

European social entrepreneurship funds

2011/0418(COD) - 06/06/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Sophie AUCONIE (EPP, FR) on the proposal for a Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds (EuSEF).

The committee recommends that the European Parliament's position adopted at first reading under the ordinary legislative procedure should be to amend the Commission's proposal. The amendments proposed are the result of discussions between members of the committee responsible and the representatives of the Member States. They relate in particular to the following points:

Purpose and scope: this Regulation applies to managers of collective investment undertakings that are established in the Union and that manage portfolios of EuSEFs whose assets under management in total:

- do not exceed a threshold of EUR 500 million and are subject to registration with the competent authorities of their home Member State in accordance with [Directive 2011/61/EC](#); or
- meet or exceed the threshold of EUR 500 million and are subject to authorisation in accordance with Directive 2011/61/E, provided that such managers choose to opt into the regime established by this Regulation and comply with it at all times in relation to the EuSEFs that they manage.

EuSEF managers subject to authorisation under this Regulation may additionally manage UCITS subject to authorisation under [Directive 2009/65/EC](#) provided that they are external managers.

It is stipulated that the Regulation lays down uniform rules on the eligible instruments to be used by a EuSEF when making investments, which include equity and quasi equity instruments, debt instruments, including promissory notes and certificates of deposit, investments into other EuSEFs and short and medium-term loans, including shareholder loans and grants.

Definitions:

- **'EuSEF'** means a collective investment undertaking that invests at least 70% of its aggregate capital contributions in assets that are qualifying investments. The amended text specifies that the percentage shall be calculated on average within a maximum period of five years, and on the basis of amount investible after deduction of all relevant costs and short-term holdings in cash and cash equivalents.
- **'qualifying portfolio undertaking'** means an undertaking that, at the time of an investment by the EuSEF, is not listed on a regulated market as defined in Directive 2004/39/EC and which: has the achievement of measurable, positive social impacts as a primary objective in providing: i) services or goods to vulnerable, marginalised, disadvantaged or excluded persons; ii) goods and services through a method of production, which embodies integration of vulnerable, marginalised, disadvantaged or excluded persons.

Conditions for the use of the designation "European Social Entrepreneurship Fund": an amendment clarifies that EuSEF managers may borrow, issue debt obligations or provide guarantees, at the level of the EuSEF, provided that such borrowings, debt obligations or guarantees are covered by uncalled commitments and thus do not increase the exposure of the fund beyond its commitments.

As far as the EuSEF they manage is concerned, **EuSEF managers shall:**

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conduct their business activities so as to promote the positive social impact of the qualifying portfolio undertakings in which they have invested, the best interests of the EuSEFs they manage, the investors in those EuSEFs and the integrity of the market;

- apply a high level of diligence in the selection and ongoing monitoring of investments in qualifying portfolio undertakings and the positive social impact of those undertakings.

Indicators: EuSEF managers shall employ for each EuSEF they manage procedures to measure and monitor through clear and comparable indicators the extent to which the qualifying portfolio undertakings, in which the EuSEF invests, achieve the positive social impact that they are committed to. The indicators shall include at least the following:

- employment and labour markets;
- standards and rights relating to job quality;
- social inclusion and protection of particular groups;
- equality of treatment and opportunities and non- -discrimination;
- public health and safety;
- access to and effects on social protection, health and educational systems.

Own funds: at all times, EuSEF managers shall have sufficient own funds of at least equivalent to **25% of their previous year's fixed overheads**. Where a EuSEF has not completed a year of business following its establishment, the requirement shall be that the EuSEF has own funds of at least 25% of the fixed overheads projected in its business plan, unless an adjustment to that plan is required by the competent authorities.

Depository: for each EuSEF it manages, the manager shall ensure that a single depository is appointed. The depository i) shall be an institution which is subject to prudential regulation and ongoing supervision; ii) shall be responsible for verifying ownership and maintaining a record of the assets of the qualifying EuSEF; and iii) shall be liable to the EuSEF and its investors for any loss suffered as a result of negligence or intentional failure.

Supervision and administrative cooperation: the competent authorities shall cooperate with ESMA for the purposes of this Regulation in accordance with Regulation (EU) No 1095/2010. They shall provide ESMA, without delay, with all the information necessary to carry out its duties in accordance with Regulation (EU) No 1095/2010. In particular, ESMA and the competent authorities shall exchange all information and documentation necessary to identify and remedy breaches to this Regulation.

In the event of disagreement between the competent authorities concerning the exercise of their respective duties under this Regulation, any of the authorities concerned may refer the matter for mediation by ESMA.

Review: at the latest, four years after the Regulation's entry into force, the Commission shall review the Regulation and provide an analysis of, among other things, the following particular points:

- an analysis of the geographic locations of EuSEFs and of the qualifying portfolio undertakings in which they invest;
- the appropriateness of establishing a European label for "social enterprises";
- the scope of this Regulation, including the possibility of extending the marketing of EuSEFs to retail investors, and the additional safeguards for investors protection which such an extension of scope would involve;
- the appropriateness of complementing this Regulation with a European tax framework aimed at encouraging social entrepreneurship.