

6 July 2017

*On behalf of the Public Affairs Executive (PAE) of the EUROPEAN PRIVATE EQUITY AND VENTURE CAPITAL INDUSTRY*

**Response to Commission Inception Impact Assessment on the revision of the EU SME definition**

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Invest Europe would welcome a revision of the SME definition. We believe it should be clear that firms backed by private equity and venture capital investors do *not*, solely by virtue of that ownership form, fall outside the definition of an SME. 83% of companies backed by private equity and venture capital are SMEs, and these investors add significant value.

Currently - and despite the clear objective of carving out venture capital activities as set out in Article 3.2 of the Annex to the Definition - SMEs backed by these managers often fall outside this definition. The current provisions in Article 3.3 ultimately lead to situations where all companies in which a venture capital manager will have invested are treated as “linked enterprises”, and all will as a result fail to qualify as SMEs. In other cases, due to the uncertainty caused by the current definitions, companies backed by private equity which could claim the SME status are not able to do so.

We believe this goes against the spirit of the SME definition as it does not distinguish between investments made by private equity and venture capital funds and typical corporate groups. This has the effect of undermining the Capital Markets Union objectives of developing equity investments in SMEs. While a manager of a private equity fund will in some cases exert influence over the SMEs it has invested in (for example through shareholder rights and investor consents), this does not extend to running the operations of its portfolio companies in the same way as a corporate trading group, either at an individual company level or across different portfolio companies in a fund. Ultimately, the manager’s goal is to grow these companies during a limited number of years of ownership (5-6 years on average), looking for real returns for investors into the fund. The manager will have no common strategy for all the companies in which it has invested. In practice, this materialises in the strict separation, including from an accounting perspective, between all the companies that are run by the manager.

The presence of investment (and, in some limited cases, a controlling stake) from a private equity investor in a company that is by all objective measures a start-up, a scale-up or a medium-sized company should not automatically exclude it from being regarded as an SME in EU law. This company may still need and benefit from the tax and regulatory advantages at EU and national level as well as specific state aid treatment that the SME definition entails SMEs which are



supported by private equity will, as any other SMEs, seek additional financing from third party providers to finance their growth or face unexpected situations.

Current conditions effectively create an unlevel playing-field for SMEs backed by private equity as they are put at a clear competitive disadvantage compared to their counterparts. This has the effect of making this type of capital less attractive for the most innovative start-ups and scale-ups and ultimately exacerbates the equity gap the Commission is trying to fill in the context of the CMU. We therefore recommend that the European Commission clarify that SMEs backed by private equity and venture capital (including corporate venture capital), irrespective of their legal form, can still be considered as such by amending Article 3.

Among the proposed objectives of the review, we also support the extension of the 2-year period during which scale-ups would maintain their SME status.

Finally, regarding the Commission's suggestion to look at sector-specific particularities, we note that the existing 250 employee limit may be a constraint for companies in the services sector. From our experience, companies active in this field may fairly rapidly reach 250 employees but remain 'early stage' from a financing and business development perspective.

### Contact

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## About the PAE

The Public Affairs Executive (PAE) consists of representatives from the venture capital, mid-market and large buyout parts of the private equity industry, as well as institutional investors and representatives of national private equity associations (NVCAs). The PAE represents the views of this industry in EU-level public affairs and aims to improve the understanding of its activities and its importance for the European economy.

## About Invest Europe

Invest Europe is the association representing Europe's private equity, venture capital and infrastructure sectors, as well as their investors.

Our members take a long-term approach to investing in privately held companies, from start-ups to established firms. They inject not only capital but dynamism, innovation and expertise. This commitment helps deliver strong and sustainable growth, resulting in healthy returns for Europe's leading pension funds and insurers, to the benefit of the millions of European citizens who depend on them.

Invest Europe aims to make a constructive contribution to policy affecting private capital investment in Europe. We provide information to the public on our members' role in the economy. Our research provides the most authoritative source of data on trends and developments in our industry.

Invest Europe is the guardian of the industry's professional standards, demanding accountability, good governance and transparency from our members.

Invest Europe is a non-profit organisation with 25 employees in Brussels, Belgium.

For more information please visit [www.investeurope.eu](http://www.investeurope.eu).

