European Association of Public Banks
European Association of Public Banks and Funding Agencies AISBL

GBER-REVISION-PUBLIC-CONSULTATION@ec.europa.eu

27 August 2026

# EAPB Position Paper on the Second Draft of the Revised General Block Exemption Regulation (GBER)

## General remarks

The European Association of Public Banks (EAPB) welcomes the opportunity to provide comments on the second draft of the revised General Block Exemption Regulation (GBER).

EAPB represents European public and promotional banks, which play an important role in implementing public policy objectives at European, national and regional level. Through their mandates, these institutions support investment, innovation, SMEs, infrastructure, the green and digital transitions, economic resilience and social development. They frequently implement programmes combining national and European resources and therefore rely extensively on the State aid framework.

EAPB welcomes several important improvements introduced in the second draft compared with the first draft. In particular, the substantial increase in the absolute notification thresholds and the introduction of a phased increase from 1 January 2031 should enable larger support measures to benefit from the GBER. EAPB also welcomes the explanatory material preceding the operative provisions, which contributes to a better understanding of the Commission's objectives and rationale.



At the same time, a number of provisions remain insufficiently clear or could create significant additional administrative burdens for granting authorities, promotional banks and beneficiaries. In several cases, the draft appears to introduce additional assessment points after the granting of aid, which would depart from the fundamental principle that compliance with the GBER should be established at the time of granting.

EAPB therefore recommends that the Commission use the final stage of the revision to strengthen legal certainty, simplify implementation and ensure that the GBER can effectively support the policy objectives pursued by Member States and the Union.

Please find our detailed comments below.

**Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels**
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## New State aid measures responding to emerging EU policy priorities

EAPB considers that the revised GBER should not only increase thresholds for existing aid categories but should also provide an adequate legal basis for supporting emerging strategic priorities of the European Union.

Several areas of strategic importance remain insufficiently covered by the draft. EAPB therefore recommends introducing new aid categories, or expanding existing categories, in the following areas.

**1. Digitalisation and cybersecurity**

EAPB welcomes the direction taken regarding digitalisation and cybersecurity, including the introduction of Article 41 on innovation aid for SMEs and small mid-caps. However, the proposed scope of the GBER remains insufficient to support the full digital transformation of the European economy and the strengthening of cybersecurity.

Digitalisation and cybersecurity currently appear only in selected provisions, including Article 41, Article 64, Article 66 in relation to smart grids and ICT/OT elements, Article 53 in relation to secure communication in charging and refuelling infrastructure, and Article 79 in relation to cybersecurity in airport infrastructure.



This sector-specific approach does not adequately reflect the cross-cutting nature of digitalisation and cybersecurity and may prevent State aid from being granted for projects which are clearly aligned with EU policy priorities.

In particular, the draft does not provide an adequate framework for comprehensive digital transformation projects in the public sector, including hospitals, universities and municipal companies, nor for enterprises outside the SME category.

There is currently no technologically neutral aid category covering deep digital transformation and cybersecurity implementation, including, where appropriate:

- digital transformation services;
- cloud solutions;
- software;
- ICT and OT cybersecurity infrastructure;
- data-processing infrastructure;
- digital systems and platforms; and
- other investments necessary to achieve comprehensive digital transformation.

EAPB therefore recommends introducing a new aid category for digitalisation and cybersecurity, or significantly expanding Article 41, so as to permit support for comprehensive digital and cybersecurity projects in line with EU priorities.

The scope should be technologically neutral and should cover SMEs, small mid-caps and, where justified, larger enterprises and public-sector entities.

Where non-repayable support for large enterprises or other beneficiaries is considered potentially distortive, the GBER could provide for support in repayable forms, such as loans.

Such an approach would enable promotional banks to use their established financing instruments to support strategic digital investments while limiting potential competitive distortions.

