the original objectives of financing the smaller SMEs. Second, the report should "unbundle" option 2 for extending eligible assets under the EuVECA label and assess separately the impacts of the three sub-options. Third, while being very similar regulations, the important difference between the EuVECA and EuSEF labels should be better brought forward in the assessment of the options in the report.

3) REFIT: Being a REFIT initiative, the report should provide more insight on how the proposed revision will diminish regulatory burdens and quantify potential benefits and costs as far as possible. If this is not the case, it should be explained why.

The lead DG shall ensure that these recommendations are integrated in the report prior to launching the interservice consultation.

(C) Main recommendations for improvements

(1) Context and timing In the problem definition (or alternatively as a 2-page annex), the report should attempt to provide a better overview of the specificities and challenges of the EU venture capital markets. In this regard, it is also suggested to situate the EuVECA/EuSEF-financing within the overall venture capital funding in both relative and absolute numbers. The report should clarify the specific timing of the legislative revision in particular as the original legislation only dates back to 2013. It should explain why the review of the regulations originally foreseen for 2017 was accelerated. Taking into account the relatively strong links with the Alternative Investment Fund Managers Directive (AIFMD), it should be explained why an envisaged revision of the EuVECA/EuSEF could not be undertaken in the context of the upcoming review of the AIFMD-directive or other planned review exercises.

The report should also better explain on which grounds the take up is assessed to be low given the very recent adoption of the legislation and the innovative nature of these funds. It should also identify the reasons for the relatively low take-up of the EuVECA/EuSEF labels. This analysis should include an assessment of the possible lack of demand among the targeted public. The specific attractiveness and value added of the new labels for (institutional) investors should be explained.

(2) Options: The report should better justify the choice of the three provisions which are targeted in this review, in particular in light of Stakeholders' recommendations pointing to a much broader issue.

The report should better argue why enlarging the scope of the regulations to mid-caps, would not dilute the original objective of the regulations and not endanger the realisation of the objective to extend SME financing. In addition, it should better explain why the risks that the new labels draw funds away from other venture capital activities are limited.

The report should "unbundle" option 2 for extending eligible assets under the EuVECA label and assess separately the impacts of the three sub-options (i.e. extend to small mid-caps, extend to listed SMEs, allow follow-up investments) which may be quite different. Subsequently, their comparative merits should be assessed.

While the EuVECA and EuSEF regulations are treated in a similar way in the impact assessment, the substantial differences between the two labels should be pointed out. As the preliminary take-up numbers seem to indicate, there are substantial differences between the respective two labels begging the question whether a more differentiated approach would be warranted (e.g. regarding the € 100,000 threshold for investors).

(3) REFIT: Being a REFIT initiative, the report should provide more detailed information on how the proposed revisions of the regulations will diminish administrative burdens (e.g. avoidance of double registrations, handling of fees, own funds). In this context, it should do more efforts to quantify the potential benefits and the costs for the different stakeholders involved. In the absence of systematic data, anecdotal evidence or concrete cases should be analysed systematically to illustrate costs and benefits.

(D) Procedure and presentation

The report should better integrate the results and conclusions of the related evaluation that is included in annex IV. The baseline scenario should be made explicit and separate from the options so that it can serve as a benchmark for all options. It is also suggested to outline in the report what data will be collected for monitoring purposes to ensure sufficient systematic data collection (including on cross border funding) for assessing the functioning of these two regulations in the future.

(E) RSB scrutiny process	
Reference number	2015/FISMA/153
External expertise used	No
Date of RSB meeting	12 May 2016