

Response of the Dutch Ministry of Finance on the European Commission consultation document on the review of the European Venture Capital Funds (EuVECA) and European Social Entrepreneurship Funds (EuSEF) regulations

### **Who can manage and market EuVECA and EuSEF funds?**

#### *Question 1*

*Should managers authorised under the AIFMD be able to offer EuVECA to their clients? Please explain*

The Dutch Ministry of Finance agrees with the aim to strengthen the European market for Venture Capital Funds in order to make it easier for funds to raise capital. An improved access to capital forms an important part of enhancing the European economy to grow.

From that perspective the Dutch Ministry of Finance is in principle favourable to AIFMD-managers being able to offer EuVECA to their clients. This, taken into account that managers authorized under the AIFMD already fulfill the requirements of the AIFMD, which aims to achieve an agreed level of investor protection. As long as this level of investor protection is maintained, AIFMD-managers should be able to offer EuVECA to their clients.

#### *Question 2*

*Should managers authorised under the AIFMD be able to offer EuSEF to their clients? Please explain*

The Dutch Ministry of Finance refers to the answer under 1.

### **What happens when a EuVECA or EuSEF manager, post registration, exceeds the €500 million threshold?**

#### *Question 3*

*What would be the effect of EuVECA or EuSEF managers, managing EuVECA or EuSEF funds only, continuing to enjoy the relevant passports once the total EuVECA or EuSEF assets under management, subsequent to their registration as fund managers, exceed the threshold of €500 million?*

The Dutch Ministry of Finance is not in favour of exempting EuVECA or EuSEF managers from authorization under the AIFMD, if subsequent to their registration as fund managers their total EuVECA or EuSEF assets under management or total assets under management exceed the threshold of €500 million. The threshold of 500 million is the agreed level at which an AIFMD-authorization is required for all managers of alternative investment funds, including venture capital.

#### *Question 4*

*What would be the effect of EuVECA or EuSEF managers, managing EuVECA and/or EuSEF funds, continuing to enjoy the relevant passports once their total assets under management, subsequent to their registration as fund managers, exceed the threshold of €500 million?*

The Dutch Ministry of Finance refers to the answer under 3.

### **Who can invest in EuVECA or EuSEF funds?**

#### *Question 5*

*What has been the effect of setting the current threshold at €100,000?*

The current threshold balances the need to have a broader investor base to have access to venture capital funds and social entrepreneur funds (and thus increase funding) and the aim to achieve an agreed level of investor protection.

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*Question 6*

*What effect would a reduction in the minimum €100,000 investment have on the take-up of EuVECA? If you favour a reduction, what would be an appropriate level?*

The Dutch Ministry of Finance is not in favour of a reduction in the minimum €100,000 investment. This threshold aims to achieve an agreed level of investor protection. The risk profile, contractual obligations and illiquid nature of investing in venture capital are not necessarily suitable for private investors with smaller means. A lower threshold could also result in higher compliance costs for EuVECA and EuSEF-managers.

In case a reduction of the threshold is still considered, despite the above, it should be contemplated to only allow a lower threshold for non professional investors who invest a relatively small percentage of their means in a single venture capital fund or social entrepreneur fund. In that way a wider spread of risks is ensured.

*Question 7*

*What effect would a reduction in the minimum €100,000 investment have on the take-up of EuSEF? If you favour a reduction, what would be an appropriate level?*

The Dutch Ministry of Finance refers to the answer under 6.

*Question 8*

*How would any reduction of the minimum €100,000 investment be balanced against the need to ensure appropriate retail investor protection?*

The Dutch Ministry of Finance refers to the answers under 5 and 6.

**Is it too expensive to set up EuVECA or EuSEF funds?**

*Question 9*

*Are the costs relating to fund registration proportionate to the potential benefits for funds from having the passport?*

Costs for fund registration differ significantly between member states. The observation that EUVECA funds are being registered gives an indication that the potential benefits for funds from having the passport are, at least in some member states, proportionate to the costs relating to fund registration.

However, EUVECA fund registration is not being taken up equally across member states. It cannot be ruled out that an explanation in some member states is that costs related to fund registration is not proportionate to the potential benefits for funds from having the passport.

Besides fund registration in the home member state, the potential benefits from having the passport are also dependent on the costs for marketing the fund to other countries. The costs for marketing abroad could prove to be disproportionate to the benefits from marketing these passport in certain member states due to for instance fees for cross border notifications.

*Question 10*

*Are the registration requirements for EuVECA a hindrance to the setting up of such funds in your Member State and, if so, how could this be alleviated without reducing the current level of investor protection?*

We have no indication that registration requirements are a hindrance for setting up an EuVECA fund in the Netherlands. The Netherlands is one of the member states in which EuVECA funds are currently registered.