**2. Dual-use technologies**

EAPB recommends introducing a dedicated GBER category for aid supporting dual-use technologies and, more broadly, technologies contributing to European defence resilience and security. The draft does not currently provide a sufficiently broad framework for supporting dual-use technology projects, despite the increasing importance attached to such technologies by EU and national policies.

The existing provisions concerning projects previously selected under the European Defence Fund or the European Defence Industrial Development Programme are focused on strictly military initiatives. They do not cover the broad range of civil-defence technologies that can contribute to economic resilience and European security.



Dual-use technologies may concern, for example:

- critical infrastructure technologies;
- robotics;
- sensors;
- autonomous systems;
- advanced data processing;
- cybersecurity;
- secure communications systems; and
- space technologies.

Many of these technologies have a primary civilian application while also contributing to defence, security and resilience objectives.

The GBER should therefore allow support for dual-use technologies on an equal footing with other strategic EU priorities.

EAPB recommends either expanding the existing catalogue of aid categories or introducing a dedicated technology-neutral category for dual-use investments and projects.

Where non-repayable support is considered too distortive, the support could be limited to repayable instruments, such as loans.

This would be particularly suitable for promotional banks, which can deploy repayable financing while pursuing strategic public-policy objectives.

**3. Social-economy entities**

EAPB welcomes the additional support and bonuses for social enterprises contained in the draft, including the provisions in Article 56.

However, the GBER still lacks an adequate aid category for supporting social-economy entities through financial instruments.

Social-economy entities pursue objectives other than profit maximisation and can play an important role in:

- delivering local community services;
- social and professional reintegration;
- creating employment opportunities for disadvantaged groups;
- providing social services; and
- addressing broader social and territorial objectives.

The specific operating model of these entities means that their financing needs often relate to operating expenditure rather than conventional capital investment.

As a result, existing GBER provisions may not provide an adequate basis for support, while de minimis aid is often insufficient because of the applicable ceiling. EAPB therefore recommends introducing a dedicated framework for financial instruments supporting social-economy entities. Such a framework should take account of the specific characteristics of these entities and should focus on their social objectives and impact rather than conventional profit-maximisation criteria. Risk-finance mechanisms could provide an appropriate basis, adapted to the particular characteristics of social-economy entities.



Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## Definitions and horizontal provisions

### 4. Article 1 – Scope and application

**Article 1(2)(a) – Agricultural primary production and fisheries**

EAPB welcomes the proposed extension of the GBER to the sectors of agricultural primary production and primary production of fishery and aquaculture products. However, the interaction between the general inclusion of these sectors and the various exceptions and exceptions to exceptions remains difficult to understand.

Provisions such as Article 1(2)(c)(v) create interpretation risks and may lead to uncertainty for granting authorities.

EAPB therefore recommends simplifying the structure of these provisions wherever possible and avoiding unnecessary layers of exceptions.

**Article 1(4)(a) – Deggendorf principle**

EAPB has concerns regarding the proposed wording of the Deggendorf clause, in particular the reference to the "payment" of individual aid.

Aid is not necessarily granted through a payment. State aid may take the form of a reduction or avoidance of costs, an interest-rate advantage, a guarantee advantage or other forms of economic benefit. Indirect advantages may also constitute State aid.

The reference to "payment" could therefore unduly narrow the scope of the provision.

Moreover, the use of "payment" introduces a potential inconsistency with the general architecture of the GBER, under which the conditions for exemption are normally assessed at the moment the aid is granted.

EAPB therefore recommends retaining the broader formulation of the existing Deggendorf clause and ensuring that the relevant conditions are assessed at the time of granting.

**Article 1(5) – Undertakings in difficulty**

EAPB considers that the substantive rules concerning undertakings in difficulty should preferably be addressed directly in the definition contained in Article 2(32), rather than through exceptions contained in Article 1(5).

A single, coherent definition would improve consistency with the State aid rules applicable to rescue and restructuring aid for non-financial undertakings and facilitate implementation by granting authorities and promotional banks.

