



De minimis Regulation

QUESTIONNAIRE

ABOUT YOU

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01. Do you object to the disclosure of your identity?

Yes No

02. Do any of the exceptions provided for in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹ apply to your response? If so, please indicate clearly which parts should not be divulged, justify the need for such confidential treatment and provide a non-confidential version of your response for publication on the Commission's website.

Please provide your contact details below.

| | |
|---------------------------------|--|
| Name | Marcel ROY |
| Organisation represented | European Association of Mutual Guarantee Societies (AECM) Transparency register number: 67611102869-33 |
| Main business activities | AECM regroups 38 member organizations in 20 EU Member States, Montenegro, Turkey and Russia. Our members issue credit default guarantees for SMEs, some of them have specific dedicated guarantee programmes for rural and agricultural SMEs |
| Location (country) | Belgium |
| E-mail address: | info@aecm.be |

NOTE: You are requested to follow the order of the questions, even though you are not required to reply to all questions. You can also submit additional information that you consider relevant and which does not fit any specific question.

¹ OJ L 145, 31.5.2001, p.43.

SECTION A: FACTUAL INFORMATION ON THE USE OF THE *DE MINIMIS* REGULATION

Questions aimed at public authorities (both local and central):

1. Has support under the *de minimis* Regulation been granted in the territory of your authority (either by your authority or by regional/municipal/etc. authorities)? If so, please provide, if possible since the entry into force of the Regulation (2008), per year:
 - a. the total amount of *de minimis* aid granted [total amount, average amount per beneficiary];
 - b. the number of beneficiaries;
 - c. if applicable and available, a breakdown of aid granted on the territory of your authority by central authority and regional/local authorities.

If you do not have precise data, please provide an estimate.

2. Are there differences in the use of the *de minimis* Regulation between regions/areas within the territory of your authority (e.g. if certain areas receive a relatively high volume of *de minimis* aid compared to others)? If so, please explain why.
3. Which aid instruments (grants, loans, guarantees, etc.) have you used under the *de minimis* Regulation? Please explain why you used those instruments and provide, if possible since 2007, for each instrument the total amount of *de minimis* aid and the number of beneficiaries per year.
4. Which objectives did your authority pursue with the aid granted under the *de minimis* Regulation (such as compensation for losses resulting from disasters, etc.)? Please estimate, if possible, the percentages of *de minimis* aid granted for each different purpose.
5. Have you carried out an assessment (overall or on a case-by-case basis) of the impact of the *de minimis* aid granted? If so, please explain and summarise its main results.
6. Regarding the measures for which you have used the *de minimis* Regulation, what would you have done if the *de minimis* Regulation had not been adopted? Would you have designed the aid measures differently so that they could fall under the General Block Exemption Regulation? Would you have notified them? Or would you not have granted them at all? Please explain why and provide an estimate of the proportion of measures that would fall under each category.
7. Has your authority granted aid measures slightly above the ceiling of the current *de minimis* Regulation? If so, please specify how often such measures were granted and whether those measures were granted under the General Block Exemption Regulation, under an authorised aid scheme or under an individual decision.
8. To what extent has the economic and financial crisis had an impact on the granting of *de minimis* aid in your Member State?

If applicable, please describe this impact and indicate if, and how, your authorities have adapted their *de minimis* aid granting policy in response.

In particular, please explain whether you have experienced an increase in *de minimis* aid directly targeting companies' difficulties in accessing finance. Please explain, if possible, to what extent this was relevant for small, medium-sized and large undertakings.

SECTION B: GENERAL DE MINIMIS POLICY QUESTIONS

Questions aimed at all respondents:

9. Please describe what you consider the main positive economic effects of support granted under the *de minimis* Regulation. Please substantiate and give concrete examples.

Practical experience of AECM member organizations has shown that the key main positive economic effect of support granted under the de minimis Regulation has been the improved access to finance of European SMEs, leading to added employment and GDP growth.

Guarantees granted by AECM member organizations are considered by partner banks as a full-fledged replacement for collateral, reducing their regulatory own funds requirements. State support in form of counterguarantees, and in respect of EU competition regulation, is the basis for the business model of non-profit private sector guarantee institutions.

The importance of the guarantee instrument and support for it will continue gaining importance in the process of the implementation of Basel III. Also, demand for credit is growing while financing solutions are becoming ever more complex and diverse, with greater competition for loan finance putting SMEs under further strain. In this context, the support for SME loans and guarantees via the de minimis Regulation to ensure proper access to finance and in order to avoid the risk of a credit crunch should be seen as a major positive economic effect. The instrument allows a relatively easy handling of small state aid amounts.

