



28.6.2017

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds (COM(2016)0461 – C8-0320/2016 – 2016/0221(COD))

The interinstitutional negotiations on the aforementioned proposal for a regulation have led to a compromise. In accordance with Rule 69f(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on Economic and Monetary Affairs for decision by way of a single vote.

REGULATION (EU) 2017/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

**amending Regulation (EU) No 345/2013 on European venture capital funds
and Regulation (EU) No 346/2013 on European social entrepreneurship funds**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C [...], [...], p. [...].

² OJ C *191*, *29.6.2012*, p. 72.

³ Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

- (1) Regulation (EU) No 345/2013 of the European Parliament and of the Council¹ and Regulation (EU) No 346/2013 of the European Parliament and of the Council² lay down uniform requirements and conditions for managers of collective investment undertakings that wish to use in the Union the ‘EuVECA’ or ‘EuSEF’ designations for the marketing of qualifying venture capital funds and qualifying social entrepreneurship funds. Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 contain rules governing, in particular, qualifying investment, qualifying portfolio undertaking and eligible investors. Under Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013, only managers with assets under management that in total do not exceed the threshold referred to in point (b) of Article 3(2) of Directive 2011/61/EU of the European Parliament and of the Council³ qualify for the use of the ‘EuVECA’ and ‘EuSEF’ labels respectively.

¹ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).

² Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

³ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

- (2) The Communication on the Investment Plan for Europe of 16 November 2014¹ provides a comprehensive strategy to tackle the lack of finance which is holding back Europe's potential to grow and to provide jobs for its citizens. It aims at unlocking private investment by using public funding and by improving the legal framework for the investment environment.
- (3) The Communication on the Capital Markets Union of 30 September 2015² is an important element of the Investment Plan. It aims *to reduce* fragmentation in the financial markets and increasing supply of capital to businesses, *from inside and outside the Union*, through the establishment of a genuine single capital market. The Communication specifies that Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 need to be amended to ensure that the frameworks are best able to support investment in SMEs.

¹ Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment bank: An Investment Plan for Europe (COM(2014)0903 final).

² Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions: Action Plan on Building a Capital Markets Union (COM(2015)0468 final).

- (4) The market of qualifying venture capital funds and qualifying social entrepreneurship funds should be opened to increase scale effects, to reduce transaction and operational costs, to improve competition and to strengthen investor choice. Enlarging the base of prospective managers contributes to opening up that market. It should benefit undertakings seeking investment by giving them access to financing from a greater and more varied range of risk investment sources. The scope of Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 should therefore be extended by opening up the use of the ‘EuVECA’ and ‘EuSEF’ labels to managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU.

- (5) In order to keep a high level of investor protection, those managers should continue to be subject to the requirements of Directive 2011/61/EU while complying with certain provisions of Regulation (EU) No 345/2013 or Regulation (EU) No 346/2013, namely the provisions concerning eligible investments, targeted investors and information requirements. ***The competent authorities on which Directive 2011/61/EU confers the supervisory powers should also exercise the powers with respect to those managers.***
- (6) In order to ensure that competent authorities know about every new use of the ‘EuVECA’ and ‘EuSEF’ labels, managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU should register each qualifying venture capital fund or qualifying social entrepreneurship fund they intend to manage and market. This should ensure that those managers may maintain their business models by being able to manage collective investment undertakings established in other Member States while further widening the range of products they offer.

- (7) The range of eligible undertakings in which qualifying venture capital funds can invest should be expanded to further increase supply of capital to businesses. The definition of qualifying portfolio undertakings should therefore include companies with up to 499 employees (small mid-caps) ***not admitted to trading on a regulated market or on a multilateral trading facility***, and small and medium enterprises listed on SME growth markets. The new investment options should also allow growth stage entities that have already access to other sources of financing, such as SME growth markets, to receive capital from qualifying venture capital funds which in turn should contribute to the development of the SME growth markets. ***Moreover, the investments from qualifying venture capital funds in qualifying portfolio undertakings will not per se disqualify those qualifying portfolio undertakings from being eligible in public programmes. In order to further enhance investment, it should remain possible to set up a fund of funds structure under this Regulation.***

- (7a) *In order to make the framework more appealing and to further increase the supply of capital to social businesses, the range of eligible undertakings in which qualifying social entrepreneurship funds can invest should be expanded by extending the definition of positive social impact. This would simplify the regulatory landscape of social entrepreneurship funds and facilitate the participation of investors in such funds by addressing the discrepancy between what constitutes positive social impact in different Union contexts.*
- (8) Qualifying venture capital funds should *also* be allowed to participate *in* the longer term in the funding ladder for unlisted SMEs, unlisted small-midcaps and SMEs listed on SME growth markets, to further enhance their potential for making returns from high-growth companies. Therefore, follow-on investments subsequent to the first investment should be allowed.

