



“Investing in your future”

ANNEX 2 to the Call for Expression of Interest n. JER 2010-002/2

Financial Instrument: Description and Selection Criteria

Capitalised expressions utilised herein shall have the meaning attributed to them in the above mentioned Call for Expression of Interest, unless otherwise defined below or the context requires otherwise. In addition to the above, the table below should be read by taking into account the meaning attributed to certain technical and industry-specific terms by Reg. 800/2008. Unless the contrary intention appears, words in the singular include the plural and words in the plural include the singular.

Part I: Description of the Financial Instrument:

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| Financial Instrument | Risk Capital Fund (or “Fund”). One or more Financial Instruments will be created, depending on the results of the Call and subsequent selection process. |
| Fund Manager | Financial Intermediary selected by JHF to manage a Risk Capital Fund. The Fund Manager will comprise an experienced professional team, operating according to best industry practices, complying with professional standards issued by the EVCA ¹ or other equivalent organisation. Such team will be expected to act independently. One or more Fund Managers (Financial Intermediaries) will be selected as a result of the Call and subsequent selection process. |
| Indicative maximum amount of funding foreseen for the Financial Instrument (JHF contribution) | Up to Euro 35 million |
| Investment amount into an Eligible SME | Investments into an Eligible SME cannot exceed EUR 1,500,000 during any period of twelve months. |
| Financial Instrument availability (Fund duration) | Up to 10 years, with the possibility of extension for 2 years |
| Fund’s investment period | Initial investments in Eligible SMEs are envisaged to be made until 31 December 2013 (or 2015, provided that the applicability of Reg. 800/2008 is extended). Follow-on investments may be made throughout the duration of the Fund. The disbursements will follow the asymmetric disbursement schedule described below under “Schedule of disbursements”. |
| Type of investments | The Fund will undertake Risk Capital investments, taking the form of either equity or quasi-equity. The Financial Instrument shall be restricted to providing seed capital, start-up capital and expansion capital, as defined by Reg. 800/2008. |

¹ European Private Equity and Venture Capital Association

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| Eligible SMEs | <p>The Fund will target only SMEs as defined under Commission Recommendation 2003/361/EC and under Reg. 800/2008, which are not “firms in difficulty” within the meaning of Article 2.1 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty², as amended or substituted by future Community guidelines (“Eligible SMEs”). However, as stipulated by art. 1 (7) of Reg. 800/2008, an SME which has been incorporated for less than three years shall not be considered, for the purpose of the Financial Instrument, to be in difficulty with regard to that period, unless it fulfils the criteria under the relevant national law for being the subject of collective insolvency proceedings. Eligible SMEs must be registered and have their main place of business in Romania.</p> |
| Excluded sectors and activities | <p>Investments can be made in Eligible SMEs active in all sectors of the economy, <u>with the exception of:</u></p> <p>A. The sectors stipulated by Article 1, paragraphs 2-6 of Reg. 800/2008.</p> <p>B. The following economic activities as classified by NACE Rev. 2³:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Section A - Agriculture, Forestry and Fishing; <input type="checkbox"/> Section B - Mining and Quarrying, only the following codes: <ul style="list-style-type: none"> o 05 Mining of coal and lignite; o 0892 Extraction of peat. <input type="checkbox"/> Section C - Manufacturing, only the following codes: <ul style="list-style-type: none"> o 10 Manufacture of food products o 12 Manufacture of tobacco products; o 24 Manufacture of basic metals; o 2051 Manufacture of explosives; o 206 Manufacture of man-made fibers; o 254 Manufacture of weapons and ammunition; o 301 Building of ships and boats; o 304 Manufacture of military fighting vehicles; o 1101 Distilling, rectifying and blending of spirits; o 1104 Manufacture of other non-distilled fermented beverages. <input type="checkbox"/> Section F, only code 411 Development of building projects <input type="checkbox"/> Section L - Real Estate Activities; <input type="checkbox"/> Section K - Financial and Insurance activities <input type="checkbox"/> Section N - Administrative and support service activities <input type="checkbox"/> Section O - Public administration and defence; compulsory social security; <input type="checkbox"/> Section R - Arts, entertainment and recreation; <input type="checkbox"/> Section T - Activities of households as employers; undifferentiated goods and services-producing activities of households for own use <input type="checkbox"/> Section U - Activities of extraterritorial organisations and bodies. <p>C. Furthermore, no investment will be made in SMEs active in any fields related to: arms production and arms trading; tobacco; alcohol; gambling; human cloning; genetically modified organisms.</p> |
| Governing law and language | <p>The legal documentation of the Fund shall be in the English language and shall be governed by the laws of the country of incorporation, to be within the European Union.</p> |
| State aid regime | <p>Investments are subject to the state aid regime defined by Reg. 800/2008, implemented in Romania through the Risk Capital State Aid Scheme approved by the Order of the Ministry of Economy, Trade and Business Environment No. 625/ 07 April 2010, published in “Monitorul Oficial al Romaniei” (Official Journal of Romania) No. 269 / 26 April 2010.</p> <p>The Fund Manager will be contractually responsible for ensuring that investments respect the provisions of such regulation.</p> |