In the agricultural sector in particular, demand for credit has risen substantially since the start of the financial and economic crisis. This is mainly due to two reasons: after decades of deterioration price levels for agricultural produce, the main raw material markets have known a bull market condition since the beginning of the century. In addition, in some EU Member States, the agricultural sector has massively invested in renewable energy sources (such as bio-gas equipment). Also in other respects, the agricultural sector faces specificities that have an impact in its financing needs. Investment volumes grow due to modernization, shortening development cycles as well as the need to reach economies of scale through higher production volumes with rising cost for agricultural land as a consequence.

It is e.g. relevant for guarantees in support of business transfers and start-ups. In particular start-ups are important for the renewal of the economic tissue and revival of a sound competitive environment. On the other hand, start-ups usually do not dispose of a financial and operational track record and therefore have difficulties in accessing loan finance. Guarantees solve this problem related to the very early stage. The De-minimis Regulation has proven to be very adapted to this form of support.

Furthermore, farmers are exposed to typically very cyclical situation with regard to supply (crops) and demand on markets, inherently putting a greater emphasis on the need for working capital finance. Aside from this specificity, the need for working capital also reflects a choice of business model, i.e. whether to outsource a certain number of products or services (calling for pre-financing in form of working capital) or whether to produce oneself (which calls for investment loans). In our perception, competition law should not prejudice one such choice over another.

We see the de minimis regulation is the only way to grant guarantees at a preferential premium. Without this opportunity SMEs' total cost of external financing would increase,

having as a consequence higher financial costs would reduce SMEs' return on investments, which could ultimately prevent economic growth and job creation.

As a possible reference, we invite you to consult a study by the University of Trier, Germany on the Macroeconomic added-value of guarantees:<http://www.aecm.be/en/inmit-study-on-the-macroeconomic-benefits-of-the-german-guarantee-banks.html?IDC=31&IDD=183>

10. Please describe what you consider the main potential negative effects of support granted under the *de minimis* Regulation. Please substantiate and give concrete examples.

We are not aware of negative effects of support granted under the de minimis Regulation.

11. Do you consider that the application of the *de minimis* Regulation has led, in practice, to effects on competition and/or trade between Member States?

Yes No

Please explain in which cases or sectors and why. For the purposes of your reply, please also consider, in particular, the aggregate effects of *de minimis* aid.

AECM members have not been able to find cases in which in practice de-minimis aid would have led to a distortion of competition or trade between the Member States.

The guarantee is a useful and market near instrument for SME support. Guarantees have far less impact on free competition as e.g. direct subsidies. Guarantees do not provide direct financial benefits for the beneficiary SME other than the possibility to obtain a loan. These advantages should be taken into consideration by reducing the administrative burden for users of this type of financial instrument as much as possible.

With regard to the activities of the AECM, we would like to underline that the great majority of our members' beneficiaries are small or micro companies. Given the very small amounts of credit and of state aid involved in these operations, we do not see any possible distortive effect.

12. Do you have concrete examples of where *de minimis* aid was granted by another Member State/region which had an effect on undertakings in your Member State/region?

No, see answer to question 11.

13. Do you consider that the *de minimis* Regulation has specific positive or negative effects on SMEs compared to large companies?

AECM's members typically only provide guarantees (mostly loan default guarantees) for SMEs. Therefore amounts under De minimis are relatively low, as they tend to respond to smaller investments rather than to larger ones.

In our view, the De-minimis Regulation for Agriculture has shown its usefulness in practices due to the fact that support measures for companies provided by the State are not considered to be state aid relevant up to a threshold amount of € 56.250. By providing the possibility of using a threshold amount, as well as its equivalent guarantee amount, many smaller

guarantee institutions have been able to use the Regulation without having to manage complex calculation models, which would be unaffordable for them.

SECTION C: TECHNICAL DESIGN OF THE DE MINIMIS REGULATION

Questions aimed at all respondents:

14. Based on your experience with the application of the *de minimis* Regulation, are the provisions on exclusion from the scope (Article 1) clear and adequate?

Yes No

If not, please explain where you see a need for clarification or change.

There is a lack of clarity with regard to the concept of “other current expenditure linked to the export activity”. Are guarantees allowed for companies which sell their products partly in domestic and partly in foreign markets?

Please clarify this definition.

15. Based on your experience with the application of the *de minimis* Regulation, are the definitions laid down in Article 2 clear and adequate?

Yes No

If not, please explain where you see a need for clarification or change.

The concept of “active in the primary production of agricultural products” needs a more detailed clarification:

*Does the company’s registered main activity matter? Or any registered field of activity? Or the proportion of primary production of agricultural products in sales revenues of a prior period? Or does it depend on the project’s aim? Which *de minimis* could be applied in case of a company which carries out primary production of agricultural products and is active in other fields as well? This type of mixed business activity is the rule in many Member States (particularly in horticulture). E.g., if the transformation and marketing measure represent less than 50% (or another percentage) of the total activity, would the business be considered as being active in primary production (in which case it would be covered by the scope of *De Minimis for Agriculture*)?*

16. Based on your experience, are the definitions of individual *de minimis* ceilings (the amount of aid that may be received by any one undertaking over any period of three fiscal years) and national *de minimis* ceilings (the cumulative amount of *de minimis* aid that may be granted per Member State to undertakings engaged in agricultural production over any period of three fiscal years) laid down in Article 3(2) and (3) clear and adequate?