- (9) Registration procedures should be *simple and* cost-effective. Therefore, a registration of a manager in accordance with Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 should also serve the purpose of the registration referred to in Directive 2011/61/EU *in relation to the managing of the qualifying venture capital funds or qualifying social entrepreneurship funds*. Registration decisions and failures to register under Regulation (EU) No 345/2013 or Regulation (EU) No 346/2013 should, where appropriate, be subject to *administrative or* judicial review *according to the national law*.
- (9a) The information provided in the application for registration and made available to ESMA should be used when organising and conducting peer reviews in accordance with Regulation (EU) No 1095/2010 and solely in the framework of Directive 2011/61/EU, Regulation (EU) No 345/2013, Regulation (EU) No 346/2013 and Regulation (EU) No 1095/2010, including rules on collection of information. This should not pre-empt in any way the outcome of the upcoming legislative reviews of Regulation (EU) 1095/2010 and of Directive 2011/61/EU.
- (10) *Fees and other charges imposed on qualifying venture capital fund managers and on qualifying social entrepreneurship fund managers by host Member States contribute to regulatory divergence and may sometimes represent significant obstacles to cross-border activities. Such fees impede the free flow of capital across Union borders, thus undermining the principles of the internal market.* It is *thus* necessary *to emphasise and* clarify that the prohibition for the host Member State to impose requirements or administrative procedures in relation to the marketing of qualifying venture capital funds and qualifying social entrepreneurship funds in its territory includes the prohibition to impose fees and other charges on the managers *for the marketing* of those funds *if no supervisory task has to be performed*.

- (11) Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 now require that managers of qualifying venture capital funds and qualifying social entrepreneurship funds, ***which are not authorised in accordance with Directive 2011/61/EU***, have sufficient own funds at all times. ***In order to develop an appropriate and proportionate capital treatment for qualifying venture capital fund managers and for qualifying social entrepreneurship fund managers, the level of own fund requirements in the context of those two fund structures should be based on cumulative criteria and should be significantly lower and less complex than the amounts laid down in Article 9 of Directive 2011/61/EU to take into account the specificities, nature and small size of these funds, and to respect the principle of proportionality.*** To ensure a consistent understanding ***of those requirements for those managers*** across the Union, ***the application of minimum capital requirements and own funds should be provided for in this Regulation. Due to the particular role that EuSEF and EuVECA funds could play in the context of CMU, in particular fostering the financing of venture capital and social entrepreneurship, it is necessary to provide for specific and targeted own funds rules for registered managers that diverge from the own funds framework for authorised managers laid down in Directive 2011/61/EU.***

- (11a) ESMA may develop regulatory technical standards specifying the information that should be provided to competent authorities in applications for registration of managers or funds under Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013, and specifying the parts of that information that should be passed on to ESMA by competent authorities for the purpose of enabling ESMA to organise and conduct peer reviews in accordance with Regulation (EU) No 1095/2010.
- (12) Since this Regulation opens up the use of the ‘EuVECA’ and ‘EuSEF’ labels to managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU, the central database, maintained by *the European Securities and Markets Authority* (‘ESMA’) in accordance with Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013, should also include information concerning the qualifying venture capital funds and qualifying social entrepreneurship funds that are managed and marketed by those managers. *This Regulation should apply as of three months after its entry into force. In order to avoid any potential market disruption it is necessary to provide existing managers of existing qualifying venture capital funds and existing qualifying social entrepreneurship funds during those funds' existing terms with a derogation from rules on own funds under this Regulation. Such managers should nevertheless ensure that they are able to justify at all times the sufficiency of their own funds to maintain operational continuity.*

(12a) In the context of the next review of Regulation (EU) No 345/2013, the Commission should investigate whether it would be beneficial to create an additional voluntary option for retail investors through the use of a feeder fund under Regulation (EU) No 345/2013 for those EuVECA funds that wish to enlarge their investor base. The Commission should also investigate whether lowering the relatively high threshold might be beneficial, especially as it can be seen as a potential barrier to more investment in such funds, and whether it may be appropriate to extend the social entrepreneurship label to certain crowdfunding and microfinancing entities with a high social impact. Although venture capital remains a highly risky form of investment, it should be recalled that similarly risky, unregulated forms of investment are increasingly available to consumers. Such forms of investment, for example crowd funding, currently fall outside the regulated space whereas the EuVECA regime is regulated and supervised.

- (12b) The appropriateness of the definition of marketing and discrepancies in the interpretation of that definition by national competent authorities were identified as significant barriers to cross-border investments as part of the Commission's work on a Capital Markets Union. The Commission should review the suitability of that definition.***
- (12c) Furthermore, the Commission should analyse the appropriateness of introducing a management passport for managers of the qualifying venture capital funds and qualifying social entrepreneurship funds and the suitability of the definition of marketing for venture capital. Following the review, the Commission should submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.***

- (13) Since the objectives of this Regulation, namely to further strengthen an internal market for qualifying venture capital funds and qualifying social entrepreneurship funds by strengthening the use of ‘EuVECA’ and ‘EuSEF’ labels, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (13a) *This Regulation should be without prejudice to the application of state aid rules to qualifying venture capital funds. Such funds may serve as vehicles for state aid to promote risk capital investments in SMEs through, for example, more favourable treatment of private investors than of public investors, provided such aid is compatible with state aid rules and in particular with Article 21 of Commission Regulation (EU) No 651/2014 of 17 June 2014.*
- (14) Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 345/2013 is amended as follows:

(1) In Article 2, paragraph 2 is replaced by the following:

“2. Articles **3 to 6, 12**, points (c) and (i) of Article 13(1) **■**, 14a **to 19, second subparagraph of Article 20(3), 21 and 21a** of this Regulation shall apply to managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU that manage portfolios of qualifying venture capital funds and intend to use the designation ‘EuVECA’ in relation to the marketing of those funds in the Union.”

