Measures to Transform SMEs and Startups

2024

SpainCap

Capital for a sustainable future

SPAINCAP

Capital por un Futuro Sostenible

Private Capital

The private capital sector, particularly private equity and venture capital, represented by SpainCap, is **mainly oriented towards medium and long term investment in unlisted companies with high growth potential,** mostly SMEs, by acquiring temporarily equity stakes. This financing **is complemented with a high added value, as private capital fund managers advise and generate credibility to their portfolio companies.** Private capital investment **contributes to the consolidation and strengthening of the Spanish economy,** providing stable financing to companies, regardless of their stage of development.

The ultimate goal is to increase the value of portfolio companies, allowing private capital (funds) to divest its shareholding in the medium to long term, obtaining a capital gain. In this way, it provides stable financing and liquidity to companies as an additional alternative to stock markets or bank financing, including newly created companies, startups, companies in expansion phases or mature companies.

The capital for both private equity and venture capital funds comes from Spanish or foreign pension funds and insurance companies, public funds and individual investors (mainly high net worth individuals). Therefore, **private capital investors are ultimately small savers** who, directly or indirectly, obtain recurring attractive returns.

The private capital sector provides dynamism to companies from their earliest stages through to the expansion and growth stages. Therefore, depending on the stage of development of the investee company, **private capital can be classified in two categories:**

Venture Capital

The investment is directed towards **companies that are in the early stages.** The investment made by the venture capital firm finances the birth and growth of the business project.

By its nature, venture capital is normally **associated with technological startups or startups with a strong innovative component.**

Private Equity

Private equity investment is directed towards **unlisted companies with the objective of helping them to grow** or develop. **SMEs** are the main recipients of this type of investment.

[1] According to the latest study published by SpainCap and EY "Study on the Profitability of Private Capital Funds in Spain in 2021" as of December 2021, Spanish private capital funds with a creation date between 2006 and 2019 show an internal rate of return (IRR) of 11.2%. This figure outperforms other investment assets considered as alternative investments to private capital and represented by their respective indices.

Private Capital: part of the solution

Despite the complexity of the macroeconomic and geopolitical landscape **in 2022, investment by private equity & venture capital managers in Spain reached €9.24 billion in direct investment,** reaching a new **all-time high.** Once again, Spain ranked **above the European average in terms of annual investment as a percentage of GDP.** As usual, its activity was mainly focused on SME financing: out of 960 investments made in Spain, 811 were directed towards SMEs with less than 100 employees.

The intense activity of **international private capital funds** in Spanish companies reflects the **attractiveness of the Spanish market on a global scale, contributing 80% of the total private capital investment in Spain in 2022,** distributed across **224 investments.**

The Spanish innovation ecosystem continues to strengthen thanks to private capital investment and 2022 saw a new **all-time high** in terms of the **volume invested by venture capital funds in Spanish startups,** reaching **€2.12 billion, an all-time record of 779 investments in 501 startups.**

Recent crises have demonstrated the ability of the private capital sector to support companies in the face of economic downturns. As a result, many portfolio companies recovered quickly and robustly thanks to **the private capital resources which meet their financing and management support needs.**

At the same time, the sector continues to finance new companies, especially technology companies, contributing to the innovation of the Spanish economy. All of this, with the intensive and growing incorporation of ESG **(Environmental, Social and Governance) policies in the life cycle of investments, as well as the promotion of impact investment,** which demonstrates the sector's commitment to developing investment activity with criteria that go beyond mere profitability, considering variables such as **sustainability, equity, good governance and the generation of positive externalities.** Along these lines, in 2022 SpainCap obtained the "CSR Management System Aligned with the Sustainable Development Goals" certificate issued by Bureau Veritas.

Undoubtedly, private capital will be one of the **driving forces behind the country's economy,** especially in terms of **promoting forward-looking companies that generate innovation, wealth and employment.** In the context of macroeconomic uncertainty, it is essential for the Spanish economy to focus on supporting companies, especially innovative SMEs and startups, as the private capital sector does, and, to this end, there are still major challenges, for which we are committed **to continuing on the path of public-private collaboration and adapting the Spanish regulatory framework to that of our neighbouring countries to encourage investment and facilitate private financing** for Spanish companies that need it.

