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HANDBOOK ON COMMUNITY STATE AID RULES FOR SMEs

INCLUDING TEMPORARY STATE AID MEASURES TO SUPPORT ACCESS TO FINANCE IN THE CURRENT FINANCIAL AND ECONOMIC CRISIS

Note of caution:
This Handbook gives a concise, and sometimes simplified, summary of State aid legislation. Obviously, no rights can be derived from the summaries and tables presented in this document. For a more authoritative version of the rules applying in each field, the reader is referred to the relevant full-length legislative texts, the exact references of which are specified in this text.

1. INTRODUCTION

1.1. Importance of SMEs

The Small and Medium-sized Enterprises (SMEs) are the backbone of Europe's economy. There are more than 23 million SMEs in the EU, which represents 99% of European undertakings. They are Europe's net job creators and employing more than 100 millions employees, firmly anchored in their local and regional communities, and are a guarantee of social cohesion and stability. SME play an important role for European growth by producing 60% of European GDP. Dynamic entrepreneurs are particularly well placed to reap opportunities from globalisation and from the acceleration of technological change. SMEs play also a major role in the innovation process and are thus a major element for a knowledge-based economy.

In this context, the recent **Small Business Act for Europe[1] (SBA)** adopted by the Commission in June 2008 reflects the Commission's political will to recognise the central role of SMEs in the EU economy and for the first time puts into place a comprehensive policy framework for the EU and its Member States. It aims to improve the overall approach to entrepreneurship, to irreversibly anchor the "Think Small first" principle in policy making from regulation to public service, and to promote SME's growth by helping them to tackle the remaining problems which hamper their development. The SBA has identified a large number of actions to boost SMEs on different levels.

Access to appropriate finance is one of the largest problems facing EU small and medium-sized enterprises. Investors and banks often shy away from financing start-ups or young SMEs due to the risks involved. In the current context of economic slowdown and financial crisis, SMEs are facing bigger difficulties of access to finance even more acutely than other companies, thereby delaying or even scuppering the necessary financing for their growth and for development of envisaged investments. This is one of the major elements of the Commission's proposal of a **European Economy Recovery Plan** as announced by Commission President J. M. Barroso on 26 November 2008. The Recovery Plan builds on the Small Business Act to provide further help for all SMEs, including very concrete, specific measures to reduce administrative burdens on business, promote their cash flow and help more people to become entrepreneurs. The Recovery Plan aims to enhance access to financing for SMEs, together with the European Investment Bank and the European Investment Fund. It recalls also that the Member States should make full use of the recently reformed rules for granting the right kind of state aid to SMEs. State support for European small and medium business will only show results on their competitiveness if it is aimed at structural improvements of market conditions through "smart investments": leading to more innovation, more research, higher energy-efficiency, better training, and higher quality jobs. To provide a further State assistance to SME, the Commission announced a simplification package to speed up state aid decision-making and temporarily measures making easer for Member States to grant certain kinds of aid to SMEs.

[1] Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions "Think Small First" A "Small Business Act" for Europe, COM(2008) 394 Final, 25.6.2008

Moreover, the EU spending programmes, like the Competitiveness and Innovation Programme[2] and the Research Framework Programme[3], may be used to best effect to bring support to SMEs. In the same vein, it is possible to reinforce the synergies between the Lisbon strategy and European Climate Change and Energy Agenda by promoting investment in innovating low-carbon technologies and energy efficiency measures which will foster European competitiveness and, at the same time, meet our energy security and climate change targets.

1.2. State aid for SMEs

First of all, it is noteworthy that to support SMEs, Member States can use different instruments which are not considered State aid:

General support measures, which may include general reduction of the taxation of labour and social costs, boosting investment in general education and training, measures to provide guidance and counselling, general assistance and training for the unemployed and improvements in labour law do not constitute State aid and can be thus implemented immediately by Member States. Some measures contained in the Small Business Act such as reducing payment delays to improve SMEs cash-flow or the Commission's proposal that the small businesses should be exempted from the excessive burden in terms of accounting rules and statistical reporting also don't entail State aid.

The support measures for SMEs which entail State aid according to Article 87(1) of the Treaty have to respect the State aid procedure. Some of these measures will:

- under certain conditions, not be considered as State aid (see below under *de minimis* for measures of limited amount or guarantees);
- constitute State aid but can be granted directly by Member States without notification to the Commission (see below for measures covered under GBER);
- be generally considered to be compatible State aid if they fulfil the conditions in relevant Commission guidelines and frameworks (see below under risk capital, R&D&I, environmental protection, disadvantaged regions). These measures have to be notified to the Commission and can be implemented only after having received the Commission authorisation.

The Commission has recently modernised the State aid rules to encourage Member States to better target investments towards objectives of the Lisbon strategy for growth, jobs and the competitiveness. In this context, particular emphasis – and increased possibilities for granting State aid - has been given to SMEs. Indeed, **SMEs are eligible for <u>all aid categories</u> allowed under EU State aid rules and for those categories of aid measures which can also be provided to large undertakings, SMEs benefit from higher aid intensities**. Having regard to the fact that market failures are bigger for small enterprises in compare to medium-sized enterprises, different basic aid intensities and different bonuses are set for these two categories.

[2] http://ec.europa.eu/cip/index_en.htm

[3] http://ec.europa.eu/research/fp7/index_en.cfm?pg=understanding

In addition, the State aid rules have been significantly simplified and streamlined in the recently adopted **"General Block Exemption Regulation" ("GBER")**[4] and now offer Member States wide panoply of aid measures for SMEs with minimal administrative burden. The categories of aid measures contained in the GBER are exempted from the notification requirement. Consequently, Member States can grant these categories of aid immediately and inform the Commission only afterwards. To be exempted under the GBER, the aid measures must fulfil certain number of conditions announced in this Regulation. In particular, the GBER applies only to transparent aid, i.e. aid for which it is possible to calculate precisely the amount of aid ex ante.
Member States can award different types of aid to SMEs and cumulate the different aid measures as far as the cumulation rules announced in GBER are fulfilled. For instance, one and the same SME can receive at the same time aid for a training project (training aid), for buying a machine (investment aid) and for participating in fairs, without having to pass through the usual notification procedure since they concern different activities ("different eligible costs").

This Handbook aims at giving a concise overview of the aid possibilities for the SMEs as allowed by the Community State aid rules.

Full texts of the relevant pieces of legislation can be found on DG COMP web site:
(http://ec.europa.eu/comm/competition/state_aid/legislation/legislation.html).

The aids for SMEs have been consolidated and simplified in all of the sectoral exceptions. The exceptions apply essentially for State aid in the following sectors: the fishery and aquaculture sectors, the agricultural sector, the coal sector, the shipbuilding sector, the steel sector and the synthetic fibres sector. More details about sectoral specific rules can be found in specific legislative texts.