(2) Article 3 is amended as follows:

(a) in point (d), point (i) is replaced by the following:

“(i) at the time of the first investment by the qualifying venture capital fund in that undertaking complies with one of the following conditions:

- the undertaking is not admitted to trading on a regulated market or on a multilateral trading facility (MTF) as defined in points (21) and (22) of Article 4(1) of Directive 2014/65/EU of the European Parliament and the Council*, and employs up to 499 persons;

- the undertaking is a small and medium-sized enterprise as defined in point (13) of Article 4(1) of Directive 2014/65/EU which is listed on a SME growth market as defined in point (12) of Article 4(1) of that Directive.
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* Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).”

- (b) point (k) is replaced by the following:

“(k) ‘home Member State’ means the Member State where the manager of a qualifying venture capital fund has its registered office;”

- (c) point (m) is replaced by the following:

“(m) ‘competent authority’ means:

- (i) for managers referred to in Article 2(1) of this Regulation, the competent authority referred to in Article 3(3)(a) of Directive 2011/61/EU;

- (ii) for managers referred to in Article 2(2) of this Regulation, the competent authority referred to in Article 7(1) of Directive 2011/61/EU;
- (iii) for qualifying venture capital funds, the competent authority of the Member State in which the qualifying venture capital fund *is established*;

(d) *the following point is added after point (m):*

“(n) ‘competent authority of the host Member state’ means the authority of the Member State other than the home Member State in which the qualifying venture capital fund is marketed;”

(2) *Article 7 is amended as follows:*

(a) *point (f) is replaced by the following:*

*“(f) treat their investors fairly. **This shall not preclude more favourable treatment of private investors than of a public investor, provided it is compatible with state aid rules and in particular with Article 21 of Commission Regulation (EU) No 651/2014 of 17 June 2014 and is disclosed in the fund’s rules or instruments of incorporation;**”*

(3) *Article 10 is amended as follows:*

(a) *paragraph 2 is replaced by the following*

“2. Both internally managed qualifying venture capital funds and external managers of qualifying venture capital funds shall have an initial capital of EUR 50 000.”

(b) *the following paragraphs are inserted:*

“2a. Own funds shall at all times amount to at least one eighth of the fixed overheads incurred by the manager in the preceding year. The competent authorities may adjust the requirement in the event of a material change having occurred in the manager’s business since the preceding year. Where the manager of a qualifying venture capital fund has not completed a year’s business, the requirement shall amount to one eighth of the fixed overheads expected in its business plan, unless the competent authority of the home Member State of the manager requires an adjustment to that plan.

- 2b. Where the value of the qualifying venture capital funds managed by the manager exceeds EUR 250 000 000, the manager shall provide an additional amount of own funds. That additional amount of own funds shall be equal to 0,02% of the amount by which the total value of the qualifying venture capital funds exceeds the EUR 250 000 000.*
- 2c. The competent authority of the home Member State may authorise the manager of qualifying venture capital funds not to provide up to 50 % of the additional amount of own funds referred to in paragraph 2b if it benefits from a guarantee of the same amount given by a credit institution or an insurance undertaking which has its registered office in a Member State, or in a third country where it is subject to prudential rules considered by the competent authorities as equivalent to those laid down in Union law.*
- 2d. Own funds shall be invested in liquid assets or assets readily convertible to cash in the short term and shall not include speculative positions.”*

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(3a) In Article 12, the following paragraph is added:

“3a. The competent authority of the home Member State shall make available all information gathered under this Article to the competent authority of each qualifying venture capital fund, the competent authority of each host Member State and to ESMA in a timely manner by means of the procedures set out in Article 22 on supervisory cooperation.”

(3b) In Article 13(1), point (b) is replaced by the following:

“(b) the amount of own funds available to that manager for maintaining the adequate human and technical resources necessary for the proper management of its qualifying venture capital funds;”

(4) ■ Article 14 *is amended as follows*:

(a) *in paragraph 1, point (e) is deleted*;

(b) *in paragraph 2, point (d) is deleted*;

(c) the following paragraphs are added:

“3a. The managers referred to in paragraph 1 shall be informed by the competent authority of their home Member State on whether they have been registered as a manager of a qualifying venture capital fund no later than two months after they have provided all the information referred to in *that* paragraph ■ .

3b. A registration in accordance with this Article shall constitute a registration for the purposes of Article 3(3) of Directive 2011/61/EU *in relation to the management of qualifying venture capital funds*.

3c. *The manager of qualifying venture capital funds referred to in this Article shall notify the competent authority of the home Member State of any material changes to the conditions for initial registration of the manager according to this Article before such changes are implemented.*

If the competent authority of the home Member State decides to impose restrictions or reject those changes, it shall, within 1 month of receipt of that notification, inform the manager of the qualifying venture capital fund. The competent authority may extend that period for up to 1 month where it considers this to be necessary due to the specific circumstances of the case and after having notified the manager of the qualifying venture capital fund. The changes shall be implemented if the relevant competent authority does not oppose the changes within the relevant assessment period.

- 3d. ESMA may develop draft regulatory technical standards to specify the information to be provided to the competent authorities in the application for registration set out in paragraph 1 and the conditions set out in paragraph 2.**

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

- 3e. In order to ensure uniform application of this Article, ESMA may develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to the competent authorities in the application for registration set out in paragraph 1 and the conditions set out in paragraph 2.**

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

3f. ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the registration processes carried out by competent authorities pursuant to this Regulation.”

