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REPORT

from :	Presidency
to :	Permanent Representatives Committee (part 1)
No. Cion prop.:	18499/11 EF 173 ECOFIN 883 COMPET 615 IND 177 CODEC 2401 18491/11 EF 172 ECOFIN 882 COMPET613 SOC 1107 IND 176 CODEC 2399
Subject :	a) Proposal for a Regulation of the European Parliament and of the Council on European Venture Capital Funds (EuVECA) b) Proposal for a Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds (EuSEF) = Mandate for the Presidency to start negotiations with the European Parliament

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 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 phese 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 intensively examined by the Working Party on Financial Services, in particular against the ambitious timetable that was set by Members of the European Council on 30 January, and which was further endorsed by the Competitiveness Council on 20 February, i.e.to reach a political agreement with the European Parliament by June 2012. The ECON Committee of the European Parliament is expected to vote on its reports in May 2012.

6. Following the latest meeting of the Working Party (Attachés) on 12 March, there is now a very broad support for the Presidency compromise texts, the latest versions of which are set out in docs. 7581/12 (EuVECA) and 7582/12 (EuSEF).

7. The only outstanding issue, where the views of delegations are still divergent, concerns the introduction of specific provisions on depositaries in the texts. In order to establish a "lighter" regime for EuVECA and EuSEF, which are very often relatively small funds, compared to the funds under the AIFMD regime, the Commission did not propose any provisions requiring the funds to have a depositary. This approach is strongly supported by a large number of delegations, and the Presidency compromise follows the Commission in this regard. There is, however, a group of delegations, for whom the introduction of depositary provisions is a key issue in order to ensure a sufficiently high level of investor protection.

8. The objective of the Presidency is to reach at Coreper on 23 March an agreement on the mandate for the Presidency to start the informal trilogues with the European Parliament as soon as possible.

III. CONCLUSIONS

9. Against this background, it is suggested that the Permanent Representatives Committee agrees on the mandate for the Presidency to start the negotiations with European Parliament with a view to reaching an agreement in first reading by June 2012.