Sectors where specific State aid rules apply:
About fishery and aquaculture sectors: http://ec.europa.eu/fisheries/legislation/state_aid_fr.htm[5]
About agricultural sector: http://ec.europa.eu/agriculture/stateaid/leg/index_en.htm[6]
About the energy and transport sectors:
http://ec.europa.eu/dgs/energy_transport/state_aid/index_en.htm[7]

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[4] Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

[5] See the "Guidelines for the examination of State aid to fisheries and aquaculture" (OJ C 84 of 03.04.2008)

[6] See Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358 of 16.12.2006)

Community guidelines for state aid in the agriculture and forestry sector 2007-2013 (OJ C 319 of 27.12.2006)

Commission Regulation (EC) No 1628/2006 of 26 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid (OJ L 302 of 01.11.2006)

Community Guidelines for state aid for advertising of products listed in Annex I to the EC Treaty and of certain non-Annex I products (OJ C 252 of 12.9.2001)

Community guidelines for State aid concerning TSE tests, fallen stock and slaughterhouse waste (OJ C 324 of 24.12.2002)

1.3. Definitions

1.3.1. What is a SME?

The definition of SMEs used in the State aid area is identical to the common definition of SME used by the Commission as announced in its specific Recommendation on the definition of SMEs[8]. This definition is also included in the Annex 1 of the GBER and can be found in the annex II of this Handbook.

■ A ***medium-sized enterprise*** is an enterprise satisfying all of the following criteria:
- has fewer than 250 employees and
- has either an annual turnover not exceeding EUR 50 million, and/or a balance-sheet total not exceeding EUR 43 million.

■ A ***small enterprise*** is an enterprise that satisfies all of the following criteria:

- has fewer than 50 employees and
- has either an annual turnover and/or a balance-sheet total not exceeding EUR 10 million.

■ A ***micro- enterprise*** is an enterprise that satisfies all of the following criteria:

- has fewer than 10 employees and
- has either an annual turnover and/or a balance-sheet total not exceeding EUR 2 million.

The criteria must be applied to the company as a whole (including subsidiaries located in other Member States and outside the EU). The Regulation provides definitions of an *autonomous* enterprise, *partner* enterprise and *linked* enterprise in order to assess the real economic position of the SME in question.

1.3.2. State aid concepts

- "aid" means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;
- "aid scheme" means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a

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[7] See Commission Communication C(2005) 312 - Community guidelines on financing of airports and start-up aid to airlines departing from regional airports (OJ C 312, 09/12/2005, p. 0001)

Commission Communication C(2004) 43 - Community guidelines on State aid to maritime transport (OJ C 013 , 17/01/2004 P. 0003 – 0012)

Community guidelines on State aid for railway undertakings (OJ of 22/07/2008, 2008/C 184/07 page 13)

[8] Commission Recommendation of 06/05/2003 concerning the definition of micro, small and medium-sized enterprises C(2003) 1422 final (OJ L 124 of 20.05.2003)

http://ec.europa.eu/enterprise/enterprise_policy/sme_definition/decision_sme_en.pdf

specific project may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount;

- "aid intensity" means the aid amount expressed as a percentage of the eligible costs;
- "assisted areas" means regions eligible for regional aid, as determined in the approved regional aid map for the Member State concerned for the period 2007-2013.

2. FINANCIAL SUPPORT FOR SMES

2.1. Aids of small amount (the "de minimis" rule)

The de minimis Regulation is an instrument which allows Member States to grant subsidies of limited amount to undertakings and particularly SMEs very rapidly, **without notification to the Commission and entering into any administrative procedure**. The rule is based on the assumption that, in the vast majority of cases, subsidies of a small amount do not have an effect on trade and competition between Member States and therefore do not constitute state aid pursuant to Article 87(1) EC.

The de minimis Regulation specifies that aid measures **up to EUR 200 000 per company** over **any period of 3 fiscal years** do not constitute State aid within the meaning of the Treaty which means that Member States can grant these amounts of aid without any procedural burden.
A State guarantee amounting to EUR 1.5 million can be considered as implying an aid amount which does not exceed EUR 200 000.

Under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis (see chapter 4 of this Handbook), Member States can grant, under certain conditions, a lump slum of aid up to EUR 500 000 per company until 31.12.2010. Such aid allowed under the Temporary Framework constitutes State aid within the meaning of Article 87(1) EC, which is not the case for the de minimis support of EUR 200 000 allowed by the de minimis Regulation.

Conditions:

- The ceiling for the aid covered by the *de minimis* rule is EUR 200 000 (cash grant equivalent) over any three fiscal year period.
- The ceiling will apply to the total of all public assistance considered to be *de minimis* aid. It will not affect the possibility of the recipient obtaining other state aid under schemes approved by the Commission, without prejudice to the cumulation rule described below.
- The ceiling applies to aid of all kinds, irrespective of the form it takes or the objective pursued. The only type of aid which is excluded from the benefit of the *de minimis* rule is export aid.
- The regulation only applies to "transparent" forms of aid which means aid for which it is possible to determine in advance the gross grant equivalent without needing to undertake a risk assessment.

This Regulation applies to aid granted to undertakings in all sectors, with the **exception** of:

- Aid granted to undertakings active in **the fishery and aquaculture**[9]
- Aid granted to undertakings active in **the primary production of agricultural products**[10]
- Aid granted to undertakings active in the **processing and marketing of agricultural products** (in certain cases)
- Aid to **export-related activities towards third countries or Member States**
- Aid **contingent upon the use of domestic over imported goods**;
- Aid granted to undertakings active **in the coal sector**
- Aid for **the acquisition of road freight transport vehicles** granted to undertakings performing road freight transport for hire or reward
- Aid granted to **undertakings in difficulty**

What is a transparent aid?

An aid is transparent when it is possible to calculate precisely the gross grant equivalent of the aid ex ante without need to undertake a risk assessment.
For example:

- **Aid comprised in loans** shall be treated as transparent de minimis aid when the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time of the grant.
- **Aid comprised in capital injections** shall not be considered as transparent de minimis aid, unless the total amount of the public injection does not exceed the de minimis ceiling.
- **Aid comprised in risk capital measures** shall not be considered as transparent de minimis aid, unless the risk capital scheme concerned provides capital only up to the de minimis ceiling to each target undertaking.
- **Individual aid provided under a guarantee scheme to** undertakings which are not undertakings in difficulty shall be treated as transparent de minimis aid when the guaranteed part of the underlying loan provided under such scheme does not exceed EUR 1 500 000 per undertaking.
- **Individual aid provided under a guarantee scheme in favour of undertakings active in the road transport sector which are not undertakings in difficulty** shall be treated as transparent de minimis aid when the guaranteed part of the underlying loan provided under such scheme does not exceed EUR 750 000 per undertaking.

For more information:

- "Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid" (Official Journal No L 379, 28.12.2006, p. 5)

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:379:0005:0010:EN:PDF

[9] De minimis Regulation for fisheries Commission Regulation (EC) No 875/2007: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:193:0006:0012:EN:PDF

[10] Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the sector of agricultural production (OJ L 3337 of 21.12.2007): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:325:0004:0009:EN:PDF

2.2. State guarantees

State guarantees are an important tool to support the development of companies and to facilitate their access to finance. This is of particular importance for SMEs.

The main purpose of the **Notice on State aid in the form of guarantees**, adopted by the Commission in 2008, is to determine **conditions under which a State guarantee does not constitute State aid**, according to Articles 87 and 88 of the EC Treaty. The text sets out clear and transparent methodologies to calculate the aid element in a guarantee. The provisions of the Notice apply to **all guarantees where a transfer of risk takes place**. The most usual guarantees are associated with a loan or another financial obligation contracted by a borrower from a lender. Such guarantees may be granted individually or within a scheme. However, other forms of guarantee may exist and are covered by the Notice.

