

AECM reply to the Commission consultation on the draft for a new General Block Exemption Regulation

The European Association of Guarantee Institutions (AECM) and its members welcome the opportunity to provide feedback on the draft for a new General Block Exemption Regulation.

Following the call for evidence and a general GBER revision in 2025, we are pleased to note that several improvements of provisions have been taken up in the draft for a new GBER.

In particular, we welcome the Commission's efforts to improve the structure of the Regulation. It is also highly positive that the draft explicitly allows for the combination of financial instruments with grant components as well as for use of simplified cost options. Furthermore, the scope has been expanded to include scale-ups and innovative mid-caps, and certain thresholds have been increased, which is particularly important for supporting the digital and green transitions.

AECM remains strongly committed to supporting the European Commission in the GBER revision process and would therefore like to share further reflections on the draft text with a view to improving its practical application.

Article 1

Point 5 (a)

It is recommended to extend the three-year period to five years. This adjustment would better reflect current economic, technological, and sustainability realities, while fully preserving the core objectives of the State aid framework, ensuring that aid remains necessary, proportionate, non-distortive, and targeted to genuinely viable undertakings.

Article 2

(32) 'Undertaking in difficulty'

It is recommended that the definition of an 'undertaking in difficulty' explicitly refer to 'own funds' rather than 'equity', in order to ensure a more comprehensive and economically accurate assessment of a company's financial position. Equity alone does not fully reflect the true loss-absorbing capacity of an undertaking, as 'own funds' may encompass additional elements capable of covering losses, such as subordinated debt or hybrid capital instruments. Consequently, relying solely on equity may result in an incomplete or potentially misleading assessment of financial distress, as it fails to capture the full range of available loss-absorbing resources. We



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therefore recommend amending the provision to include a reference to 'own funds', thereby better reflecting the economic reality of an undertaking.

Moreover, we ask the European Commission to acknowledge that funds that are economically similar to equity, for instance mezzanine or subordinated financing, should be included when assessing the financial situation of a company.

In addition, we propose refining the definition of 'undertaking in difficulty'. The current definition is not well suited to small businesses, as it does not take into account the structural specificities of micro and small enterprises or the context in which they operate. In practice, these enterprises generally have limited capital buffers and are more vulnerable to increasingly frequent adverse events.

For these reasons, we propose revising the definition of "undertaking in difficulty" by adopting one of the following approaches:

- introducing size-based criteria, with tailored conditions of "difficulty" for each category of enterprise (micro, small, medium, and large), or
- for micro and small enterprises, aligning the conditions with those already set out in the de minimis Regulation.

(81) Definition of 'private investor'

National promotional banks or institutions (NPBIs) should be considered equivalent to private investors for the purposes of State aid assessment where they act on market terms and on their own account and risk. The decisive factor under State aid logic should be the economic nature of the transaction—namely market-based remuneration, commercial risk assumption, and absence of preferential treatment—rather than the institutional status of the investing entity. Where an NPBI operates without selective advantages and participates under conditions identical to those applicable to private co-investors, excluding it from the concept of a private investor is not justified and leads to an artificial and economically unfounded restriction of eligible private participation. A functional approach, aligned with established State aid principles, should therefore be applied.

(117) small mid cap annex iv instead of v

Article 3

Point 2(a) and (c)

These provisions introduce very stringent requirements applicable to infrastructure aid. However, the draft regulation does not provide a definition of the term 'infrastructure'. As a result, it remains unclear whether these requirements are intended to apply solely to specific categories of infrastructure explicitly referred to in the regulation (such as energy or broadband infrastructure), or more broadly to all forms of infrastructure.



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If interpreted broadly, such an approach would be disproportionate and excessively restrictive. In practice, it would also create significant legal uncertainty and implementation challenges, given that infrastructure or its components may be present in a wide range of investments.

By contrast, under current GBER, comparable requirements are limited to clearly defined and specific categories of infrastructure. That regulation does not contain a general provision extending such obligations to all types of infrastructure.

