

Request to increase the ceiling of the *de minimis* Regulation

The *de minimis* policy was designed by the European Commission back in 1992 to benefit small and medium sized enterprises (SMEs). It was conceived as a simple and straightforward instrument to exempt small aid amounts from the scope of the EU State aid control because they are deemed to have no impact on competition and trade in the internal market.

The key challenge in relation to the regulation of a *de minimis* instrument has been the definition of the right ceiling. On the one hand, setting the ceiling too low would lead to unnecessary administrative burden for public authorities granting the aid. On the other hand, setting the ceiling too high would lead to a risk of the aid measure having an effect on trade and distorting competition. So far, the Commission has successfully struck the right balance between the two aspects that would both have negative consequences: It is generally accepted that the *de minimis* Regulation is easy to apply, it is very flexible, quick, efficient, and entails low administrative burden. Additionally, all Member States agree on the positive effects of the support granted under the *de minimis* instrument, with specific reference to positive effects on SMEs.

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Against this background and in view of the economic and financial consequences that the COVID-19 outbreak has on undertakings, with de facto negative spill overs on SMEs' endurance and growth prospects, as well as considering the evolution of inflation and of the gross domestic product (GDP) of the EU in the year 2022¹, the European Association of Guarantee Institutions (AECM) and its members are of the opinion that the current *de minimis* threshold is too low and kindly ask the European Commission to adapt the *de minimis* ceiling to the evolution of the economy by raising the ceiling of EUR 200 000 to EUR 500 000 as the amount of *de minimis* aid that a single undertaking may receive over a period of three fiscal years, for the following reasons:

- The vast majority of SMEs have been heavily using the limited *de minimis* aid over the last 2 years due to the severe impact and persistence

¹ European Economic Forecast, Winter 2022 (Interim) https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_22_953

of the coronavirus outbreak. Since the onset of the pandemic, there has been a considerable demand for working capital financing which could only be granted based on the Temporary Framework for State aid measures (TF) and on the *de minimis* Regulation. The benefit of the initial version of the TF was however subject to strict conditions, notably in terms of the overall aid amount and financing period. Accordingly, many SMEs have received working capital financing under the *de minimis* instrument and consequently, the *de minimis* thresholds have been exhausted for many final beneficiaries. In 2022, the continuation of the pandemic and the restrictions related to health security have further weakened the outlook for SMEs which constitute 99% of companies in the EU². A substantial increase of the *de minimis* ceiling is therefore sorely needed to provide SMEs with the necessary financial support to see it through the current unpredictable operating environment and to allow Member States to respond more adequately to situations that require limited public financial support.

- An increase in the ceiling is further fundamental in light of the foreseen expiry of the TF on 30 June 2022, when the *de minimis* aid will remain an essential, if not the only possibility for many SMEs to obtain the necessary funds to cope with their liquidity needs and to recover in the post-pandemic era when, inter alia, growth in the EU-27 is moderate and vastly heterogeneous across Member States and sectors.
- Initially, the *de minimis* Regulation was set to expire in December 2020 and the current ceiling of EUR 200 000 was established for the period 2014-2020. However, in July 2020, in the context of the ‘fitness check’ exercise and the European Green Deal as well as the European Industrial Strategy, the Commission prolonged the aforementioned regulation by three years (until 2023), maintaining the same ceiling of EUR 200 000 that has been applying since 2007. Given the 2021 rapid and steady increase in inflation that reached a record high level of 5.1% in the euro area in January 2022³, and considering that inflation may turn out higher than expected, an increase of the *de minimis* ceiling is deemed necessary to consider the past, current and future inflation.

² <https://www.europarl.europa.eu/factsheets/en/sheet/63/small-and-medium-sized-enterprises>

³ European Economic Forecast, Winter 2022 (Interim) https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_22_953

- Moreover, in the context of an inflationary environment with higher interest rates and more expensive loans, a reduction in investment activities by the enterprises can be expected and, in general, a slowdown of the economy. An increase of the *de minimis* ceiling in this situation would make it possible to launch or maintain financing instruments that encourage companies to undertake development projects, which are necessary as part of recovering from the pandemic, regenerating the economy and avoiding the danger of stagflation in the EU.
- Additionally, in the context of the State Aid Modernisation [SAM] initiative, a new definition of the ‘single undertaking’ was introduced in the *de minimis* Regulation. The notion of undertaking is of particular importance as the EUR 200 000 ceiling applies per undertaking, meaning that all linked enterprises are considered one single undertaking.
- Furthermore, the increase of the threshold is also critical for the successful implementation of the Pan-European Guarantee Fund (EGF). The support under the EGF amounts to 70% and the financial intermediaries carry the remaining 30%. The former constitutes State aid which could either be authorised based on the TF or by use of the *de minimis* Regulation while the latter can also constitute State aid and be granted under the same *de minimis* Regulation. Given the foreseen expiry of the TF in June 2022, the *de minimis* Regulation will be the only one to be applied after this date for the EGF guaranteed amount. Yet, as mentioned above, due to the impact and duration of the pandemic, the limited *de minimis* threshold has been heavily used by SMEs and was generally quickly exhausted in the past 2 years and, consequently, is not high enough to be applied for more measures under the EGF. For this reason, in 2022 the possibilities to apply the *de minimis* Regulation are drastically limited and an increase of the threshold is imperative to allow the intended support to reach the final beneficiaries.
- In addition, the *de minimis* aid can also be used in the context of the structural funds where an increase would be necessary to help SMEs to continue investing into a sustainable future, including the development of green products, while paving the way for better addressing the EU market failures and facilitating the mobilisation of EU resources.
- Finally, it should be noted that *de minimis* aid represents a useful tool to stimulate economic activities in line with the European policy and

the Union's objectives to meet the green and digital twin transitions since it is embedded in national support measures to address the substantial need for investments.

- Last but not least the role played by SMEs in the transition to a sustainable economy and the challenges faced by them in terms of State aid requirements towards such a transition should be taken into account. Without SMEs on board, this transformation will not take place. Yet, to make such a step there is a need for an SME-fit legislation, appropriate to the entrepreneurial reality and without bureaucratic hurdles. State aid rules must help SMEs embrace the digital and green transformation in the best possible way, and in case of the *de minimis* instrument, with an increase of the ceiling.

AECM would very much appreciate if the European Commission could take our request into its kind consideration and adapt the *de minimis* threshold to the evolution of the economy by raising the ceiling of EUR 200 000 to EUR 500 000 as the amount of *de minimis* aid that a single undertaking may receive over a period of three fiscal years and consider the increase of the amount granted under the *de minimis* Regulation above the EUR 1 000 000 limit for loans and EUR 1 500 000 for guarantees.

Accordingly, we would like to underline the essential role played by the *de minimis* instrument during the current COVID-19 crisis which, combined with the temporary measures introduced with the TF made a significant and decisive difference to the survival of so many SMEs facing liquidity shortages. The *de minimis* Regulation should likewise play an important role for the recovery including the financing of the twin transition.

Brussels, 24 February 2022



About AECM:

The 48 members of the European Association of Guarantee Institutions (AECM) are operating in 31 countries in Europe. 40 of them are public promotional institutions or banks, 4 are mutual / private, and 4 are public private mixed. They all have in common to 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. As of end 2020, AECM's members had about bEUR 330 of guarantee volume in portfolio, thereby granting guarantees to around 5.2 million SMEs.

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