Simplified rules for SMEs are introduced in order to help to address the particular difficulties of SMEs with access to finance. Two tools allow Member States to assess the aid element of a guarantee for an SME in a simple way:

- **Possibility to use predefined safe-harbour premiums** based on rating classes and that are considered to be market-conform and thus free of aid. They can also be used as a reference to calculate the aid equivalent in case of lower premiums.
- **A premium of 3.8% per year is applicable**, even in the absence of rating, for start-up companies.
- **For schemes**, a single premium can be applied across the board, when the guaranteed amount remains **below EUR 2.5 million per company**. This allows for a risk-pooling effect in favour of low-amount guarantees for SMEs.

Conditions:

(a) Individual guarantees:

- the borrower is not a company in difficulty[11]
- linked to a specific financial transaction and limited in time and amount
- maximum coverage- 80% outstanding loan (or other financial obligation)
- proportionality in repayments and decrease of guarantee and in sharing losses
- market-oriented price paid for the guarantee
- possibility to use predefined safe-harbour premiums (linked to credit rating of the SME)

[11] According to the definition set out in the Community Guidelines on State aid for rescue and restructuring firms in difficulty. OJ C 244, 1.10.2004, p.2. See also the chapter 3.9. of this Handbook.

(b) Guarantee schemes:

- companies in difficulties should be excluded from the scheme[12]
- guarantees linked to specific transaction and are limited in time and amount
- not more than 80% of the outstanding loan (or other financial obligation)
- premiums to be reviewed at least once a year
- premiums to cover normal risks, administrative costs and yearly remuneration of an adequate capital
- transparent terms for future guarantees (e.g. eligible companies)
- possibility to use safe-harbour premiums or possibility of a single premium (avoiding the need for individual ratings of beneficiary SME) for guaranteed amount up to EUR 2.5 million per company in a given scheme (allows for a risk-pooling effect in favour of low-amount guarantees for SMEs)

For more information:

- *"Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees" (Official Journal No C 155, 20.6.2008, p. 10-22 and corrigendum to p. 15 in Official Journal No C 244, 25.9.2008, p. 32)*

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:155:0010:0022:EN:PDF

[12] According to the definition set out in the Community Guidelines on State aid for rescue and restructuring firms in difficulty. OJ C 244, 1.10.2004, p.2. See also the chapter 3.9. of this Handbook.

2.3. The Risk capital aid

Risk capital constitutes an important instrument for the financing of SMEs. New **Guidelines on Risk Capital** became applicable in August 2006.

The **GBER** introduced aid in the form of risk capital measures amongst the categories of aid which are exempted from the notification requirement.

The Commission put in place a new safe-harbour threshold of **EUR 1.5 million per target SME**. Within this ceiling the Commission accepts as a principle that alternative means of funding from risk capital markets are lacking (i.e. that a market failure exists).

These measures **foster the creation of venture capital funds** and **the investment in high-growth SMEs.** This is particularly relevant under economic circumstances that exacerbate risk aversion in Europe's financial sector.

Granting risk capital aid is possible in **all sectors** of the economy with the **exception** of enterprises:

- in difficulty, within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ;
- in the shipbuilding, coal and steel sectors.

Concepts:

Safe harbour threshold: the risk capital measure must provide for tranches of finance, whether wholly or partly financed through State aid, not exceeding EUR 1.5 million per target SME over each period of 12 months.

Risk capital: means equity and quasi-equity financing to companies during their early-growth stages (seed, start-up and expansion phases), including informal investment by business angels, venture capital and alternative stock markets specialised in SMEs including high-growth companies.

Conditions

Under the **Guidelines**, it is possible to derogate from some of the conditions below. In this case, the aid will be analysed through detailed assessment with a view to balancing its positive and negative effects.

Under the **GBER**, all these conditions below shall be fulfilled.

- Up to **EUR 1.5 million per target undertaking over any period of twelve months**.
- For **SMEs located in assisted areas**, as well as for **small enterprises located in non-assisted areas,** the risk capital measure shall be restricted to providing **seed capital, start-up capital and/or expansion capital.**
- **For medium-sized enterprises located in non-assisted areas**, the risk capital measure shall be restricted to providing **seed capital and/or start-up capital**, to the exclusion of

expansion capital.

- The investment fund shall **provide at least 70 % of its total budget invested into target SMEs** in the form of equity or quasi equity.
- At least **50 % of the funding** of the investment funds shall be provided by **private investors.**
- In the case of investment funds targeting exclusively **SMEs located in assisted areas,** at least **30 % of the funding** shall be provided by **private investors**.
- The investment fund shall be **profit driven**, and its management must be effected on a **commercial basis**.

Categories of possible forms of aid under the Guidelines

- **Constitution of investment funds ("venture capital funds")** in which the State is a partner, investor or participant, even if on less advantageous terms than other investors;
- **Guarantees to risk capital investors or to venture capital funds** against a proportion of investment losses, or guarantees given in respect of loans to investors/funds for investment in risk capital, provided the public cover for the potential underlying losses does not exceed 50% of the nominal amount of the investment guaranteed;
- **Other financial instruments in favour of risk capital investors or venture capital funds** to provide extra capital for investment;
- **Fiscal incentives to investment funds and/or their managers or to investors** to undertake risk capital investment.

Categories of possible forms of aid under GBER

- **Constitution of investment funds ("venture capital funds")** in which the State is a partner, investor or participant, even if on less advantageous terms than other investors.

For more information:

- *"Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-sized Enterprises" (Official Journal C 194, 18.08.2006, p. 2)*

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:194:0002:0021:EN:PDF

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3. AID MEASURES TO SUPPORT GROWTH AND DEVELOPMENT OF SMEs

3.1. Aid for Research and Development and Innovation

The Commission has adopted a **Framework on State aid in favour of research and development and innovation (R&D&I)** in 2006 **and the GBER**, which includes also many R&D&I categories in 2008. Both the Framework and the GBER contain new provisions on innovation, **specially targeted at SMEs** and which also contribute to a better targeting of aid towards job and growth creation along the line set up in the Lisbon agenda.

Categories of possible aid measures under the Framework

- **Aid for research and development projects:** This category includes aid for:
  - fundamental research : up to 100 % of the eligible costs
  - industrial research : up to 80 % of the eligible costs for small enterprises and 75% for medium enterprises
  - experimental development up to 60 % of the eligible costs for small enterprises and 50% for medium enterprises
- **Aid for technical feasibility studies:** Aid can be granted for technical feasibility studies preparatory to industrial research or experimental development activities. For SMEs, the aid may represent 75 % of the eligible costs for studies preparatory to industrial research activities and 50 % of the eligible costs for studies preparatory to experimental development activities.
- **Aid for industrial property rights costs:** This aid may cover the costs associated with obtaining and validating patents and other industrial property rights.
- **Aid for the loan of highly qualified personnel:** The personnel must be employed in a newly created function within the beneficiary undertaking and must have been employed for at least two years in the research organisation or the large enterprise, which is sending the personnel on secondment.
  The aid intensity shall not exceed 50 % of the eligible costs, for a maximum of 3 years per undertaking and per person borrowed.
- **Aid for research and development in the agricultural and fisheries sectors**. Aid shall be granted directly to the research organisation and must not involve the direct granting of non-research related aid to a company producing, processing or marketing agricultural products, nor provide price support to producers of such products. The aid intensity shall not exceed 100 % of the eligible costs, subject to fulfilment in each case of specific conditions.

