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21 December 2022

HT.5647 : EAPB answer to public consultation on the general de minimis Regulation

The EAPB welcomes the possibility to answer the public consultation on the general de minimis Regulation. The focus of the activities of EAPB members, public banks which act on behalf of their owners – national, regional and local authorities - is the implementation of targeted promotional measures. A large part of its promotional activities is devoted to supporting small and medium-sized enterprises. National, regional, but also European promotional funds are used for this purpose. In doing so, promotional banks always act on the basis of the European regulations on State aid. Against this background, we would like to comment as follows on the revision of the de minimis regulation.

1) The de minimis threshold should be raised to at least EUR 500,000.

We expressly support the Commission's proposal to raise the de minimis threshold. In view of the inflationary trend in Europe, but also worldwide, we consider this step to be urgently necessary. We agree on the positive effects of the support granted under the de minimis instrument, with specific reference to positive effects on SMEs. The de minimis Regulation is easy to apply, it is flexible, quick, efficient and entails low administrative burden.

However, in view of the economic and financial consequences that the COVID-19 outbreak have had on undertakings, the repercussions of the Russian's unprovoked attack on Ukraine and its impact on SMEs in Europe as well as the change in inflation and in the gross domestic product in the EU, we believe that the de minimis ceiling should be increased to at least EUR 500 000 over a period of three fiscal years.

The current de minimis threshold of EUR 200 000 has been applying since 2006. Today, this amount of aid does not reflect the current market needs anymore. SMEs are facing tight labour markets, with record levels of vacancies and skill shortages as well as increases in food commodity prices and global supply shortages. A substantial increase of the de minimis ceiling is therefore sorely needed to provide SMEs with the necessary financial support to see it through the current unpredictable operating environment.

In context of an inflationary environment with higher interest rates and more expensive loans, a reduction in investment activities by companies can be expected, together with a general slowdown of the economy. An increase of the de minimis ceiling in this situation would make it possible to launch/maintain financing that encourages companies to undertake new projects, which are necessary for the recovery process of the economy and avoiding the danger of stagflation in the EU. The majority of SMEs have been heavily using the de minimis aid over the last 2 years due to the severe impact and persistence of the coronavirus outbreak which, without a substantial increase in thresholds, is likely to cause a lack of liquidity in the years to come.

Moreover, considering inflation in general and rising energy prices in particular, it should be noted that SMEs across Europe are in need of working capital financing which apart from the temporary

frameworks can only be granted on the de minimis basis. Therefore, the de minimis ceiling should be increased to help SMEs to obtain the necessary funds to cope with their liquidity needs. Finally, it should be noted that de minimis aid represents a useful tool to stimulate economic activities in line with the Union's objectives to meet the green and digital twin transitions since it is embedded in national support measures to address the substantial need for investments. Last but not least, the role played by SMEs in the transition to a sustainable economy and the challenges faced by them in terms of State aid requirements towards such a transition should be taken into account. Without SMEs on board, who represent 99% of all businesses in the EU, this transformation will not take place. Yet, to make such a step there is a need for an SME-fit legislation, appropriate to the entrepreneurial reality and without bureaucratic hurdles. State aid rules must help SMEs embrace the digital and green transformation in the best possible way, and in case of the de minimis instrument, with a substantial increase of the ceiling.

Similar to the increase of the total amount of the de minimis aid granted per Member State to a single undertaking, we suggest increasing the de minimis ceiling of EUR 100 000 to EUR 250 000 for undertakings performing road freight transport over any period of three fiscal years. Further, given the importance to support SMEs investments in the challenging context, we kindly ask the European Commission to raise the amounts granted under the de minimis Regulation in Article 4 paragraph 3 b and paragraph 6 b of the de minimis Regulation does not reflect the long-term financing needs of SMEs. We propose to amend the EC draft as follows:

Article (4) recital (3) (b) of the de minimis regulation – aid comprises of loans:

“the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 2 500 000 or EUR 1 250 000 for undertakings performing road freight transport over five years or EUR 1 250 000 or EUR 625 000 for undertakings performing road freight transport over 10 years; if a loan is for less than those amounts and/or is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 3(2);”

NB If the term is extended to 15 years, the maximum thresholds would be adjusted accordingly.

Article (4) recital (6) (b) Aid comprised in guarantees:

“the guarantee does not exceed 80 % of the underlying loan and either the amount guaranteed is EUR 3 750 000 or EUR 1 875 000 for undertakings performing road freight transport and the duration of the guarantee is five years or the amount guaranteed is EUR 1 875 000 or EUR 937 500 for undertakings performing road freight transport and the duration of the guarantee is 10 years; if the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of that guarantee shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 3(2).

NB: If the term is extended to 15 years, the maximum thresholds would be adjusted accordingly.

In addition, EAPB members suggest removing the restriction that the de minimis aid cannot be used for the acquisition of road freight transport vehicles. At least this restriction should be removed electric road freight transport vehicles.

2) Continue to allow for Member State discretion with regard to the proper national tools based on self-declarations or registries

Also, EAPB doubts that national public registries are the suitable tools for reporting State aid in all cases. The Commission should allow for Member State discretion with regard to the proper national tools based on self-declarations or registries. It is important that the obligation for companies to provide correct and updated information is enforced. Member States considering setting up a database should take into consideration experiences gathered by Member States who have already set up such registers. For example the agricultural aid register in Hungary distinguishes between requested aid and granted aid which enables the still-available de minimis amounts to be used effectively. Another example is Slovenia, which uses a public register alongside self declarations by companies. The Commission should allow for flexibility in the rules so that each Member State can have a system in place suitable to its needs, its political organisation (federal, centralised) as well economic sector structures.

A functioning register presupposes that all necessary data is recorded (on a daily basis) and not just within six months. Otherwise, obtaining a de minimis self-declaration will remain necessary even after the expiry of a period of three fiscal years. In our opinion, such daily updates are indispensable for a reliable register as a basis for granting new de minimis aid, as otherwise there is a risk of unlawful aid being granted. In the absence of daily updates, the risk that an outdated/incorrect data situation would be adopted and used as a basis for granting new aid would be very high. In our view, the register, as proposed by the Commission, would have inherent deficiencies. The central register must guarantee a clear identification of the aid recipient. This raises the question of how mergers, splits, takeovers, relocations, changes of name and links between individual companies can be mapped. For these situations, it is difficult to ensure data integrity over time, as social circumstances and contractual arrangements between companies that constitute "one single company" can change over the course of three tax years, and thus may also change the relevant aid figures.

In Member States where a register is established, it is worthwhile considering if the provision that the De Minimis threshold applies with reference to the current fiscal year and the previous two is still adequate and if it could not be replaced by a reference to calendar years. While it is a very practical provision because it allows you to check what has been declared by the companies with their financial statements, it is perhaps an unfair provision because it discriminates between identical companies that have chosen (arbitrarily) different end of fiscal years. Where a Member State has set up a central register the authorities know well on what date (all) the de minimis aid(s) was(were) granted while it has to acquire the information of when each individual company closes its balance sheet. This may lead to unnecessary administrative burden.