THE VOICE OF
PRIVATE CAPITAL
VENTURE CAPITAL
PRIVATE EQUITY
INFRASTRUCTURE
LONG TERM INVESTORS

Mr Michel Barnier
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels

Brussels, 12 March 2018

Subject: Transition period after Brexit - impact on the private equity industry

Dear Mr Barnier,

As the European trade association representing the private equity and venture capital industry (referred to below as "the private equity industry"), we write to you in the context of the recent adoption by the Council of the European Union of supplementary directives for the negotiation of an agreement with the United Kingdom, and more particularly in connection with the negotiations on the transition period.

We welcome the general principles on transition, namely continuity and integrity of the Single Market. In this context, we would like to stress the crucial importance of such transitional arrangements for the private equity industry, which raises funds and provides long term support to the EU economy by investing to build and develop sustainable companies. Both investors and fund managers from the UK and the EU 27 fully agree with the need for clear and strong bridges towards the framework for the future relationship.

The private equity industry would like to share its views on the outcome that would protect investors in private equity funds, the managers of those funds and the 6000 European companies they invest in every year, a large majority (83% in 2016) of which are SMEs. Over the last decade private equity fund managers have invested more than 550bn EUR into 40,000 businesses, with approximately 8 million people in Europe working in a private equity backed business.

1) An agreement on the transition period must be clear and reached rapidly

All businesses, including those backed by private equity funds, need legal clarity and certainty for their activities and to develop their long-term strategy. They need to prepare themselves and be ready for 29 March 2019 and beyond. Private equity firms are preparing today for the period following the withdrawal of the United Kingdom and the agreement on the transition period must deal with the specificities of this industry, namely that investors make long-term commitments to closed ended funds, (with no early redemption rights) and that private equity firms typically invest in European businesses over a four to seven-year period.

If no transition period were to be agreed upon, or if an agreement were reached late in the two-year negotiation process under Article 50, this would undoubtedly disrupt investment, significantly harm the real economy, and have wide-ranging repercussions which could put at stake the economic growth and employment creation that are a priority for all Europeans. Predictability regarding the applicable legal framework after 29 March 2019 is needed to limit such damages.

2) This transition period must be close to the current *status quo*

The industry welcomes the principle of continuity and the objective of ensuring the United Kingdom's continued participation in the Customs Union and the Single Market during the transition.

This principle of continuity should apply with respect to all four freedoms, including in particular free movement of capital, free movement of people and free movement of services, which are key European freedoms which investors and managers rely on in a cross border industry like ours.

In 2016, the private equity industry invested 15.5bn EUR across borders within Europe and 2.4bn EUR outside the continent. The United Kingdom itself plays a particularly key role in channelling capital from EU 27 investors into EU 27 businesses. Over the last five years, investors in the EU 27 have chosen to commit around 3bn EUR a year to fund managers based in the UK and almost one-third of the total investment that the private equity industry has committed to EU 27 businesses was made by UK-based private equity firms, amounting to some 9bn EUR a year on average.

It is critical, to EU 27 businesses, fund managers and investors alike, that this flow of capital around the EU is not significantly disrupted. EU 27 investors (that have on average committed around 3bn EUR a year to fund managers based in the United Kingdom over the last five years) must remain able to invest in UK fund managers during any transitional period. A sudden end to UK firms' passporting rights would force many EU 27 investors to change their investment diversification and allocation plans at relatively short notice; this is unhelpful in the context of the private equity industry as it takes time to undertake due diligence on firms. EU 27 investors could also find themselves at a disadvantage to other investors, particularly due to the potential loss of investment opportunities once UK funds cannot easily market to them.

There would be a similar concern for UK investors, who have allocated around 1bn EUR a year over the last five years to private equity funds located in the EU 27 and will not want to face new impediments to such allocation. Therefore, EU 27 fund managers also need certainty about the possibility to market and raise their funds in the UK after March 2019.

At the same time, a sudden regulatory re-classification of UK funds as “non-EU funds” would increase capital adequacy requirements for the large numbers of EU-27 investors with capital currently invested in illiquid UK funds that cannot easily be exited. Both of these impacts need time to be absorbed, mitigated or avoided by EU-27 investors.

The ideal transition would therefore be a ‘standstill period’ during which the current EU rules and *acquis* (legislation, implementing rules and case-law) would remain in force. This would contribute to preserving the integrity of the Single Market, including the passports available under the Alternative Investment Fund Managers Directive and the European Venture Capital Fund Regulation.

3) Business needs a proper transition period to avoid cliff edge

The private equity industry calls for a transition period which is necessary to guarantee the continuity of the investment into the EU economy under a stable legal framework. While we believe that an agreement on the long-term relationship between the EU 27 and the United Kingdom should be reached as soon as possible, an appropriate transition period would also be essential to avoid any cliff edge and to allow the industry to adapt properly to new arrangements.

Decision makers must be aware that private equity funds are typically established for 10 to 15 years and portfolio investments are held on average for 4 to 7 years. A sustainable economy needs sustainable financing, but both cannot exist without sustainable and durable public policy.

European institutions should also strive to provide as much clarity and legal certainty as possible to investors and fund managers - and the businesses in which they invest - on the effects of the United Kingdom's withdrawal from the Union for the coming years; an early and clearly defined transition period would go a long way towards achieving this goal.

Given the importance of the need for a transition period for the private equity industry, we remain at your full disposal for any further information you may need.

Yours sincerely,

Michael Collins
Invest Europe, Chief Executive Officer