AECM position on Anti-Money Laundering

AECM and its members acknowledge the efforts of the European Commission to further strengthen EU rules on anti-money laundering and counter-terrorist financing. At the same time, AECM members would like to draw attention to a **double documentation and double due-diligence** barrier its members are facing regarding the monitoring responsibilities of obliged entities under the 5th Anti-Money Laundering Directive ("5AMLD").

Guarantee institutions are a very particular kind of financial institution. They have a promotional mission to support entrepreneurs that have a sound business project but lack necessary collateral for the financing bank. In this situation, the guarantee institution jumps in, providing a guarantee that serves as collateral to the house bank. Guarantee institutions thereby play an important role in **overcoming market failure in the area of SME finance**.

Any guarantee activity is necessarily linked to its underlying debt financing provided by a commercial bank. In the case of so-called portfolio guarantees, the guarantee institution even does not have any contact to the beneficiary entrepreneur. In this case, it leaves discretion to the house bank to decide which projects to finance under the portfolio guarantee.

Because both the borrowers' house bank (which grants the credit/loan) as well as the guarantee institution (which gives the necessary collateral) are "obliged entities", they have the same legal obligations and the same monitoring and due-diligence responsibilities towards competent authorities for the very same financial transaction. This situation is highly unsatisfactory. It puts **unnecessary bureaucratic burden** on guarantee institutions detracting them from their promotional mission. SMEs will be affected since they need to deliver the same information twice to two different entities. And finally, supervisory authorities receive the very same information twice, which does not have any clear value added but rather increases the complexity of the data it has to manage.

Furthermore, we would emphasise the **very low-risk operation model** that guarantee institutions represent in the financial industry.

We are of the opinion that the current review shall be taken advantage of to solve the double documentation issue. This is necessary in order to avoid needless bureaucratic burden hampering business promotion.

That is why AECM suggests either to:

1. Amend Article 2 of 5AMLD in a way that makes sure that **only the entity granting the loan is considered to be an "obliged entity"** for the due diligence and reporting requirements, but this only in situations where guarantees are granted for a specific loan and where the guarantee cannot exist without the loan

   or

2. Allow the **reliance on third parties** – such as notaries or banks - to meet not only the requirements concerning the customer identification/acceptance as given the possibility under Article 25 of 5AMLD, but also the monitoring and documentation obligations.

   or

3. Amend Annex II of lower risk activities in such way as to include the "accessory guarantee of payment of a loan if there is an obliged entity granting the same loan" as **criterion for simplified customer due diligence procedures.**

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About us

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 more than EUR 112 billion of guarantee volume in portfolio, thereby granting guarantees to almost EUR 3 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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