

AECM reply to Commission's call for evidence State subsidies - revision of approval requirement rules (the General Block Exemption Regulation)

The European Association of Guarantee Institutions (AECM) warmly welcomes the European Commission's revision of the General Block Exemption Regulation (EU) No 651/2014 (GBER) and appreciates the opportunity to provide feedback.

AECM and its members consider the GBER a cornerstone of the EU State aid framework, as it enables Member States to grant aid without prior notification to the Commission, provided that the relevant criteria are met. However, the current GBER has become increasingly complex. Since its adoption in 2014, it has been amended six times, introducing new definitions, exceptions, and thresholds that have made its application challenging. The scope of GBER has significantly expanded to cover a broad range of aid instruments (e.g. grants, loans, guarantees, equity etc.), implementation models (direct and intermediated), funding sources (national and EU), sectors, and beneficiaries (from microenterprises to large enterprises).

Applying the GBER, in its current state, requires navigating a fragmented and multi-layered framework. General provisions (Chapters I and II) must be cross-referenced with detailed rules for specific aid types (Chapter III) and, in some cases, definitions in Annex I. These internal cross-references make interpretation difficult.

AECM and its members are fully committed to supporting the European Commission in the ongoing revision of the GBER and would like to take this opportunity to put forward the following proposals:

Structure

- Change the structure of the regulation by dividing it into modules, for instance *General Module* (horizontal rules, definitions, core compatibility conditions), *Sector / Aid type Modules* (environmental, RDI, regional, SMEs, broadband, etc.), and *Procedural Module*. Each module should be self-contained: one can read the General Module plus the relevant sector module without having to jump too often between modules.
- Improve the table of contents and cross-referencing by providing an executive summary or roadmap of what aid types are contained, with pointers to where thresholds, definitions, etc. are. Also it would be useful to have a summary table or index mapping each aid category to required conditions, thresholds, definitions, and procedural requirements.



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- Use standard layout per each aid category, as follows: Scope; eligible beneficiaries; eligible costs; conditions (incentive effect etc.); aid intensity / amount; notification thresholds; procedural/monitoring/ reporting obligations; exclusions.
- Separate horizontal from sector-specific rules. Horizontal rules (e.g. definitions, general compatibility conditions, transparency, monitoring) should be grouped at the start in the General module. Sector aid type rules should be appended or in separate sector modules, referencing the horizontal rules rather than duplicating them.

This structure would address many cross-references to definitions, annexes, general provisions which force the reader to flip between several parts of the regulation and avoid current inconsistent ordering of conditions.

Aid to SMEs

According to Article 17(3)(b) of the GBER, an investment is considered an eligible cost if it involves the acquisition of assets from a business establishment that has closed or would have closed in the absence of the purchase.

In practice, this condition creates a significant barrier to business takeovers and successions, particularly for start-ups and SMEs, even when such transactions preserve or revitalise economic activity. The requirement of imminent closure does not adequately reflect the broader objectives of investment aid – namely, to support economic continuity, renewal, and competitiveness.

The provision also undermines business succession, a growing challenge across many Member States. As ownership structures age, facilitating efficient and incentivised transfers, including through start-ups and management buy-outs, is essential for safeguarding employment and productive capacity. The need to demonstrate imminent closure introduces legal uncertainty and often prevents support for viable, economically meaningful transitions.

We therefore propose that **eligibility for investment aid should be based on the economic objective and outcome of the investment, rather than on the avoidance of closure.** Business takeovers, whether as part of a start-up or succession, should be eligible for support regardless of the establishment's closure risk, provided the transaction leads to the continuation, reactivation, or transformation of economic activity.

Such a revision would:

- Enable support for start-ups through business takeovers;
- Facilitate family successions and management buy-outs;



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- Support regional cohesion by maintaining economic activity in vulnerable areas.

Further, under the current Article 17(3) of the GBER, the acquisition of company shares is explicitly excluded from being considered an eligible form of investment, regardless of the economic effect of the transaction. This exclusion of share deals is outdated and misaligned with economic practice as it fails to recognise that share deals can often achieve the same economic outcomes as asset deals, particularly in the context of business succession, start-ups through takeovers, restructuring, or management buy-outs. By excluding them, the current provision prevents meaningful and economically beneficial projects from receiving support.

