

PROPOSALS FOR START-UP FINANCING WITHIN THE EU

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Idea #1

Encourage the creation of a European LLC

- Cross-border investment within the EU is complex as a result of a lack of visibility for investors in company structures from a legal standpoint.
- Also, setting up a company in each country in the EU presents many barriers which impede our ability to build new businesses. These barriers range from the minimum amount of money required to launch a business to obliging the founder to actually go in the country to open the company. This impedes cross-border activity.
- It appears necessary to simplify not only the creation of new businesses but to make it easy for cross-border investments to flow from investors in one country to companies in another.
- We encourage the current directive on the creation of a new type of corporation — the SUP (*Societas Unius Personae*) that has unified requirements across the EU and can be created by anyone with a short time frame.
- At this stage, the SUP proposal is limited to sole shareholder companies and in case of arrival of a new shareholder, a transformation into another legal form (recognized at country level) would be necessary in the absence of a pluripersonal company at European level.
- A next step would be to create a European LLC
- As a result, the former project of the SPE proposed by the Commission in 2008 could be brought back as this form of company would complete the panel of corporate tools proposed to entrepreneurs.

Idea #2

Foster a better treatment of individual bankruptcies (1 of 2)

- Fear of personal bankruptcy by many entrepreneurs could restrict innovation and creation.
- As highlighted in a 2013 OECD study*, bankruptcy legislation plays an important role in the entrepreneurial environment. According to the study, both debtor and creditor friendly insolvency legislation affect economic outcomes in terms of patent creation, number of start-ups and innovation.
- Enacting bankruptcy laws that do not overly penalize failure when it comes to individual entrepreneurs are very important and could help raise capital flows to patenting firms. Such laws would offer significant policy instruments for enhancing entrepreneurial activity.
- **Idea #1**
 - A modernized system of personal bankruptcy should allow, at first, to cancel the debts of the entrepreneur in return for the total liquidation of its assets in both professional and personal fields in benefit of its creditors.
 - Parallel to this liquidation, it appears necessary to implement a safety net that would guarantee a minimum capital for the entrepreneur in order for him to bounce back in case of bankruptcy.
 - This system would only be applicable for “honest bankruptcies” which represent the most common scenario.

*Supporting Investment in Knowledge Capital, Growth and Innovation, OECD, 10 oct. 2013

Foster a better treatment of individual bankruptcies (2 of 2)

- Efficient insolvency rules also improve access to credit, which encourages investment. Creditors are more likely to lend when they are confident that they will be able to collect their loans.

- **Idea #2**
- It appears necessary to consider a reform of law of security interests with a more frequent use of collaterals (vs. personal guarantees) in order to ensure protection of creditor rights.
- Such a reform would imply a change in perspective by banks.

Contact

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