² Official Journal of the European Union C 244 of 1.10.2004.

³ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains

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| Private Investors | <p>The Private Investors' participation in the Financial Instrument shall constitute, at any time, at least 30 percent of the total capital of the Financial Instrument.</p> <p>For the purposes of the above, "Private Investors" shall be deemed to be any investors which, in the reasonable determination of the Fund Manager, are normal economic operators (i.e. investors operating in circumstances corresponding to the market economy investor principle) in a free market economy, irrespective of the legal nature and ownership structure of such operators.</p> <p>In this case, the JEREMIE Holding Fund will be deemed to act as a public investor.</p> |
| Management Costs of the Fund | <p>The management costs of the Financial Instrument shall be according to market practice and shall not exceed, on an yearly basis, 3% of the committed capital during the investment period, and of the invested capital thereafter.</p> <p>For the purposes of the above, the management costs shall be deemed to include any fees, expenses and costs necessary to set up and manage the Financial Instrument.</p> |
| Schedule of disbursements | <p>In principle, all amounts paid by the JHF should be totally disbursed and spent, either towards investments or management costs, before the end of 2015. In order to cater for this, the Risk Capital Fund's schedule of disbursement by the Private Investors and the JHF may be asymmetrical. As it is currently envisaged, for any expenses of the Financial Instrument, the JHF will initially contribute 100% of the amount necessary to cover said expenses, whilst the Private Investors will pay out their respective share of the drawdown amount, e.g. 30%, into an interest-bearing escrow account. The amounts in the escrow account would not be utilised until all JHF monies have been drawn down and either invested into SMEs or paid as management costs, or until the beginning of 2016. In any case, the mechanism to be eventually put in place shall ensure that the underlying economic interests of, and the risks taken by the JHF and the Private Investors, will be aligned throughout the existence of the Fund. The mechanics of the disbursements and the escrow arrangement will be set out in the Operational Agreement.</p> |
| JHF/ Private Investor ranking | <p>The JHF and the Private Investors in the Risk Capital Fund will rank "pari-passu".</p> |
| Fund's due diligence before investments | <p>The Fund Manager will make investment decisions based on each investment's business plan, which should contain product description, turnover and profitability calculations and forecasts, previous assessment of project viability, as well as each investment's clear and real exit strategy compatible with relevant EC regulations.</p> |
| Fund's distribution cascade | <p>The distributions of proceeds from a Fund will be made according to the schedule below:</p> <ol style="list-style-type: none"> 1. First, 100% to the Private Investors and the JHF (pro-rata to their underlying economic interest) until they have received distributions in aggregate equal to the total capital commitments. 2. 6% Hurdle Rate: Second, 100% to the Private Investors and the JHF (pro-rata to their underlying economic interest) until each investor has received sums equal to a 6% cumulative annual rate of return on their contributions drawn down and not yet returned; 3. Fund Manager Catch-up: Third, 100% to the Fund Manager until the Fund Manager has received an additional amount equal to 20% of the total preferred returns distributed to the investors under paragraphs above; and 4. 80/20 Split: Thereafter, 80% to the Private Investors and the JHF (pro-rata to their underlying economic interest) and 20% to the Fund Manager (Carried Interest). |

