AECM contribution to the Commission's public consultation on State aid – exemptions for small amounts of aid (*de minimis* aid) (update)

The European Association of Guarantee Institutions (AECM) is pleased to provide feedback on the Commission's proposal for the revision of the Regulation on *de minimis* aid (Commission Regulation No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid).

In February 2022, we submitted to the European Commission (EC) a position paper[1] in which we outlined our general concern regarding the current low *de minimis* threshold. For several reasons stated in this position paper, we kindly recommended the EC to adapt the threshold to the evolution of the economy by raising the ceiling of EUR 200 000 to EUR 500 000 as the amount of the *de minimis* aid that a single undertaking may receive over a period of three fiscal years.

In July 2022, AECM together with the Network of European Financial Institutions for SMEs (NEFI) replied to the Commission's call for evidence: ''State aid – exemptions for small amounts of aid (*de minimis* aid)''[2] outlining once again the need to raise the *de minimis* ceiling of EUR 200 000 to EUR 500 000 and asking for a close assessment of the feasibility and the practical modalities of central mandatory public registers.

We welcome that the EC is giving us now the opportunity to comment on the draft text of the *de minimis* Regulation, which proposes changes compared to the current Regulation in respect to: (i) the *de minimis* ceiling and (ii) the introduction of the mandatory public register at national or EU level.

With reference to the proposed ceiling of EUR 275 000 as the amount of the *de minimis* aid that a single undertaking may receive per Member State over any period of three years, AECM and its members are of the opinion that this

[1] https://aecm.eu/wp-content/uploads/2022/02/AECM-request-to-increase-the-ceiling-of-the-de-minimis-Regulation.pdf
[2] https://aecm.eu/wp-content/uploads/2022/07/AECM-NEFI-reply-to-Commissions-call-for-evidence_de-minimis.pdf

envisaged threshold is way too low and kindly ask the EC to increase it to EUR 500 000 as the amount of the *de minimis* aid that a single undertaking may receive per Member State over any period of three years for the following reasons:

- The proposed ceiling of EUR 275 000 does not seem to take into account the impact unleashed by Russia's war of aggression against Ukraine when calculating the future inflation from 2023 to 2030. In fact, the threshold of EUR 275 000 takes into account the actual inflation that occurred during the period 2014-2022 (~18,7% according to the European Central Bank data[3] and Eurostat[4]) and the target inflation rate of the European Central Bank of up to 2% for the period 2023-2030. It can thus be deduced that the proposed ceiling of EUR 275 000 is based on the expectation that the Harmonised Index of Consumer Prices (HICP) during 2023 to 2030 would be around 2%. Given that the dramatic conflict in Ukraine is weighing negatively on both supply and demand conditions, pushing up prices across many sectors, including higher food prices, it is very unlikely that the inflation rate will go down from 10,1%[5] in November 2022 to 2% in 2023. On the contrary, it is more likely that the inflation will remain elevated for longer than previously expected. On that basis, a predicted inflation rate alone of 10% in 2023 (like is the case for the year 2022) and a linear inflation rate of +2% from 2024 to 2030 will result in a real value of EUR 295 000 in 2030, making the current proposed ceiling already outdated.
- Due to the severe impact and persistence of the COVID-19 crisis, coupled with the recent surge in inflation driven by higher energy costs and supply chain disruptions, a vast majority of SMEs have been heavily using the limited *de minimis* threshold and in most cases the ceiling is exhausted. A substantial increase in threshold is therefore needed in order to avoid the lack of liquidity for SMEs in the years to come.
- An increase to EUR 500 000 is necessary to help SMEs to get access to working capital financing, for which, with the exception of the Temporary Crisis Framework (TCF), other possibilities under the State aid

[3] https://www.ecb.europa.eu/stats/macroeconomic_and_sectoral/hicp/html/index.en.html
[4] https://ec.europa.eu/eurostat/databrowser/view/tec00118/default/table?lang=en
[5] https://www.ecb.europa.eu/stats/macroeconomic_and_sectoral/hicp/html/index.en.html

rules do not exist. The General Block Exemption Regulation (GBER) enables SMEs to receive different categories of aid, in particular investment aid, access to finance (risk finance aid) and aid for start-ups, however SMEs continue to be in dare need for financing for working capital, a situation that has been worsened by the COVID-19 pandemic and the consequences of the Russian military aggression against Ukraine.

- Finally, aiming at determining the right *de minimis* ceiling that would have no effect on trade or competition, an analysis of the impact of the Temporary Framework (TF) adopted by the EC during the COVID-19 crisis can serve as a proxy when analyzing the potential risks to competition by the grant of an aid up to a ceiling of EUR 500 000, even if the initial 800k measure under the TF was legally not a *de minimis* measure.

  In fact, when examining how proportionate the State aid responses implemented by Member States under the TF were, the EC concluded that there was limited impact to the level playing field[6] since there were no Member States observed that would have completely outspent the others and/or in a manner that would have been disproportionate as compared to the economic damage suffered during the COVID–19 crisis. Therefore, by way of comparison, it can be safely assumed that an increase of the *de minimis* threshold to EUR 500 000 would not distort the competition or trade.

With reference to the introduction of the mandatory public registers at national or EU level, AECM and its members share the need to ensure the transparency on all *de minimis* aid granted by any authority within the Member States. However, it should be highlighted that setting up such registers would imply additional costs and red tape for national authorities. Further, any register would need to be maintained regularly and training would need to be ensured for local authorities. In other words, this type of monitoring system (instead of self-declarations from beneficiaries) would require significant IT and human resources costs and have an added value only if the information is accurate and robust, meaning all operators providing *de minimis* aid could have access to the register. Such requirement of public spending does not

[6] https://op.europa.eu/en/publication-detail/-/publication/e77c8009-9460-11ec-b4e4-01aa75ed71a1

come at a perfect moment given that due to the COVID-19 crisis and the current conflict in Ukraine the public authorities' budgets are burdened substantially. To this end, we invite the EC to consider the option to leave Member States the choice between both monitoring systems.
In any case, the set-up of any register should be accompanied by an appropriate transitional period. The current Commission's proposal to set up a *de minimis* register within 6 months after the enter into force of the Regulation is much too short time, in particular for those Member States whose administrative system is federal or decentralized. Therefore, we kindly ask the EC to allow for a transitional period of 3 years.

On another note, we are in doubt about the relevance of a lower ceiling applied to the transport sector. In recital 5 of the proposed Regulation, the Commission bases its proposal on the small average size of undertakings active in the road freight transport sector, which is questionable compared to the situation in other sectors of activity. We believe that in order to reach the 2030 Climate Target Plan on reducing greenhouse gas emissions to at least 55% below 1990 levels by 2030 and to reach climate neutrality by 2050, more needs to be done in the transport sector. *De minimis* regulation must be aligned with the above mentioned EU goals. Increasing the *de minimis* ceiling applied to the transport sector is a clear example of how the EU's State aid regimes can help in reaching these targets. To this end, we invite the EC to consider the extension of the application of the *de minimis* Regulation to aid for the acquisition of electric road freight transport vehicles. At the current juncture, the State aid regimes are too restrictive and far from encouraging the diffusion of cleaner forms of transport.

Further, given the importance to support SMEs investments in the current challenging context but also during their green and digital transition, we invite the European Commission to consider increasing the maximum duration of loans and guarantees to 15 years as the current 10-years duration foreseen in Article 4 paragraph 3b and 6b of the *de minimis* Regulation does not reflect the long-term financing needs of SMEs.

Finally, we ask the European Commission to consider including bonds as a debt instrument under the provision of the *de minimis* Regulation in order to incentivise guarantee institutions to set-up guarantee schemes for debt instruments (bonds) as a measure for development of the capital market, and especially for SMEs.

In our opinion, bonds could be considered as equivalent of loans, whereas in general bond is a form of debt and both financial instruments have similar features, i.e.:

- Beneficiary of the de minimis aid – in both cases (loans and bonds) beneficiary of the de minimis aid is a single undertaking (debtor or bond issuer), not a credit institution, investor or other entity engaged in economic activities.
- Purposes of the de minimis aid – both instruments (loans and bonds) usually are used by undertakings to facilitate the capacity to finance their projects.
- Moment of granting of the de minimis aid – date of decision to issue guarantee to the undertaking.
- De minimis aid is not transferable – in both cases de minimis aid is issued to the undertaking and cannot be transferred, nonetheless initial creditor can change. The de minimis aid is granted to the beneficiary (issuer of the bond or debtor).

Brussels, December 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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