Therefore, we propose **introducing a differentiated approach that permits share acquisitions to be treated as eligible investments, provided they meet clear economic and operational criteria.**

Working capital financing

AECM deeply regrets that the GBER does not provide for any form of working capital financing, despite the urgent and growing need among SMEs.

Currently, Article 17 of the GBER covers only investment aid to SMEs, which excludes working capital. However, the types of investments defined under Article 17 - such as the establishment of a new facility, the expansion of an existing one, diversification into new products, or a fundamental change in production processes - are almost always accompanied by an increased need for working capital. Without sufficient working capital, such investments cannot realistically be carried out.

Given that SMEs are the backbone of Member States' economies - driving employment, growth, and innovation - and are thus central to the Union's overall economic resilience, we call on the European Commission to strengthen support for SME development. Specifically, **we propose that working capital be recognised as an eligible cost under Article 17 of the GBER, limited to a proportion of the total investment costs (e.g. up to 25%), where the working capital financing should be limited to financial instruments in the form of guarantees and loans, excluding grants.**

Aid for access to finance for SMEs

The current provisions of Article 22 of the GBER exclude significant number of start-ups from accessing aid due to rigid eligibility criteria, which do not reflect the diversity of start-up lifecycles, particularly in technology-intensive or high-growth sectors. More precisely, the time-based limitation to 5 years since entry to the



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market fails to account for the long development and capitalisation phases typical of R&D-heavy or deep-tech start-ups. In reality, many start-ups, especially in sectors like biotech, cleantech, and software, may require more than 5 years to reach market maturity.

Besides, also the prohibition of prior profit distributions excludes start-ups that may have made minor distributions (e.g. investor returns, founder dividends, IP licensing fees) without undermining their genuine need for aid or growth prospects. In practice, modest distributions are often part of normal early-stage investment arrangements and do not imply a lack of funding needs.

Given this background, it is suggested to extend the maximum age of start-ups to seven years for all sectors and allow up to 10 years for start-ups in R&D-intensive or capital-intensive industries (e.g. biotech, deep-tech, cleantech, industrial automation, space).

Further, it is suggested to remove exclusion due to profit distributions. Instead, introduce a principle of proportionality:

- Distributions that are modest, infrequent, or made in line with investor agreements should not disqualify a start-up from support.
- Only systematic or substantial profit distributions may be considered evidence against a funding need.

Lastly, eligibility should consider not just the company's age, but its stage of development and capitalisation (e.g. pre-revenue, early scale-up, post-pilot). Companies that are still in a growth phase and have not yet reached market consolidation should remain eligible, even if they exceed the current time limits.

Coherence with other policies / interaction with shared management funds

Provide explicit guidance on how GBER applies in the context of ERDF, CF, ESF+, etc., including when programmes are also constrained by cohesion rules. Possibly, create a special module / annex for shared management funds clarifying what must be done to satisfy both, CPR and GBER.

In addition, it is recommended that **the GBER explicitly allows for the combination of financial instruments with a grant element within a single operation**. While the Common Provision Regulation already foresees this possibility, implementation in practice remains challenging. This is because the GBER currently provides separate provisions for financial instruments and for grants. As a result, aid is often structured either:

- under two different GBER articles, or



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- by applying two distinct legal frameworks (the GBER and the *de minimis* Regulation), each of which contains different rules on eligible costs.

This lack of alignment creates uncertainty and complexity for managing authorities, aid granting institutions and beneficiaries, and clearer, consolidated rules would significantly improve the feasibility of combined support operations.

Definition of undertaking in difficulty

Support for innovative start-ups and scale-ups is essential to strengthening the EU's long-term competitiveness. However, many of these companies fall under the definition of an "undertaking in difficulty" (UID) as set out in Article 2(18) of the GBER. This is often the case when companies have existed for more than three years and report significant losses, primarily due to the capital-intensive nature of technology development, especially in sectors such as deep tech or renewable energy.

The current UID definition does not adequately reflect the economic realities of start-ups and scale-ups. These companies typically face temporary financial strain as they scale operations and invest heavily in R&D and infrastructure. Despite being on a viable growth trajectory, they risk being misclassified as UIDs, which can unjustly restrict access to public support.

