The De minimis Regulation
QUESTIONNAIRE

ABOUT YOU

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01. Do you object to the disclosure of your identity?

   Yes•  No•

02. Does any of the exceptions foreseen in Article 4 of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹ apply to your response? If so, please indicate clearly which parts should not be divulged, justify the need for such confidential treatment and provide also a non-confidential version of your response for publication on the Commission website.

Please provide your contact details below.

Section A: Factual Information on the use of the de minimis Regulation

Questions aiming at public authorities (both local and central):

1. Has support under the de minimis Regulation been granted in the territory of your authority (either by your authority or by regional/municipal/etc. authorities)? If so, please provide, if possible since the entry into force of the Regulation (2007), per year:
   a. the total amount of de minimis aid granted (total amount; average amount per undertaking; distribution of aid amounts per undertaking [< EUR 10,000; 10,000-50,000; 50,000-100,000; 100,000-200,000])
   b. the number of beneficiaries, if possible with a breakdown for large, medium-sized and small undertakings; if available please also provide data for microenterprises
   c. the sectors concerned, if possible in accordance with the NACE codes.
   d. if applicable and available, breakdown of aid granted on the territory of your authority by central authority and regional/local authorities.

   If you do not have precise data, please provide an estimate.

2. Are there differences in the use of the de minimis Regulation between regions/areas within the territory of your authority (e.g. if certain areas receive a relatively high volume of de minimis aid compared to others)? If so, please explain why.

3. Which aid instruments (grants, loans, guarantees, etc.) did you use under the de minimis Regulation? Please explain why you used those instruments and provide, if possible since 2007, for each instrument the total amount of de minimis aid and the number of beneficiaries per year.

4. Which objectives did your authority pursue with the aid granted under the de minimis Regulation (such as regional development, research and development, etc)? Please estimate, if possible, the percentages of de minimis aid granted for different purposes.

5. Have you carried out an assessment (overall or on a case-by-case basis) of the impact of the de minimis aid granted? If so, please explain and summarise its main results.

6. Regarding the measures for which you have used the de minimis Regulation, what would you possibly have done if no de minimis Regulation had existed? Would you have designed the aid measures differently, so that they could fall under the General Block Exemption Regulation? Would you have notified them? Or would you not have granted them at all? Please explain why and provide an estimate of the proportion of measures that would fall under each category.
7. Has your authority granted State aid measures slightly above the ceiling of the current de minimis Regulation? If so, please specify how often such measures were granted and whether those measures were granted under the General Block Exemption Regulation, under an authorised aid scheme or under an individual decision. National promotional institutions do have financial instruments granted under the General Block Exemption Regulation (GBER) including aid elements which are slightly above the ceilings fixed under the de minimis Regulation.

It would be desirable to include these aid measures under the de minimis regulation. This would simplify the procedure and would significantly reduce bureaucracy. The lightness and easiness of using de minimis aid is an important aspect when granting the aid to SMEs. These benefits are useful both to beneficiaries and to the authorities granting the aid.

Smaller aid measures granted under the GBER do not substantially distort competition. Moreover by increasing the de minimis threshold value (see also question 23) this would take into account the goal, stated by the European Commission in their modernisation announcement, of focusing on aid that can lead to a sustained distortion of competition.

The de minimis aid has been allocated especially to enterprises for their project’s external financing needs, like for example to working capital. Subsidizing the finance of working capital is important especially to enterprises that have just started their business, because they need a start-up capital for the different kind out-of-pocket expenses of the business operations.

8. To what extent has the economic and financial crisis had an impact on the granting of de minimis aid in your Member State?

If applicable, please describe such impact and indicate if, and how, your authorities have adapted their de minimis aid granting policy in response.

In particular, please explain whether you have experienced an increase in de minimis aid directly targeting difficulties of companies relating to access to finance. Please explain if possible, to what extent this was relevant for small, medium-sized and large undertakings.

The special promotional support provided in the wake of the economic and financial crisis was carried out either under de minimis regulation or under the Temporary State Aid Framework (Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis) which was more flexible than de minimis regulation. Granting the de minimis aid to other business costs than to investment-projects has been for many starting or growing enterprise a stimulant efficient enough to encourage the enterprise to take business actions.