From the perspective of private capital as an asset class, it is necessary to continue **attracting resources** in order to continue offering good returns in the face of the enormous volatility of the financial markets, as well as to ensure its capacity to contribute to guaranteeing future pensions through advances in the regulation of the investment policy of pension funds.

On the other hand, the sector has demonstrated its **capacity to generate growth, positioning itself as a driving force behind the recovery and underpinning of a large part of business activity.** In this respect, it is necessary to continue to make progress in supporting the creation and growth of new innovative companies, generating an **attractive environment for investment in startups by eliminating bureaucratic obstacles and providing incentives for investment.**

From a sustainability perspective, **impact investing and the incorporation of environmental, social and governance (ESG) criteria in investee companies is a growing and unstoppable reality in the private capital sector** thanks to its ability to reach all types of business projects. It would be positive **to avoid ambiguity in the criteria to be established for the sake of legal certainty and for national regulators to take into account the rapid evolution of market practices and new products and standards.**

There is also a need for clarification, **standardisation and rationalisation** of the bureaucratic burden for sustainability reporting.

Differential values of private capital

Through the study "Economic and Social Impact of Private Capital in Middle Market Operations in Spain", SpainCap studied the impact of private capital on 186 companies and the following conclusions were ratified.

1. Alternative financing

Private capital is one of the basic pillars of financing for small and medium-sized enterprises and is an essential complement to bank financing.

2. Added value

The capital injection is complemented by strong support in the development of the company. Private capital firms not only provide financing, but also the expertise of their teams:

- They offer strategic advice.
- They generate credibility with third parties.
- They help to professionalise management teams.
- They offer exogenous business approaches.
- They transfer best practices from other sectors.

On the other hand, it also promotes companies to become an engine of change for decarbonisation and for a more sustainable, fair and inclusive development, through active participation in the Boards of Directors of these companies.

3. Business consolidation

Private capital has proven to be a key tool for companies to grow and become more competitive. Private capital contributes to this growth in two ways:

- Growing sales, turnover or EBITDA
- With build up operations: a company gains in size through the acquisition of other company(ies), reducing fragmentation in their sector.

5. Job creation

Enterprises backed by private capital contribute more strongly to job creation. Moreover, this job creation persists over time. Considering a time frame up to 2015, the 186 companies that received private capital financing increased their workforce to 27,485 workers, an aggregate increase of 30%, compared to the destruction of 2,000 jobs in the control group (-2.8% aggregate).

6. Acceleration of growth

The capital injection and management assistance provided by the private capital funds intensify the growth of the investee companies. In individual terms, each investee company increased its sales by €17.1 million three years after the investment, compared to 1.5 million for the companies in the control group. Extending the analysis to 2015, this difference between investee and control group companies is quantified at €12.2 million per company. The Private Equity and Venture Capital industry in Spain also ranked fifth in Europe in 2022 in terms of the number of future unicorns.

7. Improvement in Profitability

Private capital financing of companies improves their ability to generate profits. The 186 private capital investees companies increased their earnings before interest, taxes and depreciation (EBITDA) in the third year since investment by EUR 294 million, at an average annual rate of 7%. Meanwhile, the control group recorded losses of €200 million (-6.4% annual average).

8. Investment promotion

Private capital financing multiplies the investment of its investees, leading to an increase in output. In aggregate terms, the total assets of companies with private capital financing increased the value of assets by 4.46 billion euros in the third year of receiving this type of investment, equivalent to a growth rate of 7% per annum, more than four points above the control group (2.8% per annum). On the other hand, the investment fosters an increase in innovation, both through the companies themselves and through tech transfers, with universities and research centres.

9. Support for companies in crisis

Private capital involves management support that helps to create value, cushion the effects of recessions through investment and seek new markets in which to grow. In the middle market segment, a total of 61 companies received financing from private capital firms after the onset of the crisis in 2009.

