Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

DG FISMA
European Commission
Rue de Spa 2
1000 Brussels
Belgium

5 January 2016

Dear Sir, Madam,

Review of the EuVECA and EuSEF Regulations

This is the response of the Financial Services Consumer Panel to the consultation on the Review of the European Venture Capital Funds (EuVECA) and European Social Entrepreneurship Funds (EuSEF) Regulations.

The Consumer Panel is an independent statutory body in the UK which represents the consumer interest by advising and challenging the UK's Financial Conduct Authority (FCA) on how its policy and rules affect consumers. The Panel represents the interests of all groups of financial services consumers.

The emphasis of the Panel's work is on activities that are regulated by the FCA, although it may also look at the impact on consumers of activities that are not regulated but are related to the FCA's general duties (including the work of the European institutions).

Widening access to EuVECA and EuSEF funds: restrictions on retail investors

The Panel supports the aims of the Regulations and understands the Commission's rationale in exploring options to increase the uptake of EuVECA and EuSEF funds as part of its Capital Markets Union initiative.

However, the Panel believes that the inherently risky nature[1] of these funds justifies a restriction on how much retail investors could invest in a EuSEF or EuVECA. The risks are particularly great for high net-worth investors with little investment experience. We outline an example below, which has arisen from the recent pensions reforms in the UK. There are of course other ways in which people may suddenly acquire assets, for example an inheritance or large redundancy payment. These apply across all the member states.

Preventing retail investors from potentially losing large sums of money could be achieved by limiting how much they could invest under either Regulation to a percentage of total investable assets (for example 10%). This would be subject to a self-certification test. Similar restrictions already apply in the UK to investment by retail investors in crowd-funding[2] and mutual society shares.[3]

---

[1] The risks involved in venture capital were discussed in the Commission's impact assessment accompanying its proposal for the EuVECA Regulation, which noted that "Existing national rules generally restrict investments in venture capital funds to institutional, professional or other financially sophisticated investors. This is largely justified by the intrinsically risky nature of venture capital activities".
[2] http://www.fca.org.uk/consumers/financial-services-products/investments/types-of-investment/crowdfunding
[3] https://www.fca.org.uk/static/documents/policy-statements/ps15-14.pdf

Such a limitation would constitute an acceptable restriction on retail investor access to EuVECA and EuSEF, without limiting the ability of professional clients to take advantage of the lower threshold to invest in these funds.

High net worth individuals: impact of UK pension reforms

The Panel is concerned that recent reforms to the UK pension system may increase the number of retail investors able to invest in EuVECA and EuSEF beyond the numbers envisaged by the Commission, especially if the minimum investment threshold is lowered.

Since April 2015, reforms[4] to the UK's pension system allow people who reach age 55 to withdraw their entire pension pot as a lump sum. Figures from September 2015 show that in the period from April to June alone, 75,000 UK residents fully cashed in their pension pot.[5] Another 57,000 partially withdrew their pension in cash.[6] These numbers are expected to increase further as the reforms bed in, creating many thousands of consumers with investable assets that exceed the current minimum threshold laid down in Regulations 345/2013 and 346/2013.

At present, no data is available on how these consumers are using this money, but many will turn to investment funds in an attempt to increase their assets. It is therefore likely that an unknown proportion could turn to EuVECA or EuSEF funds, irrespective of their investment experience.

In the Panel's view, this group of consumers should be seen as retail investors, and not considered to be 'professional investors' despite their high net worth. The UK's FCA has already recognised this potential risk and is currently consulting on rules to prevent firms from treating them as 'sophisticated' customers.[7]

However, the Regulations do not restrict participation in EuVECA or EuSEF funds to professional investors, provided the investor has sufficient investable assets. We are concerned that the combination of a lower minimum investment threshold under the revised Regulations, the increase in investable assets for UK citizens reaching retirement age and the 'social' label afforded by the EuSEF Regulation could prove attractive to retail consumers who may not understand the risks of investing in such funds.

Restrictions on the total amount that retail investors can put into a EuSEF or EuVECA in relation to their total investable assets would prevent consumers from losing their entire pension pot to risky venture capital investments. We would also like to see any proposal to lower the minimum investment threshold accompanied by a robust analysis of how many more retail investors across the EU might be expected to invest in these funds.

Yours sincerely,

Sue Lewis
Chair
Financial Services Consumer Panel

[4] http://www.pensionsadvisoryservice.org.uk/about-pensions/pension-reform/freedom-and-choice
[5] https://www.fca.org.uk/static/documents/pension-freedoms-data-collection-exercise.pdf#page=9
[6] Idem.
[7] https://fca.org.uk/static/documents/consultation-papers/cp15-30.pdf#page=52