**SECTION B: GENERAL DE MINIMIS POLICY QUESTIONS**

**Questions aiming at all respondents:**

9. Please describe what you consider from your perspective as the main positive economic effects of support granted under the de minimis Regulation. Please substantiate and give concrete examples.
Particularly the support of micro, small and medium sized enterprises and entrepreneurs as well as start-ups and young enterprises strengthens innovation, creates jobs and improves the competitiveness of the economy. During the economic and financial crisis many small enterprises would not have been founded without the incentive effect of de minimis aid. For these enterprises de minimis aid involves the lowest administrative costs and is therefore particularly well suited. Moreover de minimis is the only reasonable regime which allows supporting working capital which is urgently needed in the financial and economic crisis.

10. Please describe what you consider from your perspective as the main potential negative effects of support granted under the de minimis Regulation. Please substantiate and give concrete examples.

11. Do you consider that the application of the de minimis Regulation has led, in practice, to effects on competition and/or trade between Member States?

Yes• No X

No actual negative effects were observed, as de minimis aid due to its small size is not relevant for distorting competition.

Please explain in which cases or sectors and why. For the purposes of your reply, please consider in particular also aggregate effects of de minimis aid.

12. Do you have concrete examples where de minimis aid was granted by another Member State/region which had an effect on undertakings in your Member State/region?

13. Do you consider that the de minimis Regulation has specific positive or negative effects on SMEs compared to large companies?

SECTION C: TECHNICAL DESIGN OF THE DE MINIMIS REGULATION

Questions aiming at all respondents:

14. Based on your experience with the application of the de minimis Regulation, are the provisions on the exclusion from the scope of application (Article 1) clear and adequate?

Yes• No X

If not, please explain where you see a need for clarification or change.

Making the distinction in particular cases can be complex. A clearer distinction could be helpful. In addition, a more precise specification would be desirable, as the exclusion in the agriculture, fishery and aquaculture sectors only applies to corresponding primary products.

The exclusion of ‘undertakings in difficulty’ should provide, especially for SME, a simplified concept, similar to Art 1 (7) of the General Block Exemption Regulation (GBER) or even be eliminated. At least the definition of “undertaking in difficulty” should be harmonised in EU state aid regulation as it currently it is defined differently in GBER and in the Commission’s community guidelines on state aid for rescuing and restructuring firms in difficulty (2004/C 244/02).
In the same way exclusion of transport vehicles should follow the principles of GBER or even be eliminated.

As de minimis support is not state aid in the sense of Art 107 of the TFEU, the scope of application should be as broad as possible.

The current default approach/methodology (so called 13, 33% methodology – loan amount up to EUR 1,500,000 per undertaking) used to calculate the gross grant equivalent of the aid in case of guarantees, should have an alternative: The usage of the safe-harbour premiums for SMEs introduced in the Guarantee Notice should be allowed without the need to notify and to get an approval from the EC. The relevant guarantee institution should be allowed based on its capacity and readiness to implement easier but not so favourable methodology or more complex but more favourable methodology for the undertakings.

15. Based on your experience with the application of the de minimis Regulation, is the specific provision for the road transport sector clear and adequate (both as regards the definition and the ceiling)?

   Yes • No X

If not, please explain where you see a need for clarification or change.

The provision about road transport sector needs some clarification with the definition of “road transport”, so that it would better cover the content of current road transport sector. For example a difference between the road transport and so called courier transport should be clarified.

Generally a uniform ceiling would be preferable, particularly for reasons of simplicity and transparency across all sectors. The argument for a smaller average company size is understandable in view of the economy as a whole, but not of diverse other sectors.

16. Is the current distinction between transparent and non-transparent aid (Article 2(4)) clear and adequate?

   Yes • No X

If not, please explain where you see a need for clarification or change.

It would be of very helpful to explicitly define subordinated loans as transparent aid and to cover them by the scope of the de minimis Regulation. In our view subordinated loans clearly are a form of transparent aid just as standard loans, since the risk can be determined and adequately priced.

The main differences between subordinated loans and standard loans (senior loans) are primarily the lack of collateral and the higher loss in case of a default of the financed company. However, the credit worthiness of the affected company can also be determined just as with every standard loan.

The increased risk can therefore be taken into account in an entirely transparent manner (e.g. also as part of a revision of the EU Reference Interest Rate System) and subordinated loans should, explicitly be included in the de minimis Regulation.
The increased credit risk of subordinated loans could, for example, be taken into account by assigning it to the respective worst collateral category in the margin grid of the reference interest rate system and downgrading its credit worthiness by one notch, or by applying a flat mark-up from the rating derived from the margin according to the margin grid. This would create legal security for this instrument.