Each private capital-backed company increased its turnover after three years by €23.7 million compared to €3.3 million for each company in the control group, which is 7 times more on average.

10. Impact on different sectors

Private capital investment in the middle market segment was mainly concentrated in the other services sector (80 companies) and industry (53 companies). The rest of the investments were distributed among the commerce sector (24 companies), the primary and supply sector (15 companies) and the communication technologies sector (14 companies).

The Private Equity and Venture Capital industry in Spain

Employment

514,165

employees in Spanish companies backed by PE & VC.

Extension

2,720

companies are currently backed by PE & VC in Spain.

Promotion

90%

of the investee companies are small and medium-sized enterprises.

Technology,

Informatics and Medicine

have led Private Equity and Venture Capital investment in 2022 by number of investments.

Funds

€48.34 Bn

funds under management (€32.17 million from international fund managers).

Innovation

Barcelona and Madrid

two world-renowned centres of entrepreneurship and innovation.

Double digit

returns

11%

average return on Spanish VC & PE funds.

Scale

€37,67 Bn

invested (equity) in 3,068 Spanish companies in the last five years

8 Proposals to accelerate SME and Startup Growth

1. Continue increasing the presence of private capital in pension fund investments

2. Provide European Long-Term Investment Funds (ELTIFs) with a special tax regime.

3. Reinforce the objectives of the Startups Act.

4. Promote the effective implementation of the Startups Act.

5. Boost impact investment.

6. Avoid barriers to foreign investment.

7. Increase protection for retail investors.

8. Sustainability: a stronger voice in Spain and Europe.

1.

Continue increasing the presence of private capital in pension fund investments

Pension funds, as long-term savings products, serve as instruments that allow for the channelling and execution of medium and long-term investments, alongside other medium and short-term investments, mitigating risks for savers and ensuring adequate returns on their savings and foresight. However, i**n Spain, the current regulatory framework makes it difficult for these funds to invest in private capital,** limiting their presence in asset portfolios. Private capital investment by pension funds in the United States represents around 10% of the asset portfolio. In Europe stands at around 5%. In Spain, however, private capital investment represents slightly less than 1%.

Spain has passed a number of regulatory improvements to ensure a greater presence of private capital in pension funds, but SpainCap believes that there is room for further improvement. The following measures would be needed as a way to boost the presence of these funds in private capital to levels of 3%-5%:

Complete elimination of the limitation of waterfall fee structures:

The current regulation[2] on the remuneration of pension fund managers flexibilizes, but does not completely eliminate, the accumulation of fees received by pension fund managers with those of the managers of the private capital funds in which they invest.

[2] Royal Decree 668/2023 of 18 July amending the Regulation on pension plans and funds, approved by Royal Decree 304/2004 of 20 February, to promote occupational pension plans.

- The pension fund sets the following limits on accrued fees, calculated in relation to the position accounts to which they are to be charged: 0.85% per annum for fixed-income funds, 1.3% per annum for mixed fixed-income funds and 1.5% per annum for other funds.

- As a general rule, there is an accumulation within the aforementioned limit of the fees received by managers of other funds in which the pension fund manager invests. However, as an exception to the above, the fees of managers of private capital entities may be passed on up to an additional maximum limit of 0.55% of the value of the position accounts to which they should be attributed.

SpainCap proposes to **completely eliminate waterfall fee structures for pension fund managers' investments in private capital funds.** This will bring the weight of pension fund investments in private capital closer to the European average and allow pensioners to obtain a more appropriate return on their savings-provision.

Limits to private capital investment:

The Association advocates making the investment limits of pension plans more flexible, with the aim of giving pension fund managers more scope to select other investment options and to diversify. In this respect, it is proposed to lower from 70% to 50% the requirement for pension fund resources to be invested in securities and financial instruments susceptible to generalised and impersonal trading. This proposal is in line with the provisions of the IORP II Directive.