In light of the above, it is recommended to explicitly define the scope of 'infrastructure' for the purposes of these provisions and to limit their application to specific categories, in line with the approach taken in the current Regulation 651/2014.

Article 4

It is our understanding that Article 4 is intended to provide Member States with an additional option for granting aid in the form of financial instruments through financial intermediaries. All other implementation arrangements remain possible, including schemes implemented via financial intermediaries where the full pass-on of the advantage to the final beneficiary is ensured.

However, this is not sufficiently clear in the current wording and may give rise to significant legal uncertainty regarding the scope of application of the provision. We therefore suggest clarifying this point.

Point 3

In its current wording, it may be understood that Sections 3 and 10 are not only excluded from the exemption under Article 4, but are also, more generally, not eligible for exemption under the GBER from the notification requirements. This creates the misleading impression that aid granted under these sections cannot benefit from the exemption regime at all. In practice, however, such aid may be exempted, provided that it complies with the relevant eligibility conditions set out in those sections and the applicable provisions.

For legal certainty, we therefore recommend the following wording:

'Aid within the scope of Section 3 (Aid for access to finance for SMEs) and Section 10 (Aid involved in financial products supported by the InvestEU Fund) shall not be exempted under this Article from the notification requirement in Article 108(3) of the Treaty, and shall be subject to compliance with the respective eligibility conditions of those Sections and the relevant provisions.'

Point 5

The possibility of combining support (e.g. grants and financial instruments) within a single operation is highly welcome. However, in its current wording, the article does



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not foresee the possibility for entrusted entities to provide such combined support directly to final beneficiaries. To address this, we propose the following wording:

'As part of the financial instrument, a Member State or entrusted entity may provide aid in favour of final beneficiaries in the form of a financial contribution to fund grant components, either stand-alone or embedded in a loan.'

Point 7

The requirements set out in this article aim to ensure market conformity, transparency, and neutrality, which are essential for State aid compliance. However, as currently drafted, they blur the distinction between public policy actors and private financial intermediaries. This risks undermining the promotional role of such entities, which is precisely to do what the market does not. In this context, the wording *'including an entrusted entity also acting as intermediary'* should be deleted.

Point 7(a)

The requirement that national promotional banks or institutions, acting as entrusted entities, be selected through an open, transparent and non-discriminatory procedure raises serious concerns.

NPBIs are, by design, public policy-driven institutions that are often established or designated under national law to fulfil specific public mandates, including the implementation of EU funds. Their role as entrusted entities is therefore typically based on statutory designation rather than competitive selection. Introducing a general obligation to subject such entities to open selection procedures appears misaligned with this institutional logic and may effectively undermine the concept of entrusted implementation.

While the objective of ensuring transparency, equal treatment and sound financial management is fully acknowledged, the proposed requirement risks introducing an additional procedural layer without a corresponding competitive outcome in situations where, in practice, only one eligible national institution exists or where the policy choice of the Member State is to assign implementation responsibility to its NPBI.

Moreover, in Cohesion policy, it is common practice to directly entrust implementation tasks to promotional banks without a competitive procedure, where justified under EU law (notably where the entity qualifies as an entrusted entity under shared management rules). This is explicitly foreseen in Article 59 of the Regulation (EU) 2021/1060 (CPR).

Therefore, this requirement is not compatible with existing Cohesion policy implementation models and could effectively prevent direct entrustment, which is a widely used and legally established mechanism.



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We therefore recommend considering a differentiated treatment for national promotional banks or institutions, acting as entrusted entities, taking into account their specific public mandate and their established role in implementing EU financial instruments. The same applies to non-profit mutual guarantee institutions that act to facilitate access to credit for SMEs.

Point 7(b)

Promotional banks and institutions and non-profit guarantee institutions do not pursue profit maximisation. While they apply sound financial management principles, their decisions are not strictly 'profit-driven'.

This provision is therefore misaligned with their public policy mandate and institutional role and should be deleted.

Point 7(d)

This requirement is too restrictive. It should be deleted as the mere fact of being subject to regulatory supervision does not guarantee capacity, effectiveness and correctness in implementing financial instruments.