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*Question 11*

*Are the registration requirements for EuSEF a hindrance to the setting up of such funds in your Member State and, if so, how could these hindrances be alleviated without reducing the current level of investor protection?*

The registration requirements for EuSEF funds are similar to the requirements for EuVECA funds. We have no indication that registration requirements are a hindrance for setting up an EuSEF fund in the Netherlands.

*Question 12*

*Are the requirements for minimum own funds imposed on the managers relating to fund registration proportionate to the potential benefits for funds from having the passport?*

The requirements for minimum own funds is openly formulated and therefore differ between member states. As a consequence it is difficult to indicate whether requirements for own funds imposed on the managers relating to fund registration are proportionate. The requirements for own funds serve an important purpose as they aim to cover potential risks arising from the activities of the fund. However, such requirements for own funds do come with a cost. In general, requirements for own funds should therefore be carefully designed and appropriately take into account the risks associated with the funds.

**Should third country managers be able to use the EuVECA or EuSEF designations?**

*Question 13*

*Should the use of the EuVECA Regulation be extended to third country managers and if so, under what conditions?*

The EuVECA- and EuSEF-regulations have recently come into effect and it is too early to consider extending the use of the EuVECA and EuSEF Regulations to third country managers. Also before considering extension, the Dutch Ministry of Finance believes lessons should be learned from the third country policy in AIFMD, which hasn't come into effect yet. If extension is further contemplated, third country managers should at least uphold a similar level of investor protection.

*Question 14*

*Should the use of the EuSEF Regulation be extended to third country managers and if so, under what conditions?*

The Dutch Ministry of Finance refers to the answer under 13.

**Should the range of eligible assets available to EuVECA funds be broadened?**

*Question 15*

*Is the current profile of eligible portfolio assets conducive to setting up EuVECA funds? In particular, does the delineation of a 'qualifying portfolio undertaking' (unlisted, fewer than 250 employees, annual turnover of less than €50 million and balance sheet of less than €43 million) hinder the ability to invest in suitable companies?*

The Dutch Ministry of Finance believes that the goal of the EuVECA regulation is to stimulate investments in venture capital. The role of venture capital is particularly to invest in new but uncertain technologies or business ideas. These kind of investments are typically related to small and medium sized enterprises. Broadening the range of eligible assets could dilute the focus on venture capital and therefore the effect of broadening the range of eligible assets on investments in venture capital is uncertain.

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*Question 16*

*Does a EuVECA's inability to originate loans to a qualifying portfolio undertaking in which the EuVECA is not already invested hinder the attractiveness of the scheme for potential managers of such funds?*

Investment in the form of equity provides a stable source of start-up financing as it creates long term commitment to the company. To secure this long term relationship it is important that, at least part of the involvement, is in the form of equity or quasi-equity instruments. However, to complement investment in a qualifying portfolio undertaking loans can be originated, provided that no more than 30% of the aggregate capital contributions and uncalled committed capital in the qualifying venture capital fund is used for such loans.

*Question 17*

*In this context, does the rule that a EuVECA can only use 30% of the aggregate capital contributions and uncalled committed capital for loan origination reduce the attractiveness of the scheme?*

Investment in the form of equity provides a stable source of start-up financing as it creates long term commitment to the company. The ability that 30% of the aggregate capital contributions and uncalled committed capital can be used for loan origination creates flexibility for the fund. Further analysis might be needed to conclude whether this is the most appropriate balance.

**Barriers to cross-border activity**

*Question 18*

*What are the key issues or obstacles when setting up and marketing EuVECA or other types of venture capital funds across Europe?*

According to the Dutch Ministry of Finance, the costs of setting up and marketing funds across the EU is the most important barrier for cross border activity. There is a range of additional requirements that are permitted at national level for the cross-border marketing of EuVECA funds, such as registration fees.

We suggest a harmonised approach in which additional requirements and levies raised by host member states are restricted to the extent possible.

*Question 19*

*What are the key issues or obstacles when setting up and marketing EuSEF or other types of social investment funds across Europe?*

The Dutch Ministry of Finance refers to the answer under 18.

**Other issues**

*Question 20*

*What other measures could be put in place to encourage both fund managers and investors to make greater use of the EuVECA or EuSEF fundraising frameworks?*

No comment.

*Question 21*

*What other barriers exist to the growth of EuVECA and EuSEF? Please specify. Are there other changes that could be made to the EuVECA and EuSEF regulations that would increase their up-take?*

No comment.

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*Question 22*

*What changes to the regulatory framework that govern EuVECA or EuSEF investments (tax incentives, fiscal treatment of cross-border investments) would make EuVECA or EuSEF investments more attractive?*

No comment.