Publicly promoted occupational pension funds (PPEPF):

Finally, it would be advisable that, through the new publicly promoted employment pension funds (PPEPF), a figure whose purpose is to extend complementary social provision for the **self-employed and SMEs, investment in private capital or even impact investment should be promoted,** through a model similar to the French Fonds d'investissement solidaires 90/10, which allocate 90% of their assets to socially responsible investment and the remaining 10% to social enterprises.

2.

Provide European Long-Term Investment Funds (ELTIFs) with a special tax regime.

In April 2023, the new **FILPE 2.0 regulation** came into force. These new investment vehicles, which came into effect on 10 January 2024, will revolutionise the status quo in the marketing of illiquid and semi-liquid products at European level.

Spain has considered ELTIF as a separate vehicle, regulated within the scope of Law 22/2014. However, this has not been the general trend in neighbouring countries. For example, Italy, France and Luxembourg have considered that the ELTIF label should be applied to existing regulatory categories, such as French SPFs or Luxembourg SIFs, thus applying the tax regime of those entities. In fact, the original ELTIF Regulation, in its recital 6, already noted the regulator's concern about obstacles in the tax treatment of such investments.

This difference in **categorising them separately may have a negative impact,** as no special tax regime applies to Spanish ELTIFs. If this situation is not resolved by the Spanish tax authorities, it is foreseeable that many foreign ELTIFs will compete with our management industry and will be able to distribute freely, with comparatively fewer restrictions than Spanish products.

Therefore, **it is proposed that Spanish ELTIFs should be able to apply a special tax regime.** As they are vehicles regulated by Law 22/2014, it would be necessary for them to be subject to the tax regime similar to that provided for private equity entities (Article 50 of the Spanish Corporate Tax Law) and for other European vehicles, such as the European Venture Capital Funds (EuVECA).

[3] "The smooth functioning of the internal market for long-term investments requires the Commission to continue its assessment of potential barriers that might stand in the way of raising long-term capital across borders, including barriers that arise from the fiscal treatment of such investments.

3. Reinforce the objectives of the Startups Act

Law 28/2022, of 21 December, on the promotion of the startup ecosystem, known as the Startup Act, aims to support the creation and growth of innovative startups in Spain. SpainCap has participated in the process of drafting the Startups Law and its objective is to continue its commitment to **strengthen its goal of increasing the attractiveness of Spain for investment and entrepreneurship, for which it is developing** the following proposals:

Investment deductions:

The current Spanish regulation on deduction for investment in newly or recently created companies only applies the tax benefits to direct investments by individuals. This inevitably limits the scope of the tax measure in strengthening the startup ecosystem.

To address the shortcomings of the current system, SpainCap proposes a regulatory development based on the Venture Capital Trust (VCT) scheme. A pillar of its tax architecture that was launched in the UK in 1995 with the aim of facilitating the development of young, innovative companies with growth potential. Unlike the Spanish regulation, it allows individuals to benefit from the deduction by operating through an investment company. The tax incentives to encourage investment are that the natural person investor who invests indirectly through the company acquires a 30% deduction on a taxable amount of £200,000 in Income Tax. It also provides an exemption from Capital Gains Tax on capital gains on the sale of Venture Capital interests and exempts dividends from Income Tax. This tax policy has been one of the major drivers of investment by Business Angels, who are so valuable in the development of the entrepreneurial ecosystem.

On the other hand, in order to encourage investment, it would be appropriate to develop an analogous figure for the deduction for investment in new or recently created companies applicable to companies. In this sense, **SpainCap proposes a 50% deduction in corporate tax,** which would balance the tax treatment of Business Angels.

Attracting and retaining talent:

The attraction of talent and international capital is among the general objectives of the Startups Act, which establishes a special regime for the purpose of attracting talent in Title I of the Act. Just as there is an improvement in the taxation of remuneration formulas based on the delivery of shares or participations to employees (options), **specific provisions relating to phantom share plans could be included in the regulation.**

Along these lines, it is also proposed to **eliminate the obligation to register as a company self-employed according to the percentage of shareholdings or the self-employed quota,** while facilitating the opening of a bank account, especially for the incorporation of a company by foreigners.