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| Additional features of the Financial Intermediary | The Fund Manager will manage the Fund based on commercial principles. Investors' representatives shall be appointed in appropriate advisory committee structures to review inter alia Fund corporate governance. In the management of the Fund, the Financial Intermediary shall apply best practices and perform control applicable to the public nature of JHF investment, inter alia considering guidelines developed by EVCA. |
| Reporting | The Fund Manager shall provide EIF with periodical information in a standardised form and scope, in compliance with structural funds regulations, as to be specified in the Operational Agreement. |
| Monitoring and Audit | The Fund Manager and the relevant SMEs (final beneficiaries) shall agree to allow and to provide access to documents related to the Financial Instrument for the representatives of the European Commission (including the European Anti-Fraud Office (OLAF)), the Court of Auditors of the European Communities, EIF, Managing Authority for SOP IEC ⁴ and any other authorised bodies duly empowered by applicable law to carry out audit and/or control activities. To that effect, the Fund Manager shall include appropriate provisions in each investment agreement with Investment Targets. |
| Publicity | The Fund Manager, in line with applicable law and Structural Funds publicity provisions, shall carry out adequate marketing and publicity campaigns aimed at making the JEREMIE initiative known to the SMEs in Romania. |
| Additional Structural Fund requirements | This Financial Instrument is funded by EU structural funds and it is therefore subject to structural funds regulation and requirements, some of which have already being presented in this Annex, hereabove (e.g. Monitoring and Audit, Publicity, Reporting etc). It should be noted, however, that more detailed information on actions necessary to ensure compliance of operations linked to this Financial Instrument with all structural funds requirements (e.g. retention of documents, environmental protection, equality and non discrimination) will be provided to, and discussed with the selected Financial Intermediary during the contractual negotiations process. |

⁴ National public authority designated by GoR to manage the SOP IEC, as referenced in the Funding Agreement.

Part II: SELECTION CRITERIA for the Financial Intermediary

| 1. | ELIGIBILITY CRITERIA | System of appraisal |
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| | | Yes/ No |
| A. | Receivability | |
| 1.1. | The Expression of Interest is submitted within the Deadline; | |
| 1.2. | The Expression of Interest is submitted both by registered mail and e-mail; | |
| 1.3. | The Expression of Interest is completed and submitted in English; | |
| 1.4. | The Expression of Interest is duly signed; | |
| 1.5. | The Expression of Interest is prepared in accordance with Annex 1 to the Call for Expression of Interest. All necessary supporting documents are provided. | |
| B. | Eligibility | |
| 1.6. | Applicant's absence of conflict of interest (as per template provided in Appendix 4 to the Expression of Interest); | |
| 1.7. | Applicant and its senior management are not in any situation of exclusion (as per template provided in Appendix 5 to the Expression of Interest); | |
| 1.8. | Ability to communicate in Romanian and English; | |
| 1.9. | The Expression of Interest addresses all the items set out in the Project Description (Appendix 2 to Annex 1); | |
| 1.10. | The Expression of Interest addresses all the items of the Financial Instrument, including any special conditions, set out in the relevant parts of the Financial Instrument description (Part I of Annex 2); | |
| 1.11. | Commitment to raise at least 30% of the Risk Capital Fund from Private Investors within an estimated 6 months from the date when each selected Fund Manager is announced; | |
| 1.12. | Applicant commitment for own investment in the Fund of at least 1% of the total Fund size. | |

| 2. | QUALITY ASSESSMENT CRITERIA | WEIGHTING |
|------|--|------------------|
| 2.1. | <p>Project Relevance, Quality and Coherence</p> <p>Evaluation of the Fund focus and proposed investment strategy, including viability of Fund's size.</p> <p>Evaluation of the Fund Manager team profile, stability and ability to implement the Financial Instrument.</p> <p>Assessment of operational, financial, technical and VC competences.</p> <p>Track record of the Fund Manager team (specifically in Romania).</p> <p>Capability as members of boards and/or committees of an investment and/or advisory nature.</p> <p>Evaluation of Applicant's investment processes, including dealflow generation, ability to invest, ability to add value to companies and exit strategy.</p> | 60 points |
| 2.2. | <p>Project Maturity</p> <p>Demonstration of ability to raise at least 30% of the Fund from private investors within an estimated 6 months from the date when each selected Fund Manager is announced.</p> <p>Demonstration of ability to source deals in Romania (SMEs).</p> | 20 points |
| 2.3. | <p>Institutional Capacity & Sustainability</p> <p>Fund Manager organisation, structure and long-term viability.</p> <p>Assessment of the corporate governance in place.</p> <p>Assessment of legal structures and independence.</p> <p>Terms and Conditions, including management fee and profit share arrangements.</p> <p>Assessment of the alignment of interests between the Fund Manager and the Investors.</p> <p>Assessment of Reporting and Control Procedures.</p> | 20 points |