

Targeted consultation to the stakeholders on the De minimis Regulation

Fields marked with * are mandatory.

Introduction

In 2012, the Commission launched the State aid modernization (SAM) with the objectives to: 1) foster sustainable, smart and inclusive growth in a competitive internal market; 2) focus Commission's ex ante scrutiny on cases with the biggest impact on the internal market; and 3) streamline the rules and provide for faster decisions. In view of these objectives, the Commission has revised a number of State aid rules, including the Commission Regulation (EU) 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 (hereinafter "De minimis Regulation").

In January 2019, the European Commission announced its intention to prolong seven sets of State aid rules for a period of two years^[1] and launched a [comprehensive policy evaluation in the area of State aid \("fitness check"\)](#). The aim is to verify the extent to which the objectives of the SAM have been reached, whether there is scope for further updating of the rules in view of the EU priorities under the new Multiannual financial framework, new EU legislation or developments on the internal and global market. Part of this exercise is the evaluation of the De minimis Regulation in order to assess whether the current rules are still fit for purpose.

Besides the general public consultation on the fitness check of EU State aid rules, this targeted consultation aims at asking supplementary questions in order to gather stakeholders' views on the implementation of the De minimis Regulation and receiving insights about potential gaps, overlaps or excessive regulatory burden. The main target group of this questionnaire are actual or potential recipients of de minimis aid and their competitors.

You are kindly invited to reply to a set of 14 questions. Please make sure that you use the save button as you proceed with the questionnaire to avoid losing information that was already inserted - especially in the case of questions with open replies. At the end of the survey you will have an opportunity to provide broader, more general comments and to upload documents, which you consider to be relevant.

The Commission will publish an analysis of the results of the fitness check and examine possible follow up actions at the beginning of 2020.

Thank you for participating in this consultation.

[1] For details and state-of-play see the relevant initiatives on the Better Regulation Portal: [State aid – 2-year extension for general block exemption regulation](#); [State aid – 2-year extension for de minimis regulation](#); [Prolongation of state aid rules reformed under the state aid modernisation package expiring end of 2020](#).

About you

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* Do you agree with the publication of your identity as described above:

- Yes.
- No, I wish my contribution to be anonymous.

Please provide your contact details below.

* Language of my contribution:

English

* Name:

Felicia Covalciuc

* I am giving my contribution as:

Other

* Country of origin:

Belgium

* E-mail address:

felicia.covalciuc@aecm.eu

Please describe the main activities of your company/organisation/association, if applicable.

500 character(s) maximum

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.

* **Scope of your activities**

- International
- National
- Regional
- Local

* **Organisation size**

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

250 character(s) maximum

Please if your organisation is on the transparency register. This is a voluntary database for organisations seeking to influence EU decision making.

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Questionnaire

* **Factual information**

1. Have you received support under the De minimis Regulation?

- Yes
- No
- Not applicable

* **Definitions**

2. Based on your experience with the application of the De minimis Regulation, is the definition of 'single undertaking' clear?

- Yes
- No
- I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

*

3. Based on your experience with the application of the De minimis Regulation, is the definition of 'single undertaking' adequate?

- Yes
- No
- I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

*** Amounts and cumulation**

4. Have you encountered difficulties in applying the three-year-period to calculate the amount under the de minimis aid?

- Yes
- No
- I do not know

If yes, please explain why.

3000 character(s) maximum

The ceiling amount of 200 000 EUR is too low. AECM suggests increasing it to 300 000 taking into account the inflation that will have occurred by the end of 2027.

*** 5. Are the provisions on cumulation (Article 5) clear to apply?**

- Yes
- No
- I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

*** Transparency of aid and financial instruments**

6. Are the transparency requirements for aid clear?

- Yes
- No
- I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

*** 7. Have you encountered difficulties in applying the transparency requirements?**

-

- Yes
- No
- I do not know

If yes, please explain why and provide specific examples.

3000 character(s) maximum

Referring to Art. 4, paragraph 6 point (a), AECM considers that the definition of insolvency is negative for start-ups and therefore suggests reintroducing an exception for the companies up to 3 years, as set out in the former de minimis Regulation.

Further, referring to the transparency of the de minimis aid comprised in guarantees, as envisaged in Article 4, paragraph 6 point (b), we consider that the limitation of the duration of guarantee to 5 years for the amount guaranteed equal to EUR 1 500 000 and to 10 years for the amount equal to EUR 750 000, is disproportionate, since practice shows that higher credit amounts require longer duration. Consequently, AECM suggests imposing no time restriction and calculate the GGE for three years allowing longer guarantees duration.