To better align state aid rules with innovation policy goals, the definition of UID should be amended to reflect the specific growth model of innovative early-stage companies. This includes:

- **Adjusting or removing the fixed three-year threshold**, and
- **Incorporating forward-looking financial forecasts or alternative financial indicators** that better capture the viability and growth potential of companies in this phase.

Alternatively, **it is proposed to recognise funds that are economically equivalent to equity as "own funds" when assessing a company's financial situation**. These may include, in particular, subordinated loans, silent partnerships, and other equity-like financing instruments, provided that they are available to the company on a long-term basis and are subject to a qualified subordination agreement with pre-insolvency enforcement restrictions.

Incentive effect

Article 6 of the GBER is designed to ensure that aid granted actually changes the behaviour of the beneficiary, except in certain cases where a presumption is accepted. In practice these requirements are challenging for the following reasons:



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- Demonstrating a counterfactual / “without aid” scenario often requires complex economic modelling and assumptions. This may discourage smaller aid schemes or burden Member States with heavy administrative costs.
- The fact that some aid categories are exempt from incentive effect (or considered to automatically satisfy it) leads to differential treatment, which may be hard to justify or understand, especially in case of SMEs because most SME-targeted aid measures are low risk in terms of competition distortion and they inherently face financing and risk constraints that justify public support.

To this end, **we propose to harmonise Article 6 of the GBER to treat all SME support measures equally by introducing a presumption of incentive effect for all SME-targeted aid, provided basic compliance steps are taken** (e.g. pre-application, transparent scheme). This proposal will be in line with both, Better Regulation Agenda and the State Aid Modernisation goals of transparency, efficiency, and focus on cases with genuine impact.

Funding Gap calculation

While the funding gap methodology can prove useful in setting aid levels in large-scale projects and notified measures, applying this requirement to SMEs, especially micro-enterprises, imposes an excessive administrative burden. In the aid awarding process, the calculation of the funding gap is one of the most resource-intensive and technically demanding steps. This challenge is further complicated when funding gap calculations are linked to claw-back mechanisms, which necessitate long-term monitoring of beneficiaries' financial performance, a requirement that is particularly difficult to manage for smaller aid amounts or limited-capacity beneficiaries.

To address these challenges, **we suggest greater procedural simplification, like introducing fixed aid intensities as an alternative to funding gap calculations.**

Scope and aid intensity

In addition, the GBER lacks a specific category for affordable housing. While it permits aid for energy efficiency, there are no provisions tailored to the housing sector. To address this gap, **a dedicated GBER category should be introduced to cover the construction and renovation of affordable and energy-efficient housing, provide aid to housing cooperatives, SMEs, and social housing entities, and support energy upgrades, accessibility improvements, and smart building technologies.** This would allow Member States to implement large-scale



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housing support schemes without requiring prior notification to the European Commission, thus reducing administrative barriers and accelerating deployment.

Another constraint under the current GBER rules is the limited aid intensity allowed for energy-efficient renovations, typically 30-50% for SMEs, which is often insufficient to support deep retrofits in residential buildings. To overcome this, **the aid intensity thresholds should be increased, particularly for low-income households and for projects that deliver deep renovations. Higher co-financing rates should also be permitted for bundled housing renovation programmes, such as those targeting entire districts or housing cooperatives.** These adjustments would make climate-aligned housing investments more financially viable and would significantly contribute to achieving EU climate and energy goals.

Reporting

Following the 2023 revision of the GBER, the individual aid amount threshold for mandatory publication in the TAM was reduced from EUR 500 000 to EUR 100 000. While the intent was to improve transparency, this change has significantly increased administrative burden for aid-granting authorities and small beneficiaries, raised compliance costs, especially for local and regional authorities and added complexity to an already demanding legal framework. The result is contrary to the principle 'big on big and small on small approach'.

Therefore, **we propose to reverse the 2023 threshold reduction and restore the TAM reporting threshold to EUR 500,000.** As an alternative to a fixed threshold, the GBER could introduce **graduated or differentiated thresholds**, for instance:

- SME support - EUR 500 000
- Aid to large undertaking - EUR 100 000

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About us

The 48 members of the **European Association of Guarantee Institutions (AECM)** are operating in 32 countries in Europe¹. 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. At the end of 2024, 6 million SMEs were in the portfolios of AECM members.

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¹ <https://aecm.eu/members/our-members/>