- **Aid to young innovative enterprises:** The beneficiary shall be a small enterprise that has been in existence for less than 6 years at the time when the aid is granted.
  For the purpose of the GBER, the innovative character of the beneficiary shall be established on the basis that its research and development costs represent at least 15 % of total operating costs in at least one of the three years preceding the granting of the aid or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as

certified by an external auditor.
The beneficiary may receive State aid other than R&D&I aid and risk capital aid only 3 years after the granting of the young innovative enterprise aid.
The aid amount shall not exceed EUR 1 million. However, the aid amount may reach EUR 1.5 million in regions eligible for the derogation provided for in Article 87(3)(a) of the Treaty, and EUR 1.25 million in regions eligible for the derogation provided for in Article 87(3)(c) of the Treaty.

- **Aid for innovation advisory services and for innovation support services**
  The aid amount shall not exceed a maximum of EUR 200 000 per beneficiary within any three year period. If the service provider benefits from a national or European certification, the aid may cover 100% of the eligible costs, otherwise the maximum aid amount is 75 % of the eligible costs.

- **Aid for process and organisational innovation in services**
  The process or organisational innovation must be new or substantially improved compared to the state of the art in its industry in the Community, and entail a clear degree of risk. Organisational innovation must always relate to the use and exploitation of information and communication technologies to change the organisation.
  Maximum aid intensity of 25 % for medium enterprises and 35 % for small enterprises.

- **Aid for innovation clusters**
  - **Investment aid** may be granted for the setting up, expansion and animation of innovation clusters exclusively to the legal entity operating the innovation cluster.
    The maximum aid intensity of 25 % for medium enterprises and 35 % for small enterprises. Higher aid intensities are applicable to clusters in the assisted regions.
  - **Operating aid for cluster animation** may be granted temporarily to the legal entity operating the innovation cluster.

Categories of possible aid measures under the GBER

<u>ALL aid categories of R&D&I aid under the Framework are covered by the GBER and consequently exempted from the notification procedure,</u> with the following exceptions:

1. Aid for process and organisational innovation in services

2. Aid for innovation clusters

3. Large amounts of individual aid: The R&D&I aid categories fall under the GBER as long as the following **notification thresholds** (per undertaking, per project/study) are not exceeded:

- If the project is predominantly fundamental research: EUR 20 million*
- If the project is predominantly industrial research: EUR 10 million*
- All other projects: EUR 7.5 million*
- Aid for industrial property rights costs: EUR 5 million

*The thresholds are doubled in case of EUREKA projects

For more information:

- *"Community Framework for State aid for Research and Development and Innovation" (Official Journal C 323 of 30.12.2006, p. 1)*

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:323:0001:0026:EN:PDF

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.2. Aid for Environmental protection

New **Guidelines on State aid for environmental protection** have been adopted in the context of the Climate package in the beginning of 2008. Under these guidelines, Member States may grant support for environmental friendly projects to SMEs and large undertakings.

Large number of aid possibilities to support the environmental protection was recently included into the **GBER** to allow Member States to grant these aids easily and immediately without notification to the Commission. Such aid does not need to be notified if the aid doesn't exceed the threshold of EUR 7.5 million per undertaking per investment project and if the conditions of the GBER are fulfilled.

For investment aid, the eligible costs are the **extra investment costs** necessary to achieve the level of environmental protection higher than required by any Community standard or in the absence of Community standard. Any operational benefits or costs occurred during specified period shall be deducted from the eligible costs.

Categories of possible aid measures under the Guidelines

- **Aid for investment for undertakings which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards:** Aid to promote the environmentally friendly investments up to 70% for small undertakings and 60% for medium undertakings. 10 points bonus can be granted for eco-innovation measures and aid can reach up to 100% of the extra-costs of the investment when bidding process is put in place. This aid is applicable also to acquisition of new transport environmentally friendly vehicles.
- **Aid for early adaptation to future Community standards:**
  This category concerns aid for complying with new Community standards which increase the level of environmental protection and are not yet in force. SME can befit from following aid intensities: When the implementation and finalisation take place :
  - More than 3 years before the entry into force of the standard: 25% for small enterprises and 20% for medium enterprises.
  - Between 1 and 3 years before the entry into force of the standard: 20% for small enterprises and 15% for medium enterprises.
- **Aid for energy saving measures**:
  - Investment aid is possible up to 80% of costs for small enterprise and 70% for medium enterprise and aid can reach up to 100% of the extra-costs of the investment when bidding process is put in place.
  - Operating aid is limited to 5 years period.
- **Aid for renewable energy sources:**
  - **Investment aid** can reach 80% for small undertakings and 70% for medium undertakings. Aid intensity of 100% is possible if bidding process put in place.
  - **Operating aid:** Member States may cover all extra-costs compared to conventional energies. Different options exist for operating aid.
- **Investment aid for high-efficiency cogeneration** Member States can grant aid enabling undertakings to achieve energy saving and aid for cogeneration up to 80% of eligible costs for

small undertakings and up to 100% of the extra-costs if bidding process is put in place.

- **Aid for investment in energy-efficient district heating** up to 70% for small and 60% for medium undertakings. 100% if bidding process.
- **Aid for environmental studies:** aid for companies for studies directly linked to investments for the purposes of going beyond the Community environmental standards or achieving energy saving or producing renewable energy up to 70% of the costs of the study for small enterprise and 60% for medium enterprise.

- **Aid for waste management:** this category covers the aid for the management of waste of other undertakings, including activities of re-utilisation, recycling and recovery. The aid can reach 70% of eligible costs for small undertakings and 60% for medium undertakings.
- **Aid for the remediation of contaminated sites**: this aid can be granted only where the polluter is not identified or cannot be made to bear the costs. The aid can cover 100% of the eligible costs.
- **Aid for the relocation of undertakings** to new sites for environmental protection reasons. The change of location must be dictated by environmental protection or prevention grounds and must have been ordered by the administrative or judicial decision of a competent public authority or agreed between the undertaking and the competent public authority. The beneficiary undertaking must comply with the strictest environmental standards applicable in the new region where it is located. The beneficiary can be an undertaking established in an urban area or special area of conservation or an establishment or installation falling within the scope of the Seveso II Directive. Aid can amount up to 70% for small enterprises and 60% for medium enterprises.
- **Aid involved in tradable permit schemes:** the Guidelines announce specific conditions to be fulfilled and also the way of assessing the necessity and the proportionality of State aid involved in tradable permit schemes.
- **Aid in the form of reductions of or exemptions from environmental taxes:** Allowed if contributes at least indirectly to an improvement of the level of environmental protection and the reductions or exemptions do not undermine the general objective pursued by the tax. Aid in the form of tax reductions and exemptions from harmonised environmental taxes is allowed for a period of 10 years if the Community minimum is paid. In other cases, the tax reductions or exemptions are allowed for 10 years only if the aid is necessary and proportional and after analysing its effects at the level of the economic sectors concerned.

Categories of possible aid measures under the GBER

Following categories of environmental aid are covered by the GBER and consequently exempted from the notification procedure:

- **Aid for investment for undertakings which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards:** (including acquisition of new transport environmentally friendly vehicles)
- **Aid for early adaptation to future Community standards**
- **Aid for environmental studies**

- **Investment aid for energy saving measures**: the eligible costs can be calculated with the simplified method (with lower aid intensities) or with the standard method identical to the Guidelines (with identical aid intensities).
- **Investment aid for renewable energy sources**
- **Investment aid for high-efficiency cogeneration**
- **Aid in the form of reductions of or exemptions from environmental taxes fulfilling the conditions of the Energy taxation Directive (2003/96/EC):** allowed for 10 years when the Community minimum tax level is paid.

For all categories of **investment aid** there is a **simplified calculation of eligible costs under the GBER**: eligible costs can be calculated without taking into account the operating benefits/costs. Consequently the aid intensities are lower under the GBER compared to the aid intensities under the Guidelines in order to ensure that the aid amounts granted for each environmental objective will be the same under the GBER and the Guidelines.

The environmental aid categories fall under the GBER as long as the individual **aid amount does not exceed EUR 7.5 million.**

For more information:

- *"Community Guidelines on State aid for Environmental Protection" (Official Journal No C 82, 1.4.2008, p.1)*

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:082:0001:0033:EN:PDF

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.3. Regional Aid

In disadvantaged regions, Member States can grant national regional aid under the **Regional aid guidelines** applicable since January 2007 and under the **GBER.** National regional aid is designed to assist the development of the most disadvantaged regions by supporting investment and job creation linked to the investment, supporting start-up enterprises and granting the operating aid in specific circumstances. It promotes the expansion and diversification of the economic activities of enterprises located in the less-favoured regions, in particular by encouraging firms to set up new establishments there.

The Guidelines cover national regional aid in all sectors, except for the fisheries sector, the coal and the steel industry, the synthetic fibres industry and the primary production of agricultural products. They generally apply to the processing and marketing of agricultural products. Special rules apply to transport and shipbuilding and no regional aid is allowed to firms in difficulty[13].

As a general rule, regional aid should be granted under a **multi-sectoral aid scheme** which forms an integral part of a regional development strategy. Exceptionally, Member State can also grant individual ad hoc aid to a single firm or aid confined to one area of activity if this is justified by exceptionally circumstances.

Concepts:

Article 87(3)(a) regions: These are regions where the standard of living is abnormally low or where there is serious underemployment.

Article 87(3)(c) areas: These are problem areas defined on the basis of (national) indicators proposed by the Member States, subject to a maximum population coverage and some minimal conditions to prevent abuse.

Initial investment: investment in material and immaterial assets relating to :
- the setting up of a new establishment,
- the extension of an existing establishment,
- diversification of the output of an establishment into new additional products,
- or a fundamental change in the overall production process of an existing establishment;

***Job creation linked to the investment*:** net increase of jobs created within 3 years from the completion of investment.

Large investment project is an initial investment with an eligible expenditure above EUR 50 million.

[13] According to the definition set out in the Community Guidelines on State aid for rescue and restructuring firms in difficulty. OJ C 244, 1.10.2004, p.2. See also the chapter 3.9. of this Handbook.

Categories of possible aid measures under the Guidelines

- **Regional Investment aid**

This aid can be granted for an initial investment project.

Eligible costs can be calculated **either** as:

- Material (land, buildings, equipment) and the total amount of immaterial (entailed by technology transfer) investment costs resulting from the initial investment project. The eligible assets do not have to be new.

OR

- Estimated wage-costs for jobs directly created by the investment project over a period of two years.

The investment or jobs created must be maintained in the region concerned for minimum 3 years.
The beneficiary must provide a financial contribution of at least 25% of eligible costs.

To take into account the nature and the intensity of the regional problems that are being addressed, the admissible aid intensities are higher in Article 87(3)(a) regions than in Article 87(3)(c) regions. The aid intensities for SMEs vary from 20% to 80% in recognition of handicaps of a given area.
Large investment projects are subject to reduced aid intensities.
Where expenditure eligible for regional aid is eligible for aid for other purposes (e.g. R&D&I), it will be subject to the most favourable ceiling under the schemes in question.

- **Regional Operating Aid**

Regional operating aid can be granted only in certain well-defined cases, when justified by severe structural handicaps of a region. This operating aid consists in supporting current expenditure of enterprises.

Conditions:

- It should justified in terms of its contribution to regional development an its nature;
- Its level should be proportional to the handicaps it seeks to alleviate;
- It is limited in time and progressively reduced.

Operating aid can be unlimited and not progressively reduced :
- to compensate the handicaps of the outermost regions
- to prevent or reduce the continuing depopulation of the least populate regions.
- to offset additional transport costs in the outermost and in low population density regions

- **Aid for newly created small enterprises**

The aim of the start-up aid is to support small enterprises in their early development stages (first 5 years). The aid can amount up to following levels:
- **aid of up to a total of EUR 2 million per enterprise** for small enterprises with their economic activity in regions eligible for the derogation in **Article 87(3)(a)**. The aid intensity can reach 35 % of eligible expenses incurred in the first three years after the creation of the enterprise, and 25 % in the two years thereafter;
- aid up to EUR 1 million per enterprise for small enterprises with their economic activity in regions eligible for the derogation in **Article 87(3)(c)**. The aid intensity can reach 25 % of eligible expenses incurred in the first three years after the creation of the enterprise, and 15 % in

the two years thereafter.
These aid intensities can be increased by 5% in the most disadvantaged areas, low density of population areas and in isolated areas.

The **eligible costs** are legal, advisory, consulting and administrative directly related to the creation of the small enterprise, together with a range of operating costs actually incurred within the first 5 years of the creation of the undertaking.

Annual amounts of aid awarded for newly created small enterprises must not exceed 33 % of the abovementioned total amounts of aid per enterprise.

Categories of possible aid measures under the GBER

Following categories of regional aid are covered by the GBER and consequently exempted from the notification procedure:

- **Regional investment and employment aid** (employment directly created by the investment project). Only following forms of aid are exempted from the notification requirement:

- transparent aid **schemes**

- certain amount of **ad hoc aid** used as a component of aid granted under schemes

- aid granted under the scheme to **individual large investment projects** where the aid do not exceed the maximum allowable amount of aid that an investment with eligible costs of EUR 100 million can receive under the scale and the rules announced in the Regional aid guidelines.

- **Aid for newly created small enterprises**

For more information:

- *Guidelines on National Regional Aid for 2007-2013 (Official Journal C 54, 4.3.2006, p.13)*

http://eur-ex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:054:0013:0044:EN:PDF

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.4. Investment and Employment Aid

This aid can be granted both **in assisted and in non-assisted areas** (for aid granted in assisted regions see Regional aid part).

The eligible costs are:

- the **costs of investment in tangible and intangible assets** or
- the **estimated wage costs of employment directly created by the investment project**, calculated over a period of two years. It means that the investment costs can be calculated also on the basis of the number of jobs created.

The Member States can finance up to **20 %** of the eligible costs in the case of **small enterprises** and **10 %** of the eligible costs in the case of **medium-sized enterprises**.

These categories of aid are covered by the **General Block Exemption Regulation** and consequently do not need to be notified to the Commission, with the exception of individual aid above EUR 7.5 million.

Specific conditions apply to investments in processing and marketing of agricultural products.

For more information:

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*
http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.5. Training Aid

Under the new General Block Exemption Regulation, Member States may grant both general and specific training aid to their undertakings. These categories of aid are covered by the GBER and consequently do not need to be notified to the Commission, with the exception of individual aid above EUR 2 million.