Point 7(e)

This requirement should be deleted as it is overly restrictive. In practice, such a requirement is not always justified—particularly for certain types of aid (e.g. natural disaster support) and may result in no suitable intermediary being identified, thereby preventing the granting of aid.

Point 9

We welcome the Commission's proposal to simplify the granting of aid by introducing a cap on the aid amount. However, referring to the nominal value of equity, loans and guarantees (including the full value of the underlying loan in the case of guarantees) does not reflect the distinction between the aid element and the total financing provided and may significantly overestimate the aid granted.

Under EU State aid rules, the relevant benchmark for assessing compatibility and the applicability of notification thresholds is the aid element of a measure, typically expressed as the gross grant equivalent (GGE), rather than the total volume of financing provided to the final beneficiary. Using nominal values as a proxy for aid leads to a systematic overestimation of the aid involved, particularly in the case of guarantees, where the economic advantage is limited to a fraction of the underlying nominal exposure. As a result, guarantees are disproportionately penalised, despite being among the most efficient instruments used by national promotional banks and institutions and typically involving limited distortion of competition.

Furthermore, under the Regulation (EU) 2021/1060, financial instruments are specifically designed to maximise leverage while minimising aid intensity. The



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proposed provision runs counter to this logic, as it effectively penalises the scale of financing rather than the actual amount of aid.

In this context, the provision is highly restrictive and not fit for purpose. It would:

- significantly limit the use of financial instruments;
- distort the choice of instruments, in particular to the detriment of loans and guarantees;
- reduce policy effectiveness and leverage; and
- increase the number of cases requiring notification.

It is therefore recommended to allow flexibility by permitting to demonstrate compliance with the thresholds either on the basis of nominal value or GGE.

Article 8

Point (2)

We propose deleting the words 'or EU funding', as the concept of State aid is sufficiently broad to encompass all relevant forms of public support, including funding originating from EU resources. Retaining this wording is therefore redundant and may create unnecessary ambiguity.

Moreover, guarantees are complementary products, and final beneficiaries typically decide to use them only after applying for a loan. As a result, many enterprises are not aware of their need for a guarantee at the time of the loan application.

In addition, data requirements, availability, and timing differ significantly in the case of guarantees compared to typical grants. For this reason, and similarly to tax advantages, an exception or simplification regarding pre-project data requirements should be considered for guarantees.

Article 9

Point (4)

The wording of this provision is not clear. We suggest the following wording:

*Aid without identifiable eligible costs exempted under Article 18, Article 19, Article 25, Article 26, Article 27, Article 28, Article 29, Article 30, Article 82(5), point (a)(ii), (iii) or (iv), Article 82(10) and Article 83 may be cumulated **without any limitation** with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs exempted under this Regulation may be cumulated with any other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission. ~~Aid without identifiable eligible costs exempted under this Regulation may be cumulated with other aid without identifiable eligible costs granted to remedy a serious disturbance in the economy~~*



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of a Member State under Article 107(3), point (b), of the Treaty approved in a decision adopted by the Commission. Aid without identifiable eligible costs exempted under Article 82e(5), point (a)(ii), (iii) or (iv), Article 82(10) and Article 83 may be cumulated with other aid without identifiable eligible costs exempted under those Articles.

Article 17

Point (2) b

The urban development aid category should not be limited to operations implemented under shared management with Structural Funds. Restricting the use of this category exclusively to projects co-financed by Structural Funds appears inconsistent, particularly given that no comparable limitation applies to other categories of regional aid. Broadening its scope would enable a more effective use of financial instruments, including loan-based support, for urban development projects beyond the ESIF framework.

Point 6

The introduction of a requirement for the participation of 'independent private investors' significantly limits the practical feasibility of urban development projects. Such projects are often not primarily profit-driven, but instead pursue social, environmental, or cultural objectives. As a result, commercial investors typically participate only where sufficiently attractive financial returns can be expected. Imposing an additional requirement for the involvement of profit-oriented private investors may therefore, in practice, prevent the implementation of a large number of projects aimed at addressing local community needs.

Article 28

It is not clear whether this Article applies to guarantee-providing intermediaries. We therefore propose that the provision explicitly clarify that it applies also to guarantee institutions acting as financial intermediaries in the implementation of guarantee schemes.

Article 55

Point (4) and (5)

The European Commission's simplification effort is welcome, in particular the removal of the obligation to prepare alternative scenarios for the purpose of determining the aid amount.

However, the introduction of new eligibility conditions in paragraphs 4 and 5 - requiring assessments of the 'situation without aid' and, in practice, the development of comparable counterfactual analyses appears to reintroduce elements of the complexity that the amendment was intended to eliminate. As a result, the overall simplification objective, namely to facilitate the practical application of this aid category, is not fully achieved.



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While the condition set out in paragraph 4 is understandable, as it is directly linked to the possibility of applying a higher aid intensity, the rationale behind paragraph 5 is unclear. It provides that: *'Aid under this Article may be granted only for investments whose payback period required to recover investment costs in the absence of aid is at least five years'*. However, it is not evident how this requirement contributes to the assessment of compatibility or to the underlying policy objective, nor how it can be applied in a clear and consistent manner in practice.

Clarification of the purpose and practical application of this condition would therefore be necessary to ensure legal certainty and to preserve the intended simplification of the regime.

Point (8)

The aid intensities set out in this provision, as well as their overall structure, appear to significantly discourage the use of this category of aid. In their current form, they are unlikely to generate the intended incentive effect for the implementation of such investments.

As a result, regional investment aid may in practice prove to be a more attractive and effective alternative. This risks undermining the objective of the provision and limiting its practical relevance.

In order to ensure coherence and maintain the effectiveness of the measure, consideration should therefore be given to increasing the aid intensities to levels comparable to those applicable to buildings under Article 56.

Article 56

Point (6)

This requirement should not apply to historic buildings, as the scope of works that can be carried out on such properties is inherently limited. As a result, applying this condition may, in practice, lead to the exclusion of historic buildings from eligibility for support under this Article.

Article 65

Despite some positive changes such as removing, in certain cases, the obligation to determine eligible costs by reference to a counterfactual or alternative investment, the overall design of this aid category still largely prevents its practical use.

- The requirement to define an alternative investment has been retained for investments under paragraph 5(a) (i.e. those increasing resource efficiency by reducing inputs per unit of output or replacing primary raw materials with secondary ones), thereby maintaining a significant administrative burden.
- The provision excluding investments related to technologies that constitute a profitable and established commercial practice across the Union from exemption remains unchanged in substance. The clarification introduced—



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limiting this to investments not covered by aid—does not materially improve its applicability.

- Paragraph 11(a)(ii) introduces differentiated bonus levels for aid intensity (7.5 percentage points for areas under Article 107(3)(a) TFEU and 2.5 percentage points for areas under Article 107(3)(c) TFEU) for investments under paragraph 5(b)-(d). The rationale for differentiating the bonus based on both location and type of investment is unclear. Moreover, the use of fractional bonus rates may create practical difficulties, particularly where the gross grant equivalent must be calculated. The Commission could consider reverting to the previous, more uniform approach to bonuses for investments in eligible areas.

Overall, the current aid intensities and their structure are not sufficiently attractive and are likely to discourage the use of this aid category. They are unlikely to generate the intended incentive effect, especially when compared to more favourable alternatives such as regional investment aid. The aid intensities should therefore be increased to levels comparable to those provided for in point (b).

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About us

Via its 50 members who are operating in 32 countries in Europe, the **European Association of Guarantee Institutions (AECM)** represents 172 guarantee institutions. In addition, AECM has 6 partners including the EIF. Guarantee institutions are national promotional banks and institutions or private/mutual guarantee schemes. 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 address effectively 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. At the end of the year 2024, AECM's members had about EUR 218 billion of guarantee volume in portfolio, thereby granting guarantees to around 6 million SMEs. AECM's members are by far the most important counterparts of the EIF concerning EU counter-guarantees, handling EU (counter-)guarantees from the very beginning in 1998.

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