AECM comments to the Commission's second draft text on the de minimis Regulation

The European Association of Guarantee Institutions (AECM) welcomes the opportunity to provide feedback on the Commission's second draft text on the de minimis Regulation (Commission's second draft text on State aid – exemptions for small amounts of aid).

Following the public consultation on the first draft text on State aid – exemptions for small amounts of aid (de minimis aid) (update), we are pleased to note that several requests, raised by AECM, were taken into consideration and we warmly thank the European Commission for having changed provisions in the second draft, such as increasing of the ceiling of the de minimis aid that a single undertaking may receive per Member State over any period of 3 years to EUR 300 000 and extension of the period for setting up central registers to 2 years.

However, taking into account the impact on European SMEs unleashed by Russia's war of aggression against Ukraine as well as the surge in inflation driven by higher energy costs and supply chain disruptions, AECM members are worried that this amount might not be enough and would like to invite the European Commission to consider a further increase of the de minimis ceiling to EUR 500 000 over any period of 3 years.

Further, we would like to direct the Commission's attention to the concerns of AECM members on the State aid requirements, and call for improvement of provisions of Article 4 point 7, namely:

7. Any aid received by a financial intermediary implementing one or more de minimis aid schemes, which shall be available on equal terms to financial intermediaries operating in the Member State concerned, shall be considered as transparent de minimis aid if:

(a) the financial intermediary passes on the advantage received through the State guarantees to the beneficiaries by providing new senior loans to these beneficiaries with lower interest rates or lower collateral requirements and each guarantee does not exceed 80 % of the underlying loan; and

(b) the guaranteed de minimis loans are provided to beneficiaries who are in a situation comparable to a credit rating of at least 'B-' and the total amount of such loans is:

i. less than EUR 10 million; or,

ii. less than EUR 40 million and each individual guaranteed de minimis loan does not exceed EUR 100 000.

If a financial intermediary has a smaller amount than EUR 10 million of de minimis loans, as defined in point (b)(1), or EUR 40 million, as defined in point (b)(2), the gross grant equivalent attributable to each amount shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 3(2) of this Regulation. For the avoidance of doubt, the condition on loan amounts under point (b) are without prejudice to the conditions set out in Article 4(3) of this Regulation.

From the point of view of AECM and its members, this new Article 4 point 7 of the draft regulation would only add additional requirements for financial intermediaries in case of loss sharing and would limit the total amounts of lending which hinders immediately the creation of guaranteed portfolios of any substantial size, rendering them "micro loans".

This excessively restrictive clause would seriously jeopardise the intermediation channel for supporting SMEs in small countries. In case of larger countries where a EUR 10 million portfolio can be built in a few weeks, this clause would lead to an effective elimination of the intermediation channel.

The new provision is both, peculiar and contentious, since it contradicts the principles of no-crowding out and market neutrality. It tacitly risks to destroy the EU efforts, which have been so far undertaken for promotional banks and institutions, to as much as possible work through commercial banks.

If the Commission's intention is to ensure that financial intermediaries do not receive any State aid, then the simplest way is by maintaining the current wording of the de minimis Regulation (paragraph 19 of the current de minimis Regulation) according to which financial intermediaries have to pay a market-conform premium or to fully pass on any advantage to final beneficiaries. Alternatively, financial intermediaries could be requested to respect the de minimis ceiling of this regulation at the level of the intermediaries. The current provision is clear, easy to apply and proved to be efficient.

Additionally, we would like to mention that some AECM members already explicitly assessed the terms and pricing offered by financial intermediaries to ensure that the full economic benefit of the State guarantee is passed through to the end borrower.

Given that the new Article 4 point 7 of the draft text is by no means a simplification of treatment for financial intermediaries implementing the de minimis aid schemes, nor is this new provision a clear rule that is easy to apply, we kindly ask the European Commission to:

- Delete the word “senior” from point 7(a) as it imposes unnecessary restriction. In practice, commercial banks backed by guarantees, may decide to provide loans which would not be considered senior in order to facilitate businesses. The decisive element is that the loans are new and there is a transfer of benefit.
- Remove entirely point 7(b) as it severely limits the total amount of guaranteed loans without it being possible to demonstrate a direct link between such amounts and the advantage that would be received by the intermediary.
  Moreover, the credit raiting ‘B-‘ mentioned under point 7(b) it is inappropriate for SMEs and it is curently applied to large undertakings.
- Remove paragraph (21) as it has the same implications as point 7(b) of Article 4.

In light of the above, AECM and its members would very much appreciate if the European Commission could please take our requests into its kind consideration by operating the above mentioned changes for the benefit of small and medium-sized enterprises and of course we remain at the disposal to further discuss.

Brussels, June 2023

About us

The 46 members of the **European Association of Guarantee Institutions (AECM)** are operating in 31 countries in Europe. They are either private/mutual 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. This so-called SME financing gap is recognised as market failure. By guaranteeing for these enterprises, guarantee institutions effectively address 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

AECM's members operate with counter-guarantees from regional, national, and European level. At the end of the year 2022, AECM's members had about bEUR 267 of guarantee volume in portfolio, thereby granting guarantees to around 5.2 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.

Furthermore, AECM's work is strongly supported by its 5 partners.

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Interest Representative Register ID number: 67611102869-33