The **eligible costs** are costs such as trainer's personal costs, trainers and trainees travel expenses including accommodation, materials and supplies directly related to the training, depreciation of tools and equipment used exclusively for the training, guidance and counselling services, trainees personal costs and general indirect costs, or trainees personnel costs for the hours during which they participate in the training.

Concepts:

Specific training: means training involving tuition directly and principally applicable to the employee's present or future position in the undertaking and providing qualifications which are not or only to a limited extent transferable to other undertakings or fields of work;

General training: means training involving tuition which is not applicable only or principally to the employee's present or future position in the undertaking, but which provides qualifications that are largely transferable to other undertakings or fields of work.

Categories of possible aid measures under the GBER

- **Aid for Specific training:** Member States can cover **45 % of the eligible costs for small enterprises and 35 % for medium enterprises**
- **Aid for General training**: Member States can cover **80 % of the eligible costs for small enterprises and 70 % for medium enterprises**

The aid intensity may be increased, up to a maximum aid intensity of 80 % of the eligible costs by **10 %** points if the training is given to **disabled or disadvantaged workers.**

The characteristics of training **in the maritime transport sector** justify a specific approach, where the aid may reach an intensity of 100 % of the eligible costs.

For more information:

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.6. Aid for consultancy and aid for participation in fairs

The **GBER** provides aid possibilities to grant aid for consultancy and for participation in fairs without notification procedure, with the exception of individual aid above EUR 2 million.

Categories of possible aid measures under the GBER

- **Aid for consultancy:** The aid intensity shall not exceed 50 % of the eligible costs, which shall be the consultancy costs of services provided by outside consultants. The services concerned shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services or advertising. The total amount of aid granted can reach EUR 2 million.

- **Aid for SME participation in fairs**, which can procure up to EUR 2 million per undertaking per project. The aid intensity shall not exceed 50 % of the eligible costs, which shall be the costs incurred for renting, setting up and running the stand for the first participation of an undertaking in any particular fair or exhibition. This aid can be granted for the participation in different fairs, but not for several participations in the same fair.

For more information:

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.7. Aid for female entrepreneurship

The **GBER** allows Member States to support, both in assisted and non-assisted regions, **the creation of small enterprises owned and run by women.** This will allow women entrepreneurs overcoming specific market failures which they face (including, most prominently, difficulties in accessing finance), especially when setting up a first business, thereby promoting substantive rather than formal equality between men and women in this area.

Member States have the possibility to grant subsidies of **up to EUR 1 million** to small enterprises newly created by female entrepreneurs without having to pass through the notification process, as long as they comply with the conditions laid down in the GBER.

The **aid intensity** can reach 15% of eligible costs incurred in the first 5 years after the creation of the undertaking.
The **eligible costs** are legal, advisory, consulting and administrative directly related to the creation of the small enterprise, together with a range of operating costs actually incurred within the first 5 years of the creation of the undertaking. In particular, and for the first time, the GBER allows also **granting aid for child care and parent care costs**.

Concepts:

Enterprise newly created by female entrepreneurs: means a small enterprise fulfilling the following conditions:

(a) one or more women own at least 51 % of the capital of the small enterprise concerned or are the registered owners of the small enterprise concerned; and

(b) a woman is in charge of the management of the small enterprise;

For more information:

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.8. Aid for disadvantaged and disabled workers

The GBER allows Member States to grant aid, exempted from prior notification, to help **disabled or otherwise disadvantaged workers** to find mainstream jobs.

Concepts:

Disadvantaged worker: any person for whom any of the following applies:

- has not been in regular paid employment for the previous 6 months;
- has not attained an upper secondary educational or vocational qualification (ISCED 3);
- is over the age of 50 years;
- lives as a single adult with one or more dependents;
- works in a sector or profession in a Member State where the gender imbalance is at least 25% higher than the average gender imbalance across all economic sectors in that Member State and belongs to that underrepresented gender group; or
- is a member of an ethnic minority and requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment.

Severely disadvantaged worker: any person who has been unemployed for 24 months or more.

Disabled worker: any person who is recognized as disabled under national law or has a recognized limitation which results from physical, mental or psychological impairment.

Conditions:

- Employment must represent a net increase in the number of jobs or, if not, the posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy;
- Employment must be maintained for at least the minimum period consistent with national legislation or collective agreement.

Categories of possible aid measures under the GBER

Disadvantaged workers:

- **Aid for recruitment of disadvantaged workers in the form of wage subsidies**: The aid can be granted to cover up to 50% of eligible costs, which are the wage costs over a maximum period of 12 months following the recruitment. This period can be expanded up to 24 months in case of severely disadvantaged workers. The total amount of aid can reach EUR 5 million per undertaking per year.

Disabled workers:

- **Aid for employment of disabled workers in the form of wage subsidies:** The aid can cover up to 75 % of eligible costs, which are the wage costs over any given period during which the disabled worker is being employed. This aid can attain EUR 10 million per undertaking per year.

- **Aid for additional costs of employing disabled workers**: This aid can cover 100% of eligible costs which are costs other than wage costs (covered already by the aid category above) which are additional to those which the undertaking would have incurred if employing workers who are not disabled, over the period during which the worker concerned is being employed. The eligible costs are the following: costs of adapting premises, costs of employing staff solely to assist the disabled worker(s), costs of adapting or acquiring equipment for disabled worker(s). Aid compensation for additional costs of employing disabled workers can amount up to EUR 10 million per undertaking per year.

For more information:

- *"Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)" (Official Journal L 214, 9.8.2008, p. 003-047)*

http://ec.europa.eu/comm/competition/state_aid/legislation/block.cfm

3.9. Aid for Rescue & Restructuring of firms in difficulty

The **Guidelines on State aid for rescuing and restructuring firms in difficulty** allow **execution of urgent restructuring measures, even in the rescue period** for individual companies in difficulty**.** Member States can opt for a lighter procedure to approve rescue aid if the amount of the aid does not exceed the result of a standard formula and, in any event, **EUR 10 million.**

These Guidelines apply to **firms in all sectors**, except to those operating in the coal or steel sector, without prejudice to any specific rules relating to firms in difficulty in the sector concerned.

Concepts:

A company in difficulty is a company that is unable, whether through its own resources or with the funds it is able to obtain from its owner/ shareholders or creditors, to stem losses which without outside intervention by public authorities will almost certainly condemn it to go out of business in the short or medium term.

Rescue aid is temporary and reversible assistance. It should make it possible to keep a company in difficulty afloat for the time needed to work out a restructuring or liquidation plan and/or for the length of time needed by the Commission or the competent national authorities to reach a decision on that plan.

Restructuring aid is based on a feasible, coherent and far-reaching plan to restore a firm's long-term viability.

Rescue aid has to meet the following conditions:

- Consists of **reversible liquidity** help in the form of loan guarantees or loans bearing normal commercial interest rates.
- Restricted to the **amount needed to keep the firm in business**.
- Only for the **time needed (max. 6 months) to devise the recovery plan**.
- Warranted on the **grounds of social difficulties** and have **no adverse effects** on the industrial situation in other Member States.
- Accompanied, on notification, by an undertaking given by the Member State to communicate to the Commission a **restructuring or liquidation plan** or proof that the loans has been reimbursed or guarantee terminated, not later than **within 6 months** after granting the aid.
- Should be a **one-off operation** (the "one time, last time" principle).

Restructuring aid can be granted only if the following criteria are met:

- **A restructuring/recovery programme** is submitted to the Commission to restore viability in a reasonable time period.
- **Compensatory measures** are taken to avoid undue distortions of competition (e.g. appropriate reduction of capacity). However, this condition will not normally apply to small enterprises, since it can be assumed that ad hoc aid for small enterprises does not

normally distort competition to an extend contrary to the common interest.

- **Aid is limited to the minimum** needed for the implementation of the restructuring measures. Beneficiaries have to make a **significant own contribution**, free of aid. For small enterprises the contribution of the enterprise should amount to at least 25% of the restructuring costs, for medium-sized enterprises 40%. In exceptional circumstances and in case of extreme hardship the Commission may accept a lower contribution.
- The company has to **implement the restructuring plan in full** and observe all attached conditions.
- Restructuring aid can **be granted once only** ("one time, last time principle").
- **Strict monitoring** and **annual reporting** is required.

For SMEs and firms in assisted regions: the capacity reduction/ own contribution criteria can be applied with a greater degree of flexibility.

For more information:

- *"Community Guidelines on State aid for rescuing and restructuring firms in difficulty" (Official Journal No 244, 01.10.2004, p. 2)*

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC1001(01):EN:HTML

4. TEMPORARY STATE AID MEASURES TO SUPPORT ACCESS TO FINANCE IN THE CURRENT FINANCIAL AND ECONOMIC CRISIS

On 17 December 2008, the Commission has adopted a Temporary framework for State aid measures to support access to finance in the current financial and economic crisis. In addition, some technical adjustments have been introduced on 25 February 2009. This Framework provides Member States with additional possibilities in the State aid area to tackle the effects of the credit squeeze on the real economy. It introduces a number of temporary measures allowing Member States to address the exceptional difficulties of companies, and in particular of SMEs, to obtain finance.

These temporary measures are based on the Article 87(3)(b) of the Treaty which allows the Commission to declare compatible with the common market aid "to remedy a serious disturbance in the economy of a Member State". Member States have to notify the schemes containing these measures, and once the scheme is approved, they can grant individual aid immediately without notification.

Conditions:

- All measures only apply to firms which were not in difficulty[14] on 1 July 2008. They may apply to firms that were not in difficulty at that date but entered in difficulty thereafter as a result of the global financial and economic crisis.
- The measures can be applied until 31 December 2010.
- These temporary measures may not be cumulated with de minimis aid for the same eligible costs. The amount of de minimis aid received after 01.01.2008 shall be deducted from the amount of compatible aid granted for the same purpose under this framework. The temporary aid measures may be cumulated with other compatible aid or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block exemptions Regulations are respected.

New measures and temporary modifications of existing instruments

- **A lump slum of aid up to EUR 500 000 per company for the next 2 years (01.01.2008-31.12.2010), to relieve them from current difficulties:** the present aid measure can only be applicable to aid schemes. Firms in fisheries sectors and in primary production of agricultural products are not eligible for this aid as well as export aid. If the undertaking has already received de minimis aid prior to the entry into force of this temporary framework, the sum of the aid received under this measure and the de

[14] Firm in difficulty as defined as follows:

- For large companies, point 2.1 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty , Official Journal C 244, 1.10.2004, pp. 2-17.

- For SMEs, article 1 (7) on the definition of the Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block exemption Regulation), Official Journal L 241, 9.08.2008.

minimis aid received must not exceed EUR 500,000 between 01.01.2008 until 31.12.2010.

- **State guarantees for loans in the form of a reduction of the premium to be paid:** SMEs can benefit from a reduction of up to 25% of the annual premium to be paid for new guarantees during 2 years following the granting of the guarantee. In addition, these companies can apply a premium fixed in the communication for other eight years. The maximum loan amount must not exceed the total annual wage bill of the beneficiary undertaking. The guarantee may not exceed 90% of the loan and may cover both investment and working capital loans.

- **Aid in the form of subsidised interest rates applicable to all types of loans:** the Commission accepts that public or private loans are granted at an interest rate which is at least equal to the central bank overnight rate plus a premium equal to the difference between the average one year interbank rate and the average of the central bank overnight rate over the period 1/1/2007 to 30/06/2008, plus the credit risk premium corresponding to the risk profile of the recipient, as stipulated by the Commission communication on the method for setting the reference and discount rate. This method can apply to all contracts concluded until 31 December 2010 and may cover loans of any duration. The reduced interest rates may be applied for interest payments before 31 December 2012.

- **Aid in the form of an interest-rate reduction for investment loans related to products which significantly improve environmental protection:** SMEs can benefit from an interest-rate reduction of 50%. The subsidised interest rate is applicable during a period of maximum 2 years following the granting of loan. The aid may be granted for production of products involving early adaptation to or going beyond future Community product standards which increase the level of environmental protection and are not yet in force.

- **A temporary derogation from the 2006 Risk capital guidelines:**

  - increase of the **tranche of finance per target SME** from EUR 1.5 million to **EUR 2.5 million**
  - reduction of **the minimum level of private participation** from 50% to **30%** (in and outside assisted areas)

- **Simplification of the requirements of the export credit Communication** to use the exemption that allows non-marketable risks to be covered by the State.

For more information:

- Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis (adopted on 17 December 2008)

http://ec.europa.eu/competition/state_aid/legislation/horizontal.html

ANNEX I

Maximum aid possibilities for SMEs applicable under the State aid rules

SE = small enterprises, ME = medium-sized enterprises
Thresholds are indicated per undertaking, per project, if not stated otherwise

Type of aid measure	Guidelines/Frameworks		GBER		
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks		Maximum allowable aid amount under the GBER	Aid intensity ceiling under the GBER	
De minimis aid	EUR 200 000 per undertaking during 3 fiscal years is not considered as aid				
Risk capital aid	Different forms of aid available (see point 2.3)		1.5 M EUR per target undertaking per 12 months	N/A	
Research and development aid	**SE**	**ME**		**SE**	**ME**
Fundamental research	100%	100%	20 M EUR	100%	100%
Industrial research	70%	60%	10 M EUR	70%	60%
Experimental development	45%	35%	7.5 M EUR	45%	35%
	+15 percentage points (up to 80% total) if collaboration or results disseminated		2x if EUREKA[15]	+15 percentage points (up to 80% total) if collaboration or results disseminated	
Aid for technical feasibility studies					
Fundamental research			20 M EUR		
Industrial research	75% for industrial research studies,		10 M EUR	75% for industrial research studies,	
Experimental development	50% for experimental development studies		7.5 M EUR 2x if EUREKA	50% for experimental development studies	

[15] Eureka is a pan-European network for market-oriented industrial research and development.