Yes No

If not, please state which measures/amounts/values should be clarified or changed.

The individual ceiling of the agricultural de minimis aid (€ 7500/undertaking/3 years) is extremely low, it is recommended to significantly increase the threshold.

Given that in other sectors, despite of a significantly higher threshold, de minimis aid has not distorted competition or trade, we would not expect an increase for the agricultural sector to be distortive of competition either.

Taking into consideration the financing need for SMEs in the agricultural sector as described in our answer to point 9, we consider the current threshold level is by far too low. We recommend readjusting this threshold to one third of the amount for the future General De Minimis Regulation and at least €100.000/undertaking/3years, so as to enable small farmers to engage e.g. in infrastructural investments, such as for the modernization of production equipment or for renewable energies.

We propose a proportional increase of national ceilings as well.

17. Is the current definition of transparent aid (Article 3(6)) adequate?

Yes No

If not, please explain where you see a need for clarification or change.

In subparagraph d) the guaranteed amount of € 56,250 is specified without taking into consideration the level of the guarantee premium. This must be the reason for defining a relatively low threshold. Given that the admissible threshold is so low, – even in case of SMEs – applying this rule is not a real option. As a consequence, the methodology approved by the Commission is always used.

18. Based on your experience with the application of the *de minimis* Regulation, are the provisions on cumulation (Article 3(7)) clear and adequate?

Yes No

If not, please explain where you see a need for clarification or change.

The cumulation rules stipulated under Article 3 para. 7 are formulated in a clear manner; however, we do not consider them as adequate. In our view, the application of the cumulation requirements for De-minimis aid with other exempted aid measures should be eliminated, given that these should be generally seen as non-distortive of competition due to their very small amounts. This would reduce complicated calculations and relatively high information requirements, which be welcome in the context of State Aid simplification and with a view of speeding up the processing of guarantee applications.

SECTION D: MONITORING

Questions for public authorities:

19. How do you ensure proper monitoring of *de minimis* aid?

20. Have you set up a central register for *de minimis* aid?

If yes, please describe the functioning of your system. If possible, explain:

- a) How many authorities use and/or have access to your central register;
- b) How you would estimate the net cost (if possible provide full man-days/fulltime equivalents) of setting up and running a central register as opposed to a decentralized system of recording and monitoring;
- c) The purposes for which you use the information contained in your register;
- d) Whether your register only covers *de minimis* measures or also State aid;
- e) If you compare the situation before and after the introduction of the register, what in your view are the main (positive and negative) changes.

If no, please explain why you have chosen not to set up a central register. Do you have an overview of *de minimis* aid granted at central level through other means (please specify)?

Questions aimed at all respondents:

21. Have you encountered difficulties in applying the provisions on monitoring (Article 4), in particular concerning compliance with individual and national ceilings?

Yes No

If yes, please explain.

22. Please explain the workload (if possible provide full man-days/fulltime equivalents) caused by the monitoring provisions (Article 4), in particular concerning compliance with the ceilings and the records to be kept, and estimate, if possible, the administrative burden created by it.

Not significant.

SECTION E: TRANSITIONAL PROVISIONS

23. Have you encountered any difficulties in applying the transitional provisions laid down in Article 6?

Yes No

If yes, please explain.

In your view, how could these provisions be improved?

SECTION F: MISCELLANEA

Questions aimed at all respondents:

24. Do you have any other comments on the application of the *de minimis* Regulation on issues other than those covered in the previous questions?

We recommended the creation of a separate state aid category for preferential credit default guarantees under the Block Exemption Regulation, applicable even for working capital financing.

Some AECM members apply four different types of categories (apart from the EAFRD and the individually notified programmes): the general and the agricultural block exemptions and de minimis aid. Since the nature and management of transactions, the amount of grant equivalent and the potentially distortive effect is the same in each case, there is high potential of simplification of state aid administration and improving transparency.

Existing state aid categories has been designed generally for non-refundable grants. In contrast, a preferential credit default guarantee has special characteristics, and in many ways it is one of the most effective forms of SME development promotion:

- the company's share of the project's cost and risk is much higher than in the case of a direct grant;*
- the state aid is not directly given to the undertaking, but indirectly through access to finance;*
- credit default guarantee is not a separate measure as it is always linked to a credit transaction;*
- the state aid element has only an indirect effect;*
- the amount of aid is typically small and significantly less than in case of grants;*
- less risk of distortion of competition.*

25. Please provide copies of any documents or studies which may be relevant for assessing the application of the *de minimis* Regulation and contributing to the reflection on its future revision.

Please indicate whether the Commission may contact you for further details on the information submitted, if required.

Yes No

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE.