

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 March 2013

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ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER / COUNCIL

No. Cion prop.: 18499/11 EF 173 ECOFIN 883 COMPET 615 IND 177 CODEC 2401

Subject: Proposal for a Regulation of the European Parliament and of the Council on
European Venture Capital Funds (**first reading**)
- Adoption of the legislative act (**LA + S**)
= Statement
COMMON GUIDELINES
Consultation deadline: 20.3.2013

Statement by Poland

Poland welcomes the political agreement on the *Regulation of the European Parliament and of the Council on the European venture capital funds* and the *Regulation of the European Parliament and of the Council on the European social entrepreneurship funds* ("the Regulations"). We believe the Regulations will remove obstacles to cross – border fundraising and enhance the investor protection. In particular, we appreciate the harmonised standards on sanctions adopted to ensure proper enforcement of the provisions. However, we remain concerned with the change that has been made with regard to term "administrative sanctions", amended as "administrative penalties" in both Regulations. We consider it against the original intention.

First, such a significant change has been made at the lawyer linguist meeting aimed at discussing **linguistic changes** that do not affect the substance of the text. Replacing “administrative sanctions” by “administrative penalties” alters the scope of the term at question which leads us to conclude that proposed change goes beyond the lawyer linguist working group’s competence and therefore was not legitimate.

Secondly, whilst the legislative acts take form of regulation which is binding entirely in all its elements and substitutes for national law, the relevant explanation provided at the lawyer linguist meeting should have been reflected in recitals to clarify that the term “administrative penalties” does not pre-judge certain type of sanctions.

Thirdly, the reference to “administrative penalties” in the Regulations will result in inconsistency across the EU legislative acts, a number of which refers to “administrative sanctions” (e.g. MiFID, MAD).