(5) The following articles are inserted:

“Article 14a

1. Managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU shall apply for registration of the qualifying venture capital funds for which they intend to use the designation ‘EuVECA’.
2. The application for registration referred to in paragraph 1 shall be made to the competent authority of the qualifying venture capital fund and shall include the following:
 - (a) the fund rules or instruments of incorporation of the qualifying venture capital fund;

- (b) the information on the identity of the depositary;
- (c) the information referred to in Article 14(1);
- (d) *a list of Member States where those managers have established, or intend to establish, qualifying venture capital funds.***

For the purposes of point (c) of the first subparagraph, the information on the arrangements made for complying with the requirements of Chapter II of this Regulation shall refer to the arrangements made for complying with Articles 5 and 6 and points (c) and (i) of Article 13(1).

- 2a. *Where the competent authority of the qualifying venture capital fund and the competent authority of the manager are different, the competent authority of the qualifying venture capital fund, shall ask the competent authority of the manager whether the qualifying venture capital fund falls within the scope of the manager's authorisation to manage AIFs and whether the conditions laid down in point (a) of Article 14(2) are fulfilled.***

The competent authority of the qualifying venture capital fund may ask the competent authority of the manager for clarification and information as regards the documentation referred to in paragraph 2.

The competent authority of the manager shall provide an answer within one month of the date of receipt of the request submitted by the competent authority of the qualifying venture capital fund.

- 2b. Managers referred to in paragraph 1 shall not be required to provide information or documents which these managers have already provided under Directive 2011/61/EU.*
- 3. After having assessed the information received according to paragraph 2 and after receiving the information referred to in paragraph 2a, the competent authority of the qualifying venture capital fund shall register every fund as a qualifying venture capital fund if the manager of the fund meets the conditions laid down in Article 14(2).*

4. The managers referred to in paragraph 1 shall be informed by the competent authority of the qualifying venture capital fund on whether that fund has been registered as a qualifying venture capital fund no later than two months after those managers have provided all the information referred to in paragraph 2.
5. Registration under *this Article* shall be valid in the entire territory of the Union and shall allow marketing of those funds under the designation ‘EuVECA’ throughout the Union.
- 5a. *ESMA may develop draft regulatory technical standards to specify the information to be provided to the competent authorities in accordance with paragraph 2.*

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

5b. *In order to ensure uniform application of this Article, ESMA may develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to the competent authorities in accordance with paragraph 2.*

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

5c. *ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the registration processes carried out by competent authorities pursuant to this Regulation.*

Article 14b

Member States shall ensure that any refusal to register the managers referred to in Article 14 and the funds referred to in Article 14a shall be substantiated, notified to the managers referred to in those Articles and subject to a right of appeal before a national judicial, administrative or other authority. This right of appeal shall also apply in respect of registration where no decision on registration has been taken within two months after the managers of the qualified venture capital fund provided all of the required information. Member States may require that the persons concerned exhaust any administrative preliminary remedy provided for in accordance with national law before exercising the above mentioned right of appeal.

(6) In Article 16, paragraphs 1 and 2 are replaced by the following:

“1. The competent ***authority*** of the home Member ***State*** shall notify the competent authorities of the host Member States and ESMA immediately of any registration ***or removal*** of a manager of a qualifying venture capital fund, any addition ***or removal*** of a qualifying venture capital fund any addition ***to or removal from*** the ***list*** of Member ***States*** in which a manager of a qualifying venture capital fund intends to market those funds.

For the purposes of the first subparagraph, the competent authority of a qualifying venture capital fund that has been registered in accordance with Article 14a shall immediately notify **█** the competent authority of the home Member State, *the competent authorities of the host Member States and ESMA, of any addition or removal of a qualifying venture capital fund or of any addition to or removal from the list of Member States in which the manager of that qualifying venture capital fund intends to market that fund.*

2. The competent authorities of the host Member States shall not impose on the managers of qualifying venture capital funds any requirements or administrative procedures in relation to the marketing of their qualifying venture capital funds, nor shall they require any approval of that marketing prior to its commencement.

The requirements or administrative procedures referred to in the first subparagraph shall include fees and other charges.”

(6a) The following article is inserted:

“Article 16a

- 1. For the purpose of organising and conducting peer reviews in accordance with Article 14(3f) and Article 14a (5c) the competent authority of the home Member State or, where different, the competent authority of the qualifying venture capital fund, shall ensure that the information on the basis of which the registration was granted as set out in paragraph 1 and paragraph 2 of Article 14, and the information on the basis of which the registration was granted as set out in paragraph 2 of Article 14a is made available to ESMA in a timely manner after the registration and by means of procedures set out in Article 22 on supervisory cooperation.***
- 2. ESMA may develop draft regulatory technical standards to specify the information to be made available to ESMA in accordance with paragraph 1.***

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

3. ***In order to ensure uniform application of this Article, ESMA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to be made available to ESMA in accordance with paragraph 1.***

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.”

- (7) Article 17 is replaced by the following:

“Article 17

1. ESMA shall maintain a central database, publicly accessible on the internet, listing all managers of qualifying venture capital fund using the designation ‘EuVECA’ and the qualifying venture capital funds for which they use it, as well as the countries in which those funds are marketed.”

1a. On its website, ESMA shall provide weblinks to the relevant information regarding third countries that fulfil the applicable requirement under point (d)(iv) of the first paragraph of Article 3.”

(7a) *In Article 18 the following paragraph is inserted:*

“1a. For managers as referred to in Article 2(2), the competent authority of the home Member State shall be responsible for supervising the compliance with and the adequacy of the arrangements and of the organisation of the manager of the qualifying venture capital fund, so that the manager of the qualifying venture capital fund is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the qualifying venture capital funds that it manages.