Stock options

The Startups Act has established, for personal income tax purposes, a criterion for valuing shares or equity investments delivered to employees of start-ups, as classified by ENISA. The criterion is none other than to refer that valuation to the valuation considered in the last capital increase carried out by the company in the year prior to that in which the shares or holdings are delivered. This valuation criterion does not take into account the fact that the valuation taken into account in the financing rounds of these companies.

The valuation of companies takes into account the existence of special political rights or rights of influence on the control of the company granted to investors, but which employees do not enjoy. For this reason, the valuation considered may be too high. **SpainCap recommends that the valuation should be carried out taking into account the criteria used in the US, as set out in Form 409, which excludes from the valuation the effect of political rights granted to investors.**

4.

Promote the effective implementation of the Startups Act

The implementation and execution of the Startups Law depends, to a large extent, on the **elimination of certain elements that may constitute obstacles or pose additional obstacles to the proper development of the objectives pursued by the law.** Given that there is scope to take a step forward in supporting the creation and growth of start-ups and innovative companies, we point out the following aspects as a starting point to achieve greater support for business investment.

Facilitate the certification process for start-up companies:

In order for start-ups to have access to the benefits recognised in Law 28/2022, it is necessary to undergo a certain certification procedure. In the interests of greater simplification and administrative efficiency, it could be beneficial **to encourage public-private collaboration in assessing the innovative nature of start-ups through the National Forum of Start-ups envisaged in the Start-ups Act,** so that in a constantly changing environment, the sector's knowledge of accumulated experience and the latest trends in terms of updating assessment criteria can be put into practice.

Furthermore, in order for this law to achieve its objectives, it is necessary to **facilitate the participation of entrepreneurs and start-ups.** To this end, it would be advisable to **simplify the bureaucratisation of processes in order to protect efficiency.** The work of public campaigns and institutions would therefore be critical to convey information about the criteria to be met, the procedure and the benefits of accreditation.

Further simplification and streamlining of bureaucratic procedures

Although Law 28/2022 has improved these formalities, it still leaves some room for certain aspects to be specified. Thus, although the equivalence of documents issued in other countries is favoured, in respect of which there would be no need to adapt the content to the Spanish legal system, it would be advisable for this measure to imply, at the time of its practical implementation, the **non-requirement of an apostille,** for example, for powers of attorney issued in a foreign notarial document. With regard to the investor, **formulas could also be developed that do not establish the obligation to create and maintain an Enabled Electronic Address (DEHú), allowing startups to be authorised to receive their notifications.**

Extending the criteria for determining the innovative character of a startup company

The Startups Act represents a major step forward, but the end of the application of its benefits 5 years after incorporation as a general rule and 7 years in specific sectors is insufficient. It should be borne in mind that the innovative nature of startups implies particularly high risks and uncertainties regarding the business model, so longer maturation periods are needed to test alternatives, consolidate and be able to generate large-scale solutions with potential for the development of the productive system as a whole. In this sense, **it is proposed to extend the period of application of the new regulatory framework to 7 years as a general rule and to 12 years in specific cases.**

In terms of turnover, the annual turnover limit of €10 million does not sufficiently take into account the diversity of sectors and business models of these companies. A realistic figure should widen the margin and it **is recommended to apply an annual turnover limit of €50 million,** in line with the definition of SMEs as set out in Annex I of Commission Regulation (EU) No 651/2014.

5.

Boosting impact investment

In 2013 the EU established the regulatory framework for European Social Entrepreneurship Funds (ESEFs) and European Venture Capital Funds (EuVEFs). The first came in response to the **emerging investment market focused on the development of innovative solutions to social problems** and the need for uniform rules for raising capital under these acronyms and to provide them with an access route to the EU passport. The second focuses on funds investing in SMEs that are in the early stages of their existence and offer a high potential for growth and expansion. In Spain, both funds and their management companies are regulated by Law 22/2014, recently updated by Law 18/2022, on the creation and growth of companies.