Subordinate loans are a particular issue for start-ups and young enterprises. These are key to the competitiveness and innovativeness of an economy but compared to established enterprises have poorer access to bank financing and often no access to capital markets due to a lack of performance history and lack of collateral.

17. Based on your experience with the application of the de minimis Regulation, are the provisions on cumulation (Article 2(5)) clear and adequate?

Yes• No X

If not, please explain where you see a need for clarification or change.

It seems desirable and sensible to not include the de minimis funds in the cumulation of other aid for the same eligible costs, as this does not distort competition due to their low amount and therefore lacks the characteristic of state aid.

This is particularly important against the background that in many cases a specific assignment of de minimis aid to specific investment costs is not possible, while investment aid must always be assigned to specific cost components. A corresponding appraisal of the cost overlap in the framework of the cumulation appraisal creates a significant workload for the bodies granting aid particularly in broad-scale programmes, although de minimis aid has no adverse impacts on competition.

18. Based on your experience is the definition of the de minimis ceiling based on the amount received over a three-year period by one undertaking clear and adequate?

Yes• No X

If not, please explain where you see a need for clarification or change.

Very often there is no complete central de minimis -register in place. As experience shows, declarations from the undertaking concerned are more reliable and easier to check, if the period would cover only one or two years.

Reduction of the period could be an alternative to raising the de minimis ceiling (see proposal, question 23) and would at the same time reduce administrative burdens.

SECTION D: MONITORING

Questions for public authorities:
19. How do you ensure a proper monitoring of the de minimis aid?

20. Have you set up a central register for de minimis aid?

If yes, please describe the functioning of your system. If possible, explain:

(a) How many authorities use and/or have access to your central register?

(b) How would you estimate the net cost (if possible provide full man-days/fulltime equivalents) to set up and run as opposed to a decentralized system of recording and monitoring?

(c) For what purposes do you use the information contained in your register?

(d) Does your register only cover de minimis measures or also State aid?

(e) If you compare the situation before and after the introduction of the register, what are in your view the main (positive and negative) changes?

If no, please explain why you have chosen not to set up a central register. Do you have an overview of de minimis aid granted at the central level through other means (please specify)?

Questions aiming at all respondents:

21. Have you encountered difficulties in applying the provisions on monitoring (Article 3), in particular concerning the respect of the ceiling?

   Yes • No •

   If yes, please explain.

22. Please explain the workload (if possible provide full man-days/fulltime equivalents) caused by the monitoring provisions (Article 3), in particular concerning the respect of the ceiling and the records to be kept, and estimate, if possible, the administrative burden created by it.

SECTION E: MISCELLANEA

Questions aiming at all respondents:

23. Do you have any other comments on the application of the de minimis Regulation on issues other than those covered in the previous questions?

   In its modernisation notification, the EU Commission states the goal of focussing on aid that can lead to a sustained distortion of competition.

   In our view the maximum permissible de minimis aid should be adjusted to the fixed maximum aid amount for services of general economic interest (SGEI) of EUR 500,000 for three years. The capability to impair trade between the Member States or to distort or threaten to distort competition does not differ in a relevant way from the SEGI cases.
Irrespective of the foregoing: the maximum amount of EUR 200,000 has been fixed at this level since 2006. Even when only taking into account inflation in the EU (average 2007-2011 2.4% p.a.) and assuming that a new maximum amount will cover the next 10 years until 2023, it becomes necessary to increase the maximum amount to at least EUR 300,000 (2007 to 2023 = 17 years, EUR 200,000 * 1.024 = EUR 299,000).

Another simplification would be achieved, if de minimis limits would not only be defined in EURO but also in other national currencies as well. National limits could be revised once a year.

Moreover, we recommend defining the 3-years period as calendar years not as a fiscal year. This would simplify the implementation of support as well.

A clarification of the definition of the “processing of agricultural products“ would be desirable.

24. Please provide copies of any documents or studies which may be relevant for assessing the application of the de minimis Regulation and contributing to the reflection on its future revision.

Please indicate whether the Commission services may contact you for further details on the information submitted, if required.

Yes• No•

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE.