



AECM comments to the targeted review of the General Block Exemption Regulation (State aid): extension to national funds combined with certain Union programmes

AECM cordially welcomes the Commission's proposal for the targeted General Block Exemption Regulation (GBER) revision aimed at improving the interplay of EU funding programmes with State aid rules, especially in the context of national funding involved in financial products supported by the InvestEU Fund. This offers the potential to simplify the development and delivery of such products, while encouraging the deployment of national resources alongside the EU guarantee making the products under InvestEU even more successful. AECM is strongly committed to support the European Commission in the GBER revising process and would therefore like to share reflections on the first public consultation on the GBER proposal.

In this context, it will be very important to have equal treatment between all IPs as well as Financial Intermediaries (including guarantee institutions). The primary focus of attention should be the project impact rather than the distribution channel. For the final beneficiary it should not make a difference which parties are involved. To the contrary, from a tax payers viewpoint, it is more favourable to share the risk between as many parties as possible.

As a result, the GBER proposal could overcome the present discriminatory situation where if a financial intermediary provides guarantees which are state aid, the counter-guarantee of InvestEU will not change the fact that the entire guarantee amount needs to be taken into account when calculating the gross grant equivalent.

Otherwise, financial intermediaries using member state funds are oriented to use InvestEU fund for the situations describe in Article 56e 11 (a) of the GBER proposal while the rest of intermediaries are free to use InvestEU for all type of SME transactions, as should be the purpose of any programme oriented towards supporting access to finance to SME.

Article 1, point 4 (c)

This Regulation shall not apply to aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes, regional operating aid schemes, aid to SMEs under Article 56e and aid to financial

intermediaries under Section 16 of Chapter III, provided those schemes do not treat undertakings in difficulty more favourably than other undertakings.

AECM welcomes the proposal to extend, as an exception, the application of the GBER provisions to aid schemes listed under Article 1, point 4 (c). Yet, in order to align and harmonise the rules, the aforementioned proposed exception should also include all financial products offered to SMEs not just the ones supported by InvestEU.

Besides, we suggest including under the aforementioned exception all SMEs that operate on the market for less than 7 years, these SMEs still being young and fragile which can make it difficult for them to compete and thrive in an ever-changing and developing market place. Alternatively, SMEs under 7 should benefit from a lightening of the criteria determining the relevant conditions for being an undertaking in difficulty.

Article 2 recital (183)

"Innovative SME" means an SME whose R&D and innovation costs represent at least 15% of its total operating costs in at least one of the preceding 3 years or at least 10% of its total operating costs in each of the preceding 3 years. A special purpose vehicle which can be considered an "autonomous enterprise" as defined in Annex I, for which no historic data is available may be considered an innovative SME if its R&D and innovation costs included in a credible business plan meet one of the above criteria;

Concerning "innovative SME" definition, AECM underlines that under the current InnovFin Programme, the same criteria listed under Article 2 recital (183) of the GBER proposal refer to small mid-caps. AECM is of the opinion that innovative SMEs should benefit from a lightening of the criteria determining the relevant conditions for being considered innovative in respect to small mid-caps and suggests limiting the regulatory framework to the current definition of "innovative enterprise" (Article 2, recital 80) and eliminating the proposed definitions of "innovative SME" (Article 2 recital 183) and "innovative mid-cap" (Article 2, recital 184).

Article 8 (b) second paragraph

Financing provided to the final beneficiaries under the support of the InvestEU Fund under Section 16 of Chapter III and the cost covered by it shall not be considered for determining compliance with the cumulation provisions of paragraph 3. This is achieved by first deducting the nominal amount of the financing supported by the InvestEU Fund from the total eligible project costs and subsequently calculating the highest aid intensity or aid amount applicable to the aid under this Regulation only on the basis of the total remaining eligible costs. The nominal amount of financing provided to the final beneficiaries under the support of the InvestEU Fund shall also not be considered for determining whether the notification threshold under this Regulation is respected.

AECM highly welcomes the provisions under Article 8, point (b). Yet, due to the complexity of possible InvestEU financial products, the cumulation provisions stipulated in the GBER proposal could have in practice a weak impact. Nevertheless, it is of utmost importance that at least in the case of senior loans and guarantees on senior loans, the calculation of the aid intensity or aid amount and the cumulation for determining whether the notification threshold is respected, remains unchanged.

Article 56e point 11

SMEs, small or innovative mid-caps may receive financing supported by the InvestEU Fund provided that:

(a) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR [30] million and is provided to:

(i) microenterprises; (ii) SMEs operating for less than 7 years following their first commercial sale; (iii) SMEs entering a new product or geographical market, where the initial investment for entering into a new product or geographical market must be higher than 50% of the average annual turnover in the preceding 5 years; (iv) innovative SMEs or innovative mid-caps; (v) SMEs or small mid-caps in assisted areas provided that the financing is not used for relocation of activities; (vi) SMEs for cultural purposes and activities set out in Article 53 (2);

(b) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed: (i) EUR 1 million for 5-year loans; (ii) EUR 500 000 for 10-year loans; (iii) EUR 1.5 million for loan guarantees up to 5-years; (iv) EUR 750 000 for loan guarantees up to 10-years; (v) EUR 200 000 for equity.”

The nominal amount of total financing envisaged under Article 65e point 11 (a) (i)-(vi) do not pose any problem in terms of amounts as it allows granting financing up to €30 million. Yet, the limited set of eligibility and exclusion criteria for the final recipients blocks out the so called normal SMEs i.e. business transfer, companies growing in their domestic markets etc., representing around 50% of portfolios of several AECM's members.

Further, it's worth mentioning that the maximum financing amounts listed under Article 65e point 11 (b) (iii) and (iv) are the same covered by the de minimis Regulation (Article 4, Calculation of the Gross Grant Equivalent). Yet, in the proposed GBER text these amounts refer to the principal amount of the loan and not to the amount of the guarantee granted with public funds, how is currently the case with the de minimis Regulation.

Therefore, AECM kindly asks the legislator to modifying the proposed text and explicitly mention in the GBER proposal that in the case of guarantees, i.e. the financing specified under Article 56e, 11 (b) (iii) and (iv) refers to the guarantee granted instead of to the entire amount of the financing supported.

In addition, these thresholds and the duration of the guarantees appear to be very small for the General Block Exemption Regulation aimed at facilitating sustainable, smart and inclusive growth, focusing on cases with the biggest impact on the internal market. AECM considers that it is appropriate to increase the maximum financing amounts for loan guarantees as well as for equity and impose no maximum duration for loan guarantees in view of:

- the limited group of recipients in the GBER compared to the de minimis Regulation;
- contrary to the de minimis Regulation where the aforementioned thresholds are applied over any period of three fiscal years, the maximum thresholds laid down in Article 56e point 11 of the GBER proposal apply to the total outstanding financing provided to the final beneficiary.

Moreover, the limitation of the nominal amount of the total financing for loan guarantees to 10 years, in the case of SMEs, small or innovative mid-caps, other than the ones listed under point 11 (a), appears to be a major constraint since SMEs face difficulties in obtaining financing from commercial banks also for long-term projects.

As an alternative and in order to limit the nominal amount of total financing provided per final beneficiary, the GBER proposal should define a maximum grant equivalent.

The GBER proposal should offer sufficient room for maneuver for the Member States to calculate the gross grant equivalent of guarantees according to their own methodology which has been notified and accepted by the Commission. This would allow greater flexibility in terms of aid amounts and, in particular, longer maturities without exceeding the listed thresholds given the unchanged calculation of the GGE.

Regarding the threshold amounts for all other investment objectives listed under Article 56e it would be helpful as well to define a maximum grant equivalent as an alternative to the maximum nominal amounts, at least for senior loans and loan guarantees, where the calculation of the grant equivalent is intended anyway for the case of cumulation with other aid elements (Article 8 of the GBER proposal).

Apart from addressing specific articles in the GBER proposal, AECM would like to raise some general remarks on the GBER.

- We kindly invite the European Commission to examine the possibility of including aid for financing capital under the provisions of the GBER. This fact would prevent the likely future situation where due to inflation over the years, the unchanged de minimis threshold will be reached and as a consequence the support to SMEs restricted.
- Further, in the context of Article 14 paragraph 14 of the GBER there is a need for a definition of 'public support' in order to allow for an unambiguous application.

- Referring to Article 17 of the GBER i.e. Investment aid to SMEs, AECM suggests including share deals under the provision of Article 17, since this exclusion has in practice a weak impact because the effect of an aid given to a SME is the same, regardless whether the transaction is a share deal or an asset deal.
- Expanding aids for start-ups to the companies under-seven (Article 22, § 2)
It is necessary to recognise companies under-seven as eligible in order to align all the age within the GBER, irrespective of the funding. In our opinion, it is insufficient to limit the definition of start-ups to companies under-five. In France for instance, the status of “Jeunes entreprises innovantes” covers companies under-eight, these companies still being considered as young and fragile. An innovative company needs much more than 5 years to stabilise itself and find its growth path. Six months of administrative issues followed by the design of the technical project (2 years), then the time to prepare the industrial and commercial launch of the innovation (1 year). The first turnover will finally be made within the first 3 years. During this period, the company needs support to achieve its innovative project, get finance and working capital, reinforce its treasury and prepare its fundraisings.
- Extending the costs eligible to innovation aid for SMEs (Article 28, §2)
AECM proposes to update Article 28 paragraph 2 of the GBER by expanding the eligible costs to innovation aid for SMEs as following:

“The eligible costs shall be the following:

a) costs for obtaining, validating and defending patents and other intangible assets;

b) costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel;

c) costs for innovation advisory and support services;

d) costs for prototyping, miniaturization, scaling-up, design, performance verification, testing, demonstration, development of pilot lines, validation for market replication, including other activities aimed at bringing innovation to investment readiness and maturity for market take-up.”

This change would enhance the legal certainty and give more flexibility, acting in favour of the innovation funding for SMEs, by making clear that advanced innovative projects led by SMEs could be financed through this article, in particular technology demonstration.

About AECM:

The 48 members of the European Association of Guarantee Institutions (AECM) are operating in 29 countries in Europe. They are either private 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. AECM's members operate with counter-guarantees from regional, national and European level. At the end of 2018 AECM's members had over EUR 125 billion of guarantee volume in portfolio, thereby granting guarantees to about 3.1 million SMEs. AECM's members are one of the most important counterparts of the EIF concerning EU counter-guarantees, handling EU guarantees from the very beginning in 1998.

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