Despite progress, there is still confusion for corporate income tax (IS) purposes for EuSEFs and EuVECAs. Article 50 of the Corporate Income Tax Act extends the exemption regime of Art. 21 to the taxation of venture capital entities, which applies to both capital gains (Art. 50.1) and dividends (Art. 50.2). To resolve the current limbo, EuVECA and EuSEFs should be expressly included as venture capital entities for tax purposes. In parallel, it would be positive to further develop tax measures to incentivise operations in the highest risk investment categories in strategic sectors (e.g. DeepTech companies).

Spain also has the opportunity to move towards the adoption of the most advanced regulatory frameworks in our environment for the promotion of impact investment in socially and environmentally sustainable sectors with a financing deficit and the need for strategic advice. France, within the concept of "social and solidarity economy" more than two decades ago, with the so-called Fabius Law of 2001, created solidarity funds also known as fonds 90/10, in which between 5% and 10% of the resources of pension funds are directed towards investment in social projects. Through different regulations, the 90/10 funds have become the main solidarity savings and investment tool in the country.

6.

Avoiding barriers to foreign investment

The amendment of foreign investment regulations (art. 7 bis Law 19/2003) through Royal Decree-Law 8/2020 and Royal Decree-Law 11/2020 **introduced restrictions on foreign direct investment,** putting an end to the liberalising regime in force since 1999. Such restrictions operate through the establishment of ex ante authorisation mechanisms outside the European Union and the European Free Trade Association (EFTA). The **Royal Decree on Foreign Investment has recently been approved, which carries out the regulatory development and whose advances are clear in specifying affected sectors and streamlining procedures, transmitting legal certainty, and avoiding unnecessary damage to the private capital industry.** The following is a summary of the main lines guiding SpainCap's positions with respect to this regulatory area:

The need to **limit the application of restrictions when they are carried out by private capital funds** since, unlike other forms of investment, their action seeks the independent development of the companies invested in, with no long-term control vocation and therefore no transfer or relocation of knowledge and technologies.

The need to ensure the **greatest possible precision in sectors where the liberalisation regime is suspended,** for the sake of legal certainty, guaranteeing a restrictive interpretation of the rule that does not imply an exorbitant capacity to block investments.

The importance of the **Directorate-General for International Trade and Investment** as the most appropriate body to ensure efficient processing of authorisation applications.

7.

Increase protection for retail investors.

The approval of Law 18/2022, of 28 September, on the creation and growth of companies, known as the Crea y Crece Act, has led to the **flexibilization of the regime for non-professional investors in capital entities.** This law establishes that the shares or participations of Spanish Private Equity Entities (ECRs) may be marketed to other investors when, through a personalised recommendation from an intermediary providing advisory services, a minimum initial investment of €10,000 is made, subject to certain limitations.

The door is therefore open for retail investors to participate in private capital investment, thus diversifying their portfolio and taking advantage of the higher returns offered by the industry. **SpainCap is committed to the protection and empowerment of retail investors and shares the need for greater requirements that provide guarantees for their strategic decisions** and therefore aligns itself with the objectives set by the European Commission in the retail investment strategy (RIS), whose package of measures was published in May 2023. In this regard, it shares the need expressed by the European Commission for the RIS package to have a broad scope and encompass all aspects of the consumer investment path. On this basis, **SpainCap intends to monitor and participate in the processing of the proposed amending Directive and Regulation** and to convey the industry's interests and commitments.

SpainCap also shares that the protection and empowerment of the retail investor through: facilitating access to information on investment products and services, increasing transparency and comparability of costs, facilitating performance analysis of their portfolio investments, ensuring the absence of conflicts of interest, safeguarding against misleading advertising and reducing administrative burden and improving accessibility.

8.

Sustainability: a stronger voice in Spain and Europe.

The transition to a low-carbon economy and social criteria in global supply chains pose major challenges but also generate significant investment opportunities. In this context, the integration of environmental, social and governance (ESG) criteria into all investment opportunities is a growing demand from all financial market players. **The investment model of private capital funds encourages managers to focus increasingly on the sustainability of the investment.** This is because the incorporation of ESG criteria in investment decisions helps to mitigate risks, save costs, generate new revenue opportunities and strengthen the reputation of business projects and have a positive impact on the environment.