For managers as referred to in Article 2(2), the competent authority of the qualifying venture capital fund shall be responsible for supervising the qualifying venture capital fund’s compliance with the rules laid down in Articles 5, 6 and points (c) and (i) of Article 13 (1). The competent authority of the qualifying venture capital fund shall also be responsible for supervising the qualifying venture capital fund’s compliance with the obligations set out in the rules or instruments of incorporation of the qualifying venture capital fund.”

(7b) In Article 19, the following paragraph is added:

“1a. ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the processes in relation to supervisory and investigatory powers carried out by competent authorities pursuant to this Regulation.”

(8) **Article 20 is amended as follows:**

(a) paragraph 2 is replaced by the following:

“2. By [24 months after the date of entry into application of this Regulation] the Member States shall notify the Commission and ESMA of the rules referred to in paragraph 1. They shall notify the Commission and ESMA without delay of any subsequent amendment thereto.”

(b) the following paragraph is added:

“3. Managers referred to in Article 2 (1) shall comply at all times with this Regulation and shall also be liable for any infringements of this Regulation. Those managers shall also be liable for losses or damages resulting from non-compliance with this Regulation.

Managers referred to in Article 2 (2) shall comply at all times with Directive 2011/61/EU. Those managers shall be responsible for ensuring compliance with this Regulation and shall also be liable in accordance with Directive 2011/61/EU for any infringements of this Regulation. Those managers shall also be liable for losses or damages resulting from non-compliance with this Regulation.”

(9) Article 21 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory part is replaced by the following:

“1. While respecting the principle of proportionality, the competent authority of the home Member State or, where relevant in accordance with Article 18(1a), the competent authority of the qualifying venture capital fund shall take the appropriate measures referred to in paragraph 2 where a manager of a qualifying venture capital fund:”

(ii) point c is replaced by the following:

“(c) uses the designation „EuVECA“ but is not registered in accordance with Article 14, or the qualifying venture capital fund is not registered in accordance with Article 14a;”

(iii)– point e is replaced by the following:

“(e) has obtained registration through false statements or any other irregular means, in breach of Article 14 or Article 14a;”

(b) paragraphs 2 to 4 are replaced by the following:

“2. In the cases referred to in paragraph 1, the competent authority shall, as appropriate:

(a) take measures to ensure that the manager of a qualifying venture capital fund concerned complies with Articles 5 and 6, points (a) and (b) of Article 7 and Articles 12 to 14a;

(b) prohibit the use of the designation ‘EuVECA’ and remove the manager of a qualifying venture capital fund concerned, or the qualifying venture capital fund concerned, from the register.

3. The competent authority referred to in paragraph 1 shall inform the competent authority of the home Member State, the competent authorities of the host Member States in accordance with point (d) of Article 14(1) and ESMA, without delay, of the removal of the manager of a qualifying venture capital fund or of the qualifying venture capital fund from the register.

4. *The right to market one or more qualifying venture capital funds under the designation ‘EuVECA’ expires with immediate effect from the date of the decision of the competent authority referred to in point (b) of paragraph 2.’*

(c) the following paragraph is added:

“4a. The competent authorities of the home or the host Member State shall inform ESMA without delay if they have clear and demonstrable grounds for believing that the manager of a qualifying venture capital fund has committed any of the breaches referred to in points (a) to (i) of Article 21(1).

ESMA may, while respecting the principle of proportionality, issue recommendations in accordance with Article 17 of Regulation (EU) 1095/2010 addressed to the competent authorities concerned to take any of the measures referred to in paragraph 2 of this Article, or to refrain from taking such measures.”

(9a) The following article is inserted:

“Article 21a

The powers conferred on competent authorities in accordance with Directive 2011/61/EU, including those related to penalties, shall also be exercised with respect to the managers as referred to in Article 2(2) of this Regulation.”

(10) In Article 26(2)(a), the date of “22 July 2017” is replaced by that of “[48 months after the date of entry into application of this Regulation]”.

(10a) In Article 26 the following paragraph is added:

“3a. In parallel with the review in accordance with Article 69 of Directive 2011/61/EU, in particular as regards managers registered under point (b) of Article 3(2) of Directive, the Commission shall analyse:

- the management of qualifying venture capital funds and the appropriateness of introducing changes to the legal framework including the option of a management passport; and***

- *the suitability of the definition of marketing for qualifying venture capital funds and the impact of this definition and differing national interpretations on the operation and viability of qualifying venture capital funds and on the cross-border distribution of such funds.*

Following the review, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.”

Article 2

Regulation (EU) No 346/2013 is amended as follows:

- (1) In Article 2, paragraph 2 is replaced by the following:

“2. Articles **3 to 6**, 10, **13**, points (d), (e) and (f) of Article 14(1), 15a **to 20**, *second subparagraph of Article 21(3), 22 and 22a* of this Regulation shall apply to managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU that manage portfolios of qualifying social entrepreneurship funds and intend to use the designation ‘EuSEF’ in relation to the marketing of those funds in the Union.”

