Response to the EU Commission Call for Evidence

“European Innovation Act”

Introduction

AIFI, the Italian private equity, venture capital and private debt association, thanks the European Commission for the possibility to provide feedback on the introduction of a European Innovation Act. As the association representing private capital, we support the objective of the Call for Evidence to address the innovation gap in the EU by streamlining the regulatory framework, facilitating access to venture and growth capital for European innovative startups and scaleups, and enhancing their capacity to test and place new solutions and technologies in the markets. Innovation is one of the key areas in which the EU needs to intervene in order to strengthen the European competitiveness and build a strong, integrated EU Single Market.

In order to achieve this purpose, it is crucial to create a robust innovative ecosystem, supported by a clear and predictable legislative framework. As a premise, it is important to guarantee a constant flow of private capital investments, especially venture and growth capital, which represents an indispensable element to allow startups and scaleups to grow.

Against this background, we identified a few elements that should be taken into account. In particular:

SME definition

The first problem that needs to be addressed is the European definition of SME (Recommendation 2003/361/EC) and, in particular, the concept of “*linked enterprises*”. This notion applies to the relations established between the investment funds and their portfolio companies causing the loss of SME status and the consequent impossibility to benefit from a number of European as well as national incentive regimes. If the objective is to ensure that European startups and scaleups could count on an adequate supply of risk capital from investment funds, the EU definition of SME should be amended identifying with greater accuracy the relations between investment funds and portfolio companies, preventing them from being included automatically in the *linked enterprises* notion.

European definition of “innovative company”

One of the main points highlighted by the European Commission regards the possibility to introduce a European definition of “innovative company”. In the Italian jurisdiction, the definition of “innovative enterprise” has been introduced in 2012 with the category of “*innovative startup*”, followed by the one of “*innovative SME*” in 2015. This particular status (linked to the respect of specific requirements) gave to newly established companies the possibility to use several benefits (among others, fiscal incentives for investors, work for equity, stock option, specific provisions in terms of insolvency rules, etc…).

The regime has been recently modified in order to better identify the limits of innovative companies and to redefine the requirements to maintain the innovative status throughout the years, together with the progressive growth of the company. Overall, the introduction of this specific category has been very useful to allow certain companies to benefit from a favorable legislative framework in light of their potential innovative impact.

The idea of establishing a standardized definition at the EU level could help address the fragmentation that currently characterizes the EU landscape and facilitating cross-border activities. However, it is important that the hypothetical definition ensures an effective simplification, avoiding the duplication of charges or burdens of any kind.

Harmonizing EU policies and legislations

In general terms, greater coordination between national and EU policies as well as between national policies within the EU would be useful in order to better define the areas of intervention of the European institutions and that of national authorities. It is important to properly assess that these rules do not hinder the possibility of carrying out transactions within the EU. On the one hand, the possibility to have guidelines for the introduction of “sandboxes” giving the possibility to test specific products or services goes in the right direction. In many areas, for example the use of artificial intelligence, testing is very important in order to favor the birth and development of potentially disruptive ideas. From another point of view, coordination means also intervening on pieces of legislation that are already in place. B way of example, an alignment of foreign direct investments regimes (FDIs) within the EU would be desirable. The presence of different national frameworks makes it very difficult for a startup/scaleup to plan investment rounds in a timely manner. Consequently, more uniformity would be required in terms of monitoring criteria, sectors considered as strategic and applicable deadlines.

Access to sufficient financing

Close coordination and effective collaboration between the private and public sectors are essential to ensure adequate resources for the system.

Specifically, the presence of the public sector is central to attracting private entities. In this context, it is useful to understand the areas in which, especially at the supranational level, the use of European resources is most important and to strengthen the instruments already in place. For example, EIF resources have been instrumental in raising and launching numerous venture capital funds, which have then been able to complete their fundraising on the market, also attracting additional private investors. Concrete actions to increase public and private investments in innovation certainly include identifying market difficulties and intervening in those areas, using European resources to finance investment/co-investment programs or targeting specific “weak” areas and stimulating, in coordination with the provisions of the Savings and Investment Union, institutional investments (pension funds, insurance companies, banks) in venture and growth capital funds.

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