The fight against climate change led to the adoption at EU level in 2019 of two key regulations: the Taxonomy Regulation; and the Regulation on Sustainability Disclosures in the financial sector. In 2022, Regulatory Technical Standards (RTS) were adopted which fleshed out both Regulations, and which apply to financial markets from 1 January 2023. **The third key regulation, the corporate sustainability directive (CSRD), was adopted on 31 July 2023.**

SpainCap sees two major opportunities for Spanish SMEs and startups to play a relevant role in **implementing the sustainability strategy set by the EU:** supporting them in the development of new businesses linked to sustainable transition; and the integration of ESG criteria in the decision making of managers.

Disclosure vs. Standardisation, Legal Certainty and Public-Private Collaboration:

As a new regulation, there are inevitably gaps that need to be addressed and, as the subject matter of the regulation is constantly evolving, it is necessary for the **European Supervisory Authorities (ESAs), the European Commission and national regulators to take into account rapidly changing market practices and new products and standards.** SpainCap welcomes in this regard the European Commission's decision of April 2023 responding to consultations of the European Supervisory Authorities (ESAs) and aligns with its position **that the Disclosure Regulation should not be understood as standardisation**, and that financial market participants should autonomously develop their sustainability strategies, taking into account the specificities of each sector of the sustainable economy.
It is undoubtedly important to fight the risk of greenwashing and contribute to intense self-regulation from the private capital industry. As well as supporting initiatives such as the one published by ESMA in November 2022 to establish guidelines for fund names using ESG or sustainability-related terms. However, **it is of paramount importance to avoid ambiguity in the criteria to be established for the sake of legal certainty.**

In order to strengthen disclosure regulation and promote legal certainty, SpainCap is committed **to enhancing public-private collaboration.** This is essential, for example, in order to properly **comply with the obligation for companies to disclose how their activities are associated with economic activities considered environmentally sustainable,** as established in article 8 of the Taxonomy Regulation. **It is also necessary to work on further defining taxonomic activities,** with reference to the concept of DNSH ("Do Not Significant Harm"), in order to accelerate the transition towards a sustainable economy. It is important that the regulation is finalised, so that the transition can be made with clear rules of the game and in a fair way for the SMEs that make up the backbone of the industrial fabric of our country. It is also necessary to clarify, homogenise and rationalise the bureaucratic burden of sustainability reporting.

Forthcoming regulations:

SpainCap monitors and participates in ESG initiatives affecting the private capital industry to identify challenges and opportunities in their impact. In this regard, the Directive on sustainability reporting and the draft bill transposing it, which seeks to ensure complete and comparable sustainability information, and the proposed Directive on sustainability due diligence, are fundamental. **SpainCap also monitors other European and national regulations on circular economy, biodiversity, climate change, environmental taxation, etc. that could impact the companies' portfolios.** In this regard, the draft Royal Decree regulating the content of the reports on the estimation of the financial impact of the risks associated with climate change for financial institutions, listed companies and other large companies, which develops the contents of article 32 of Law 7/2021 on Climate Change and Energy Transition, stands out in this regard.

Sustainable
Future

SPAINCAP represents the private equity & venture capital industry in Spain and its investors, including insurers and pension funds. One of its objectives is the establishment of an appropriate regulatory framework for the industry. In addition to connecting all members of the sector in Spain, SPAINCAP also represents its interests before the authorities, media and public opinion at national and international level, participating in alliances and synergies in Europe and Latin America.

The Association issues regular communications on the positive impact of its activity on the industrial fabric and job creation, and provides statistics and updated information on the evolution of the industry. SPAINCAP also organises training courses, events and round tables for members and the general public in order to reinforce the contribution of private capital to the economy and the growth of SMEs and Startups in Spain, and also to promote sustainability among its members.

SPAINCAP brings together more than 170 national and international venture capital & private equity firms, 94 service providers and 19 institutional investors. The Association promotes professional standards among its members: transparency, good practices and good governance.

May 2024

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