(2) ***In Article 3, paragraph 1 is amended as follows:***

-(a) in point (d) point (ii) is replaced by the following:

“(ii) has the achievement of measurable, positive social impacts as its primary objective in accordance with its articles of association, statutes or any other rules or instruments of incorporation establishing the business, where the undertaking:

- provides services or goods ■ which generate a social return,***
- employs a method of production of goods or services that embodies its social objective, or***
- provides financial support exclusively to social undertakings as defined in the first two indents;”***

(a) point (k) is replaced by the following:

“‘home Member State’ means the Member State where the manager of a qualifying social entrepreneurship fund has its registered office;”

(b) point (m) is replaced by the following:

“‘(m) competent authority’ means:

- (i) for managers referred to in Article 2(1) of this Regulation, the competent authority referred to in Article 3(3)(a) of Directive 2011/61/EU;
- (ii) for managers referred to in Article 2(2) of this Regulation, the competent authority referred to in Article 7(1) of Directive 2011/61/EU;
- (iii) for qualifying social entrepreneurship funds, the competent authority of the Member State in which the qualifying social entrepreneurship fund *is established*;

(ba) the following point is added:

“(n) ‘competent authority of the host Member State’ means the authority of the Member State, other than the home Member State, in which the qualifying social entrepreneurship fund is marketed;”

(2a) *In Article 11, paragraph 2 is replaced by the following:*

“2. Both internally managed qualifying social entrepreneurship funds and external managers of qualifying social entrepreneurship funds shall have an initial capital of EUR 50 000.”

(3) In Article 11, the following *paragraphs are* added:

“2a. Own funds shall at all times amount to at least one eighth of the fixed overheads incurred by the manager in the preceding year. The competent authorities may adjust the requirement in the event of a material change having occurred in manager’s business since the preceding year. Where the manager of a qualifying social entrepreneurship fund has not completed a year’s business, the requirement shall amount to one eighth of the fixed overheads expected in its business plan, unless the competent authority of the home Member State of the manager requires an adjustment to that plan.

- 2b. *Where the value of the qualifying social entrepreneurship funds managed by the manager exceeds EUR 250 000 000, the manager shall provide an additional amount of own funds. That additional amount of own funds shall be equal to 0,02% of the amount by which the total value of the qualifying social entrepreneurship funds exceeds the EUR 250 000 000.***
- 2c. *The competent authority of the home Member State may authorise the manager of qualifying social entrepreneurship fund not to provide up to 50 % of the additional amount of own funds referred to in paragraph 2b if it benefits from a guarantee of the same amount given by a credit institution or an insurance undertaking which has its registered office in a Member State, or in a third country where it is subject to prudential rules considered by the competent authorities as equivalent to those laid down in Union law.***
- 2d. *Own funds shall be invested in liquid assets or assets readily convertible to cash in the short term and shall not include speculative positions.***”

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(3a) In Article 12, the following paragraph is added:

“3a. The competent authority of the home Member State shall make available all information gathered under this Article to the competent authority of each qualifying social entrepreneurship fund, the competent authority of each host Member State and to ESMA in a timely manner by means of the procedures set out in Article 23 on supervisory cooperation.”

(3b) In Article 13(2), point (e) is replaced by the following:

“(e) information on the nature, value and purpose of the investments other than qualifying investments referred to in Article 5(1);”

(3c) In Article 13(2), the following point is added:

“(ea) a description of how environmental and climate-related risks are taken into account in the investment approach of the qualifying social entrepreneurship funds;”

(3d) *In Article 14(1), point (b) is replaced by the following:*

“(b) the amount of own funds available to that manager for maintaining the adequate human and technical resources necessary for the proper management of its qualifying social entrepreneurship funds;”

(3e) *In Article 15(1), point (e) is deleted.*

(3f) *In Article 15(2), point (d) is deleted.*

(4) In Article 15 the following paragraphs are added:

“3a. The managers referred to in paragraph 1 shall be informed by the competent authority of their home Member State on whether they have been registered as a manager of a qualifying social entrepreneurship fund no later than two months after they have provided all the information referred to in *that* paragraph █ .

3b. A registration in accordance with this Article shall constitute a registration for the purposes of Article 3(3) of Directive 2011/61/EU *in relation to the management of qualifying social entrepreneurship funds.*

3c. *The manager of qualifying social entrepreneurship funds referred to in this Article shall notify the competent authority of the home Member State of any material changes to the conditions for initial registration of the manager according to this Article before such changes are implemented.*

If the competent authority of the home Member State decides to impose restrictions or reject those changes, it shall, within 1 month of receipt of that notification, inform the manager of the qualifying social entrepreneurship fund. The competent authority may extend that period for up to 1 month where it considers this to be necessary due to the specific circumstances of the case and after having notified the manager of the qualifying social entrepreneurship fund. The changes shall be implemented if the relevant competent authority does not oppose the changes within the relevant assessment period.

- 3d. ESMA may develop draft regulatory technical standards to specify the information to be provided to the competent authorities in the application for registration set out in paragraph 1 and the conditions set out in paragraph 2.**

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

- 3e. In order to ensure uniform application of this Article, ESMA may develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to the competent authorities in application for registration set out in paragraph 1 and the conditions set out in paragraph 2.**

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

3f. ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the registration processes carried out by competent authorities pursuant to this Regulation.”

(5) The following articles are inserted:

“Article 15a

1. Managers of collective investment undertakings authorised under Article 6 of Directive 2011/61/EU shall apply for registration of the qualifying social entrepreneurship funds for which they intend to use the designation ‘EuSEF’.
2. The application for registration referred to in paragraph 1 shall be made to the competent authority of the qualifying social entrepreneurship fund and shall include the following:
 - (a) the fund rules or instruments of incorporation of the qualifying social entrepreneurship fund;

- (b) the information on the identity of the depositary;
- (c) the information referred to in Article 15(1);
- (d) a list of Member States where those managers have established, or intend to establish, qualifying social entrepreneurship funds.**

For the purposes of point (c) of the first subparagraph, the information on the arrangements made for complying with the requirements of Chapter II of this Regulation shall refer to the arrangements made for complying with Articles 5, 6 and 10, Article 13(2) and points (d), (e) and (f) of Article 14(1).

- 2a. Where the competent authority of the qualifying social entrepreneurship fund and the competent authority of the manager are different, the competent authority of the qualifying social entrepreneurship fund shall ask the competent authority of the manager whether the qualifying social entrepreneurship fund falls within the scope of the manager's authorisation to manage AIFs and whether the conditions laid down in point (a) of Article 15(2) are fulfilled.**

The competent authority of the qualifying social entrepreneurship fund may ask the competent authority of the manager for clarification and information as regards the documentation referred to in paragraph 2.

The competent authority of the manager shall provide an answer within one month of the date of receipt of the request by the competent authority of the qualifying social entrepreneurship fund.

- 2b. Managers referred to in paragraph 1 shall not be required to provide information or documents which these managers have already provided under Directive 2011/61/EU.*
- 3. After having assessed the information received according to paragraph 2 and after receiving the information referred to in paragraph 2a, the competent authority of the qualifying social entrepreneurship fund shall register every fund as a qualifying social entrepreneurship fund if the manager of the fund meets the conditions laid down in Article 15(2).*

4. The managers referred to in paragraph 1 shall be informed by the competent authority of the qualifying social entrepreneurship fund on whether that fund has been registered as a qualifying social entrepreneurship fund no later than two months after those managers have provided all the information referred to in paragraph 2.
5. Registration under *this Article* shall be valid in the entire territory of the Union and shall allow marketing of those funds under the designation ‘EuSEF’ throughout the Union.
 - 5a. *ESMA may develop draft regulatory technical standards to specify the information to be provided to the competent authorities in accordance with paragraph 2.*

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

5b. *In order to ensure uniform application of this Article, ESMA may develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to the competent authorities in accordance with paragraph 2.*

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

5c. *ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the registration processes carried out by competent authorities pursuant to this Regulation.*

Article 15b

Member States shall ensure that any refusal to register the managers referred to in Article 15 and the funds referred to in Article 15a shall be substantiated, notified to the managers referred to in those Articles and subject to a right of appeal before ***a national judicial, administrative or other authority***. This right of appeal shall also ***apply in respect of registration*** where no decision on **■** registration has been taken ***within*** two months after ***the managers of the qualified social entrepreneurship fund provided all the required information***. ***Member States may require that the persons concerned exhaust any administrative preliminary remedy provided for in accordance with national law before exercising the above mentioned right of appeal.***”;

(6) In Article 17, paragraphs 1 and 2 are replaced by the following:

1. The competent **authority** of the home Member States shall notify the competent authorities of the host Member States and ESMA immediately of any registration **or removal** of a manager of a qualifying social entrepreneurship fund, any addition **or removal** of a **qualifying social entrepreneurship fund**, **or** of any addition **to or removal from the list of Member States** in which a manager of a qualifying social entrepreneurship fund intends to market those funds.

For the purposes of the first subparagraph, the competent authority of a qualifying social entrepreneurship fund that has been registered in accordance with Article 15a shall immediately notify ***the competent authority of the home Member State, the competent authorities of the host Member States and ESMA of any addition or removal of a qualifying social entrepreneurship fund or of any addition to or removal from the list of Member States in which the manager of that qualifying social entrepreneurship fund intends to market that fund.***

2. The competent authorities of the host Member States shall not impose on the managers of qualifying social entrepreneurship funds any requirements or administrative procedures in relation to the marketing of their qualifying social entrepreneurship funds, nor shall they require any approval of that marketing prior to its commencement.

The requirements or administrative procedures referred to in the first subparagraph shall include fees and other charges.”;

(6a) *The following article is inserted:*

“Article 17a

1. ***For the purpose of organising and conducting peer reviews in accordance with Article 15(3f) and Article 15a(5c), the competent authority of the home Member State or, where different, the competent authority of the qualifying social entrepreneurship fund, shall ensure that the information on the basis of which the registration was granted as set out in paragraph 1 and paragraph 2 of Article 15, and the information on the basis of which the registration was granted as set out in paragraph 2 of Article 15a is made available to ESMA in a timely manner after the registration and by means of procedures set out in Article 23 on supervisory cooperation.***

2. *ESMA may develop draft regulatory technical standards specify the information to be made available to ESMA in accordance with paragraph 1.*

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

3. *In order to ensure uniform application of this Article, ESMA shall develop draft implementing technical standards on standard forms, templates and procedures for the provision of information to be made available to ESMA in accordance with paragraph 1.*

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.”

(7) Article 18 is replaced by the following:

“Article 18

ESMA shall maintain a central database, publicly accessible on the internet, listing all managers of qualifying venture capital fund using the designation 'EuSEF' and the qualifying social entrepreneurship funds for which they use it, as well as the countries in which those funds are marketed.”;

(7a) *In Article 19, the following paragraph is inserted:*

***“1a. For managers as referred to in Article 2(2), the competent authority of the home Member State shall be responsible for supervising the compliance with and the adequacy of the arrangements and of the organisation of the manager of the qualifying social entrepreneurship fund, so that the manager of the qualifying social entrepreneurship fund is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the qualifying social entrepreneurship funds that it manages.*”**

For managers as referred to in Article 2(2), the competent authority of the qualifying social entrepreneurship fund shall be responsible for supervising the qualifying social entrepreneurship fund's compliance with the rules laid down in Articles 5, 6 and points (c) and (i) of Article 14 (1). The competent authority of the qualifying social entrepreneurship fund shall also be responsible for supervising the qualifying social entrepreneurship fund's compliance with the obligations set out in the rules or instruments of incorporation of the qualifying social entrepreneurship fund.”

(7b) In Article 20 the following paragraph is added:

“1a. ESMA shall organise and conduct peer reviews in accordance with Article 30 of Regulation (EU) No 1095/2010 in order to strengthen the consistency of the processes in relation to supervisory and investigatory powers carried out by competent authorities pursuant to this Regulation.”

(8) Article 21 is amended as follows

- (a) in paragraph 2, the date of “16 May 2015” is replaced by that of “[24 months after the date of entry into application of this Regulation]”;
- (b) the following paragraph is added:

***“2a. Managers referred to in Article 2 (1) shall comply at all times with this Regulation and shall also be liable for any infringements of this Regulation. Those managers shall also be liable for losses or damages resulting from non-compliance with this Regulation.*”**

Managers referred to in Article 2 (2) shall comply at all times with Directive 2011/61/EU. Those managers shall be responsible for ensuring compliance with this Regulation and shall also be liable in accordance with Directive 2011/61/EU for any infringements of this Regulation. Those managers shall also be liable for losses or damages resulting from non-compliance with this Regulation.”

(9) Article 22 is amended as follows:

(a) paragraph 1 is amended as follows:

(i)– *the introductory part is replaced by the following:*

“1. While respecting the principle of proportionality, the competent authority of the home Member State or, where relevant in accordance with Article 19(1a), the competent authority of the qualifying social entrepreneurship fund shall take the appropriate measures referred to in paragraph 2 where a manager of a qualifying social entrepreneurship fund:”

(ii) point (c) is replaced by the following:

“(c) uses the designation ‘EuSEF’ but is not registered in accordance with Article 15, or the qualifying social entrepreneurship fund is not registered in accordance with Article 15a;”

(iii) point (e) is replaced by the following:

“(e) has obtained registration through false statements or any other irregular means, in breach of Article 15 or Article 15a;”

(b) paragraph 2 is amended as follows:

(i) *the introductory part is replaced by the following:*

“2. In the cases referred to in paragraph 1, the competent authority shall, as appropriate.”

(ii) point (a) is replaced by the following:

“(a) take measures to ensure that the manager of a qualifying social entrepreneurship fund concerned complies with Articles 5 and 6, points (a) and (b) of Article 7 and Articles 13 to 15a;”

(iii) *point (b) 2 is replaced by the following:*

“(b) prohibit the use of the designation ‘EuSEF’ and remove the manager of a qualifying social entrepreneurship fund concerned, or the qualifying social entrepreneurship fund concerned, from the register.”

(ba) paragraph 3 is replaced by the following:

“3. The competent authority referred to in paragraph 1 shall inform the competent authority of the home Member State, the competent authorities of the host Member States in accordance with point (d) of Article 15(1) and ESMA, without delay, of the removal of the manager of a qualifying social entrepreneurship fund or of the qualifying social entrepreneurship fund from the register.”

(bb) paragraph 4 is replaced by the following:

“4. The right to market one or more qualifying social entrepreneurship funds under the designation ‘EuSEF’ in the Union expires with immediate effect from the date of the decision of the competent authority referred to in point (b) of paragraph 2.”

(bc) The following paragraph is added:

“4a. The competent authorities of the home or the host Member State shall inform ESMA without delay if they have clear and demonstrable grounds for believing that the manager of a qualifying social entrepreneurship fund has committed any of the breaches in points (a) to (i) of Article 22(1).

ESMA may, while respecting the principle of proportionality, issue recommendations in accordance with Article 17 of Regulation (EU) 1095/2010 addressed to the competent authorities concerned to take any of the measures referred to in paragraph 2 of this Article, or to refrain from taking such measures.”

(9a) The following article is inserted:

“Article 22a

The powers conferred on competent authorities in accordance with Directive 2011/61/EU, including those related to penalties, shall also be exercised with respect to the managers as referred to in Article 2(2) of this Regulation.”

(10) Article 27 is amended as follows:

(a) *in point a of paragraph 2* the date of “22 July 2017” is replaced by that of “[48 months after the date of entry into application of this Regulation]”.

(10a) *In Article 27, the following paragraph is added:*

“3a. In parallel with review in accordance with Article 69 of Directive 2011/61 EU, in particular as regards managers registered under point (b) of Article 3(2) of Directive, the Commission shall analyse:

- *the management of qualifying social entrepreneurship funds and the appropriateness of introducing changes to the legal framework including the option of a management passport; and*
- *the suitability of the definition of marketing for qualifying social entrepreneurship funds and the impact of this definition and differing national interpretations on the operation and viability of qualifying social entrepreneurship funds and on the cross-border distribution of such funds.*

Following the review, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.”

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply as of [3 months after its entry into force].

Article 10 paragraphs 2 to 6 and point (b) of Article 13(1) of Regulation 345/2013 and Article 11 paragraphs 2 to 6 and point (b) of Article 14(1) of Regulation 346/2013 shall not apply to existing managers in relation to existing qualifying venture capital funds and qualifying social entrepreneurship funds, during their existing terms. Those managers shall ensure that they are able to justify at all times the sufficiency of their own funds to maintain operational continuity.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President