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from : Presidency
to : Permanent Representatives Committee (part 1)

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18491/11 EF 172 ECOFIN 882 COMPET613 SOC 1107 IND 176 CODEC 2399

Subject : Preparation of the Competitiveness Council on 20-21 February 2012

a) Proposal for a Regulation of the European Parliament and of the Council on European Venture Capital Funds

b) Proposal for a Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds

I. INTRODUCTION

1. The Commission submitted the above-mentioned proposals to the Council on 12 December 2011.

The proposals are part of the Single Market Act and the Commission's overall action plan to improve access to finance for SMEs (doc. 18619/11). The overall objective of the proposals is to foster the growth of SMEs by improving their access to finance. The proposal for European Venture Capital Fund was mentioned in the European Council conclusions from January calling for the proposal to be agreed upon by June 2012.

The SME's have great influence on growth and job creation in the EU. The access to capital is still one of the obstacles for the SME's to grow and therefore to have the opportunity to launch new innovative products and employ more people. Most are depending on banks for finance. It has however become increasingly difficult for SME's to get the necessary finance, and it is therefore eminent that new ways for SME's to access capital can be found.

European economic succes depends largely on the SME's and their potential. It must therefore be a key priority to bring about regulatory benefits to the SME's. It is in this context that the Commission has proposed to improve the regulatory framework for venture capital and a framework for social entrepreneurship funds and to create a genuine internal market for these funds for the benifit of the SME's.

2. The means to achieve this objective is to create an EU wide passport to venture capital fund (EuVECA) and social entrepreneurship fund (EuSEF) managers in relation to the marketing of their funds. The managers of both types of funds don't typically meet the threshold of 500 million euros that defines the passport available for large fund managers under the directive on Alternative Investment Fund Managers (AIFMD).
3. The proposals introduce uniform requirements for the managers of collective investment undertakings that want to operate under the EU wide passport. They introduce requirements as to the investment portfolio, investment techniques and eligible

undertakings that a qualifying fund may target. They also introduce uniform rules on which categories of investors a qualifying fund may target and on the internal organisation of the managers that market such qualifying funds. Identical substantive rules across the EU will help create a level playing field for all market participants.

4. The Commission has introduced separate proposals for EuVECA and EuSEF, as the nature of these two types of funds are different. EuVECA normally focus on providing equity finance to SMEs in the start-up phase of business, whereas EuSEF often have - apart from equity finance - a larger range of qualifying investment tools available, such as combined public and private sector finance, debt instruments or small loans.

II. STATE OF PLAY

5. The proposals have been examined by the Working Party on Financial Services in meetings on 11 and 26 January, and 6 February 2012. The discussion in the meeting on 6 February was based on first compromise proposals by the Presidency, as set out in docs. 5994/12 (EuVECA) and 5995/12 (EuSEF).
6. All in all, there is a very broad support to, or at least an increasing convergence of views on the overall objectives and main elements of the proposals, such as the scope of the Regulations, definitions, conditions for an EU-wide passport and the supervision of the venture capital and social entrepreneurship fund managers.
7. Nevertheless, the Presidency considers that - in order to reach an agreement on the Council's approach on the proposals - some technical issues still require further elaboration at the level of the Working Party.

8. The objective of the Presidency is to reach an agreement in the coming weeks with a view to starting the negotiations with the European Parliament without any unnecessary delay. As also stated by the Members of the European Council on 30 January 2012, the Presidency aims at reaching an agreement with the European Parliament by June 2012.

III. CONCLUSIONS

9. Against this background, it is suggested that the Permanent Representatives Committee invites the Council to:
- have an orientation debate - on the basis of the questions, set out in Annex - on the broad principles to improve access to finance for SMEs, which are also underpinning the Commission proposals;
 - welcome the Commission proposals, and take note of the broad support by delegations to the overall objectives and main elements of the proposals;
 - invite the Working Party on Financial Services to finalise the examination of the proposals in the coming weeks with a view to reaching an agreement on the Council's approach as soon as possible, and
 - reconfirm the aim to reach a political agreement with the European Parliament by June 2012.

- Do Member States agree with the overall objective of the proposals, to foster growth to SMEs and Social Entrepreneurship by improving their access to finance and to reach the objective to create a genuine internal market for these funds for the benefit of our SME's and Social Entrepreneurship funds?
 - Recalling the European Council conclusions from January 2012, do Member States agree to endorse the two proposals rapidly with a view to start negotiations with the European Parliament as soon as possible?
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