AECM additional comments to Commission's evaluation of the Guarantee Notice

AECM members very much welcome the Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (2008/C 155/02) (hereafter Guarantee Notice) which provides detailed guidelines about the principles on which the Commission bases its interpretation of Article 87 and 88 of the Treaty and their application to State guarantees. In particular, AECM members enjoy the Commission's simplifications for the valuation of individual guarantees for SMEs, namely the "safe-harbour" premiums which, if they are paid, automatically qualify the guarantee as non-aid. Such safe-harbour grid could also be included in other regulations like, for instance the GBER, the ABER, etc.

In light of the Commission's public consultation on the Guarantee Notice, we would like however, to direct the Commission's attention to a practical example that occurs when granting a state guarantee and call for improvement of the provisions, namely:

According to Article 3.3 of the Guarantee Notice *"For SMEs which do not have a credit history or a rating based on a balance sheet approach, such as certain special purpose companies or start-up companies, the safe-harbour premium is set at 3,8 % but this can never be lower than the premium which would be applicable to the parent company or companies"*.

In the case of Romania, there are several types of entities active in the agricultural sector, such as authorized natural persons, sole proprietorships, family associations and family enterprises that keep accounting records in the single-entry bookkeeping system, in contrast to other companies that keep the records in the double entry accounting. The number of these entities is relatively large, even if from an economic point of view they do not have a major impact on the indicators achieved in the agricultural sector and are mainly located in rural areas.

Given their number, credit institutions that finance the agricultural sector have developed rating systems also for these type of entities based on the evaluation of some quantitative and qualitative data such as the size of the agricultural holding (total area of land in operation, heads of animals, fixed expenses, assets, etc.). Credit institutions use the aforementioned rating systems to classify the aforementioned financial beneficiaries like in case of SMEs evaluation based on indicators from the balance sheet. These rating classes are validated through internal methodologies agreed and approved both, by the National Bank of Romania and the external auditors of Romanian financial institutions.

To illustrate, in the case of our member, the Rural Credit Guarantee Fund of Romania, in the last 20 years, these entities represented about 85% of the total number of guaranteed beneficiaries and 10% of the value of the guarantees granted.

To this end, we suggest including in the Guarantee Notice a separate provision for entities that do not have a rating based on a balance sheet approach, but for which there is an internal rating established by the financial institutions, in order to regulate a level of the premium applicable to them, similar to the rating classes of Standard & Poor's, Fitch and Moody's with different safe harbour premiums, so that final beneficiaries that are included in higher rating classes, respectively have large holdings, i.e. over 100 hectares of land or a large herd of animals and which have an adequate payment capacity, to benefit from differentiated guarantee premiums, lower than the current 3.8%.

Additionally, we suggest revising the safe-harbour guarantee premiums for aid-free state guarantees granted to SMEs. According to our members, the annual safe-harbour premium above 2% level is in general too high. A guarantee is a collateral for repayment not a loan. In addition, state guarantees are needed for riskier customers. It is not appropriate to offer them such an expensive support.

Further, we would like to make a reference to the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, which stipulates in Article 213, i.e. Requirements common to guarantees and credit derivatives, paragraph 1(c)(ii) that the credit protection contract must not contain any clause that ''would increase the effective cost of protection as a result of a deterioration in the credit quality of the protected exposure''.

On the other hand, the Guarantee Notice, stipulates that "safe-harbour" premiums apply every year.

For legal coherence between the aforementioned two regulations, we suggest including in the Guarantee Notice the same provision foreseen in the Regulation 575/2013 stipulating that in case of variable-rate premiums, the yearly charged guarantee premiums should not be increased as a result of the deterioration of the company's credit rating.

Finally, we suggest including in the GN a provision that would regulate a certain fee on unused credits applicable to guarantee beneficiaries in the event that the final beneficiary did not use the credit for which the guarantee institution issued the guarantee, on the grounds that the guarantee institution had the financial source exposed and unavailable for another beneficiary.

In light of the above, AECM and its members would very much appreciate if the European Commission could take our requests into its kind consideration by operating the aforementioned changes in the Guarantee Notice for the benefit of small and medium-sized enterprises.

Brussels, November 2022

About us

The 48 members of the **European Association of Guarantee Institutions (AECM)** are operating in 31 countries in Europe. They are either private / mutual sector guarantee schemes or public promotional institutions or banks. Their mission is to support SMEs in getting access to finance. They provide guarantees to SMEs that have an economically sound project but do not dispose of sufficient bankable collateral. This so-called SME financing gap is recognised as market failure. By guaranteeing for these enterprises, guarantee institutions help to address this market failure and facilitate SMEs' access to finance. The broader social and economic impact of this activity includes the following:

- Job creation and preservation of jobs by guaranteed companies
- Innovation and competition: crowding-in of new ideas leading to healthy competition with established market participants
- Structure and risk diversification of the European economy
- Regional development since many rural projects are supported
- Counter-cyclical role during crises

SME guarantees generally pursue a long-term objective and our members, if public, private, mutual or with mixed ownership structure, have a promotional mission.

AECM's members operate with counter-guarantees from regional, national and European level. As of end-2021, AECM's members had about bEUR 312 of guarantee volume in portfolio, thereby granting guarantees to around 5.9 million SMEs. AECM's members are by far the most important counterparts of the EIF concerning EU counter-guarantees, handling EU guarantees from the very beginning in 1998.

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