Type of aid measure	Guidelines/Frameworks	GBER	
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks	**Maximum allowable aid amount under the GBER**	**Aid intensity ceiling under the GBER**
Aid for industrial property rights costs Fundamental research Industrial research Experimental development	 100% 50% 25%	5 M EUR	 100% 50% 25%
Aid for the loan of highly qualified personnel	50% per undertaking, for 3 years, per person borrowed	N/A	50% per undertaking, for 3 years, per person borrowed
Aid for research and development in the agricultural and fisheries sectors	100% under specific conditions	N/A	100% under specific conditions
Aid for young innovative enterprises (only SE)	1 M EUR 1.25 M EUR in 87(3)(c) regions 1.5 M EUR in 87(3)(a) regions	1 M EUR 1.25 M EUR in 87(3)(c) regions 1.5 M EUR in 87(3)(a) regions	N/A
Aid for innovation advisory services and for innovation support services	100% if provider benefit from a national or European certification 75% otherwise Max EUR 200 000 per undertaking within 3 years	EUR 200 000 per undertaking within 3 years	100% if provider benefit from a national or European certification 75% otherwise
Aid for process and organizational innovation in services	**SE:** 35% **ME:** 25%	Not covered	
Aid for innovation clusters Investment aid	**SE:** 35% **ME:** 25%	Not covered	
Operating aid	▪ 100% with linear decrease to 0 over 5 years OR ▪ 50% for 5 years		

Type of aid measure	Guidelines/Frameworks	GBER	
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks	**Maximum allowable aid amount under the GBER**	**Aid intensity ceiling under the GBER**
Aid for investment to go beyond Community standards for environmental protection or increase the level of environmental protection in the absence of Community standards	**SE**: 70% **ME**: 60% Tender: 100% Eco-innovation bonus: +10%	7.5 M EUR	**SE**: 55% **ME**: 45%
Aid for acquisition of transport vehicles which go beyond Community environmental protection standards	**SE**: 70% **ME**: 60% Tender: 100% Eco-innovation bonus: +10%	7.5 M EUR	**SE**: 55% **ME**: 45%
Aid for early adaptation to future environmental standards	More than 3 years in advance: **SE**: 25% **ME**: 20% 1-3 years in advance: **SE**: 20% **ME**: 15%	7.5 M EUR	More than 3 years in advance: **SE**: 15% **ME**: 10% 1-3 years in advance: **SE:** 10%
Aid for environmental studies	**SE**: 70% **ME**: 60%	N/A	**SE**: 70% **ME**: 60%
Aid for investment in energy saving measures Investment aid	**SE**: 80% **ME**: 70% Tender: 100%	7.5 M EUR	Eligible costs calculation: *1. Net extra investment costs:* **SE**: 80% **ME**: 70% *2. Gross extra investment costs:* **SE**: 40% **ME**: 30%
Operating aid	▪ 100% with linear decrease to 0 over 5 years OR ▪ 50% for 5 years	Not covered	
Aid for energy efficient district heating using conventional energy	**SE**: 70% **ME**: 60% Tender: 100%	Not covered	

Type of aid measure	Guidelines/Frameworks	GBER	
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks	**Maximum allowable aid amount under the GBER**	**Aid intensity ceiling under the GBER**
Aid for investment in high efficiency cogeneration Investment aid	**SE**: 80% **ME**: 70% Tender: 100%	7.5 M EUR	**SE**: 65% **ME:** 55%
Operating aid	<u>3 options:</u> 1. Compensating difference between the production costs and the market price OR 2. Using market mechanisms (green certificates, tenders) 100% with linear decrease to 0 over 5 years OR 50% for 5 years	Not covered	
Aid for investment in the promotion of energy from renewable energy Investment aid	**SE**: 80% **ME**: 70% Tender: 100%	7.5 M EUR	**SE**: 65% **ME**: 55%
Operating aid	<u>3 options:</u> 3. Compensating difference between the production costs and the market price OR 4. Using market mechanisms (green certificates, tenders) 5. 100% with linear decrease to 0 over 5 years OR 50% for 5 years	Not covered	
Aid for the environment, in the form of tax reductions or exemptions	Specific conditions apply (see chapter 4 of Environmental Aid Guidelines)	N/A	Only Energy taxes under Directive 2003/96/EC: allowed for maximum 10 years if at least Community minimum paid
Aid for waste management	**SE**: 70% **ME**: 60%	Not covered	
Aid for remediation of contaminated sites	100%	Not covered	
Aid for relocation of undertakings	**SE**: 70% **ME**: 60%	Not covered	
Aid involved in tradable permit schemes	Specific conditions apply	Not covered	

Type of aid measure	Guidelines/Frameworks	GBER	
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks	**Maximum allowable aid amount under the GBER**	**Aid intensity ceiling under the GBER**
Regional investment (and employment) aid	20-80% according to handicaps of a given area	Aid less than 75% of maximum aid for investment with eligible costs of 100 M EUR	Regional aid intensity under the respective regional aid map **SE**: + 20 percentage points; **ME**: +10 percentage points for (except large investment projects and transport)[16]
Regional operating aid	Specific conditions apply	Not covered	
Aid for newly created small enterprises (in assisted regions)	*87(3)(a) regions:* 35% Years 1-3 25% Years 4-5 Total max aid 2 M EUR *87(3)(c) regions:* 25% Years 1-3 15% Years 4-5 Total max aid 1 M EUR 5% top-up exists in certain cases	2 M EUR in 87(3)(a) region 1 M EUR in 87(3)(c) region *annual* amounts per undertaking - maximum 33% of the above aid amounts	*87(3)(a) regions:* 35% Years 1-3 25% Years 4-5 *87(3)(c) regions:* 25% Years 1-3 15% Years 4-5 5% top-up exists in certain cases
SME investment and employment aid	Not covered	7.5 M EUR	**SE**: 20% **ME**: 10% For investment in the processing and marketing of agricultural products: 75% in outermost regions 65% in smaller Aegean Islands 50% in 87(3)(a) regions 40% in all other regions
Training aid	Not covered	2 M EUR per training project	Specific training: **SE**: 45% **ME:** 35% General training: **SE:** 80% **ME:** 70% +10 percentage points for disabled/disadvantaged workers (total max 80%) 100% for maritime transport

[16] For agriculture, different intensities apply.

Type of aid measure	Guidelines/Frameworks	GBER	
	Aid intensity ceiling / amount under the relevant Guidelines/Frameworks	**Maximum allowable aid amount under the GBER**	**Aid intensity ceiling under the GBER**
Aid for small enterprises newly created by female entrepreneurs	Not covered	1 M EUR (max 33% of that per annum)	15% for the first 5 years
Aid for consultancy	Not covered	2 M EUR	50%
Aid for SME participation in fairs	Not covered	2 M EUR	50%
Aid for recruitment of disadvantaged workers in the form of wage subsidies	Not covered	5 M EUR	Disadvantaged workers: 50% during first 12 months Severely disadvantaged workers: 50% during first 24 months
Aid for employment of disabled workers in the form of wage subsidies	Not covered	10 M EUR	75%
Aid for compensating the additional costs of employing disabled workers	Not covered	10 M EUR	100%
Aid for rescue and restructuring of firms in difficulty	Specific conditions apply	Not covered	

ANNEX II

Definition of SME

Article 1

Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Article 2

Staff headcount and financial thresholds determining enterprise categories

1. The category of micro, small and medium-sized enterprises ("SMEs") is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Article 3

Types of enterprise taken into consideration in calculating staff numbers and financial amounts

1. An "autonomous enterprise" is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.

2. "Partner enterprises" are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

   However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

   (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1250000;

   (b) universities or non-profit research centres;

   (c) institutional investors, including regional development funds;

(d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5000 inhabitants.

3. "Linked enterprises" are enterprises which have any of the following relationships with each other:

(a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;

(b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;

(c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

(d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An "adjacent market" is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Community rules.

Article 4

Data used for the staff headcount and the financial amounts and reference period

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.

2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.

3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

(a) employees;

(b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;

(c) owner-managers;

(d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6

Establishing the data of an enterprise

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

   To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

   To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.