* 8. What has been your experience in using loan, guarantee and equity instruments (financial instruments) under the De minimis Regulation? In particular:

a. Have you encountered any difficulties in calculating the gross grant equivalent of aid in loans or guarantees?

- Yes
- No
- I do not know

If yes, please explain why and provide specific examples.

3000 character(s) maximum

Article 4 paragraph 6 of the de minimis Regulation provides 3 options for the calculation of the GGE. Yet, practice has shown that the combination of state resources with Union resources and tranching of the risk complicates the calculation of the aid element. Therefore, in order to facilitate such calculation, AECM kindly asks the Commission for clear guidelines and practical examples on how to calculate the GGE.

* b. Have the criteria for small loans and guarantees of short duration under Article 4(3)(b) and Article 4(6)(b) simplified the handling of these instruments?

- Yes
- No
- I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

* c. For loan and guarantee instruments involving financial intermediaries, have you encountered any difficulties in passing on the aid to the final beneficiaries?

- Yes
- No

I do not know

If yes, please explain why and provide specific examples.

3000 character(s) maximum

* Monitoring

9. Have you encountered difficulties in the application of the rules on monitoring (Article 6)?

- Yes
 No
 I do not know

If yes, please explain why and provide specific examples.

3000 character(s) maximum

* 10. If your national authorities do not have a central registry, what is your cost estimate in applying the requirements under Article 6 (such as the declaration to submit to your national authorities)?

3000 character(s) maximum

low costs

* 11. If your national authorities have a central registry, have you found such a central registry adequate to ensure compliance with the Article 6 conditions on awarding de minimis aid?

- Yes
 No
 I do not know

If not, please explain why and provide specific examples.

3000 character(s) maximum

* 12. Should there be a centralised de minimis registry at the EU level?

- Yes
 No
 I do not know

If yes, please explain why and provide specific examples.

3000 character(s) maximum

Other

13. Do you have any additional comments on the application of the De minimis Regulation?

3000 character(s) maximum

Further Commission's clarifications are needed as related to:

- Aid to export-related activities

Under the current de minimis Regulation it is envisaged that aid related to export activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity, does not fall under the provision of the de minimis Regulation. In this context the question arises what happens if the de minimis aid is used for granting working capital loans in the situation where money is used for purchase of production materials, goods etc. which after the manufacturing or without it, are sold internally and/or abroad, including goods that are sold via online shops and e-platforms (e.g. Amazon). Does the aforementioned activity represent an export-related activity or not?

The same goes for the situation where a guarantee for an investment loan is offered to a single undertaking whose business activity is related to rental equipment and purchasing equipment.

According to our opinion a clarification on the notion of aid to export-related activities within the meaning of Article 1 paragraph 1 point (d) is needed and the provision should also clarify the application of the de minimis Regulation on undertakings coming from small countries and located close to borders, since these SMEs are more likely to be disadvantaged by this provision.

- How a public institution shall act as a public investor

Currently, there is a lack of legal certainty and practical examples which would guide the national institutions on applying the private investor principle.

Moreover, referring to Article 3 paragraph 2 of the de minimis Regulation, we suggest increasing the ceiling of EUR 200 000 to EUR 300 000 as the amount of de minimis aid, that a single undertaking may receive over any period of three years, should be adapted to the inflation that will have occurred by the end of the next programming period (= end of 2027).

Finally, regarding Article 3 paragraph 6 point (2), AECM suggests revising the discounting requirement for the aid payable in several instalments and set a reasonable threshold for small amounts of aid that would be exempted from discounting obligation. In practice, discounting de minimis aid of small sums that are payable in several instalments, i.e. once a month or once a quarter, implies high administrative costs on behalf of the managing authorities. Therefore, and in line with the reasoning of the provisions laid down in Article 6 paragraph 1, AECM suggests applying no discounting obligation.

14. Please provide copies of any documents, data or studies that may be relevant for assessing the application of the De minimis Regulation.

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Additional information

Further to your replies of the questionnaire, you may provide below any additional comments, observations, information, or suggestions you deem relevant to share with us.

3000 character(s) maximum

You may also upload a file in relation to your response here:

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

99d97797-8f3f-4d19-a13b-b2061c36ecdb/AECM_State_Aid_Position_Paper.pdf

Thank you for your participation.

Contact

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