Brussels, 14th September 2009

AECM position regarding the European Commission's consultation on the application of the Temporary State Aid Framework

The European Association of Mutual Guarantee Societies (AECM) is pleased to provide the European Commission with its views on the "Temporary community framework for state aid measures to support access to finance in the current financial and economic crises"[1] published on the 22nd January 2009.

AECM views the Temporary Framework as very important in the context of the current crisis situation. Many of its member organisations have made use of the Framework to adapt existing products or launch new, temporary, products, to better serve the SMEs in this difficult market environment.

In the course of the application of the Framework, AECM's members have noticed a few areas which should be improved to maximise its impact on SME finance.

I. Issues related to the Temporary Framework

Scope - Guarantees ex-post

According to section 2.3 of the Commission notice on the application of Articles 87 and 88 of the EC Treaty to State Aid in the form of guarantees (2008/C155/02), guarantees ex-post "may also be an aid for the lender, in so far as the security of loans is increased", and is therefore not allowed. Business regulations of guarantee schemes generally also exclude ex-post guarantees.

[1] **Communication from the Commission — Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis,** (2009/C 16/01)

In our opinion, given that the crisis worsens the financial position of many SMEs and renders their debt service a heavy burden, it would makes sense, on a temporary basis, to allow banks to bring in additional institutional guarantees. While we agree that in a normal economic environment this prohibition is sensible, we think that it would be advisable to include a temporary suspension of this prohibition until the crisis is passed.

Wage-bill restriction

According to section 4.3.2.d of the Communication from the Commission on the Temporary Framework, the amount of a loan that can be guaranteed to up to 90% should not exceed the total annual wage bill of the beneficiary (including social charges and cost of personnel working on the company site but formally on the payroll of sub-contractors). In our opinion, this scope restriction is too narrow and unnecessarily excludes capital-intensive companies as well as small start-ups, which typically have a very small employee basis. We therefore suggest eliminating this provision.

Cumulation with *de-minimis* aid

Section 4.7 of the Communication states that "The Temporary aid measures contained in this Communication may not be cumulated with *de minimis* aid for the same eligible costs". This makes it difficult for some of our members to raise their guarantee amount to 90% for those loans that are already guaranteed, since these deals already contain a *de minimis* aid element pertaining to the guarantee first granted when the loan was applied for. It also excludes other cases containing aid of small amounts, such as loan contracts with interest- or guarantee fee subsidies. This has as effect that a much smaller population of SME beneficiaries can take advantage of aid under the Temporary Framework.

Notification method

In at least one Member State, Germany, the national programme based on the Temporary Framework could not be used to its full extent, given the fact that the adoption of the calculation method notified by the German Guarantee Banks has been deferred repeatedly by the European Commission. It is estimated that about 400 companies cannot be supported per annum due to this situation. In the present crisis context, it would be desirable that the notification process be finalized as soon as possible.

II. Other state aid issues

Independently from the Temporary State Aid Framework, AECM would like to raise two important issues:

Guarantee notice – Safe-harbour rates

As previously raised during the consultation on the Guarantee Notice, AECM maintains its position that the safe-harbour rates mentioned in the Guarantee Notice are far too high to be a practical alternative to the other calculation methodologies of the state aid equivalent listed in the Guarantee Notice. The levels stated ar far too high and beyond any level practiced in the market. If a guarantee institution were to charge such premiums, the product would be immediately priced out of the market. AECM therefore urges the Commission to reconsider these rates, if they are to constitute a realistic alternative methodology.

***De minimis* regulation for agriculture – Gross grant equivalent**

The maximum allowable gross grant equivalent admissible under the De Minimis Regulation for Agriculture of € 7.500 over three years is too low in our opinion and should be raised substantially to € 100.000.