EAPB welcomes the proposed five-year exclusion from the concept of an undertaking in difficulty for innovative start-ups. However, the different time periods proposed for young and innovative undertakings should be reviewed and, where possible, harmonised.



Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## Article 2 – Definitions

### Article 2(3) – Definition of undertaking

EAPB is concerned that the additional explanatory elements concerning the functional concept of an "undertaking" may create uncertainty rather than clarify the concept.

The term "undertaking" should be defined consistently across the GBER, Annex I to the GBER and the de minimis Regulation.

EAPB recommends establishing a single, coherent definition based on the established EU State aid concept of an undertaking as an entity engaged in an economic activity, irrespective of its legal form or financing structure.

The relationship between the general concept of an undertaking, the SME definition, the concept of "single undertaking" and the concept of economically linked or controlled entities should also be clarified.

### Article 2(32) – Undertakings in difficulty

EAPB welcomes the effort to clarify the treatment of financial instruments which absorb losses on a going-concern basis.

However, the concept of "absorbing losses" remains insufficiently precise and does not provide sufficiently clear and operational criteria for granting authorities. 

This is particularly relevant for subordinated financing instruments.

EAPB recommends that the definition provide concrete criteria enabling authorities to determine whether a financing instrument should be treated as equity for the purposes of the undertaking-in-difficulty test.

In particular, the definition should clarify that equity may include:

- financial instruments which absorb losses on a going-concern basis and are recognised as such in accordance with applicable accounting standards; and
- long-term financing instruments which:
- are made available to the undertaking for at least five years;
- contain a qualified subordination clause and a pre-insolvency enforcement standstill;
- do not contain an extraordinary termination right triggered by deterioration in the undertaking's financial situation; and
- do not provide for extraordinary repayment rights.

The corresponding recital should be amended accordingly.

This would provide granting authorities and promotional banks with clear and predictable criteria.

**Article 2(38) – Start of works**

EAPB welcomes the increased flexibility introduced in the second draft, under which the first legally binding commitments for an investment project do not constitute the “start of works” where they amount to less than 2% of the total eligible project costs.

This is a useful improvement compared with a stricter interpretation of the start-of-works requirement.

However, EAPB considers that the 2% threshold remains too low in practical terms.

In many investment projects, preliminary legally binding commitments may necessarily exceed 2% of eligible project costs before the full investment decision can be implemented. EAPB therefore recommends increasing the threshold from 2% to 10% of total eligible project costs.

This would provide greater practical flexibility while maintaining an appropriate safeguard for the incentive effect of aid.

**Article 2(34) – Innovative start-ups**

EAPB welcomes the continued possibility of providing increased aid to particularly innovative undertakings. However, the proposed definition introduces additional complexity through the coexistence of several categories and different time periods. EAPB recommends harmonising the relevant periods and simplifying the terminology. The interaction between the innovative start-up definition and the SME definition should also be clarified.

7

**Article 2(48) and (131) – Financing gap**

EAPB considers that a terminal value should only be taken into account where the assessment period is shorter than the economic lifetime of the project. Where the assessment period corresponds to the economic lifetime of the project and its expected long-term effects, there should normally be no residual value at the end of the reference period.

EAPB therefore recommends deleting the reference to “and a terminal value” from both definitions where the reference period corresponds to the economic lifetime of the project.

**Article 2(81) – Independent private investor**

The draft GBER still excludes national promotional banks from the definition of "private investor", which in practice prevents their financing from counting towards the minimum level of private co-investment required under measures such as risk-finance aid or Article 17 (Regional urban development aid). The current definition treats institutional status as the basis for exclusion, regardless of the actual financing conditions. This approach is not in line with the reality: national promotional banks frequently operate on market terms and bear full investment risk, applying commercial rates of return just like private investors.

Excluding national promotional banks solely on the basis of their legal status is therefore unjustified and contradicts the logic of assessing the market-conform nature of transactions and the actual risk borne. In our view, whether a given entity acts as a private investor should be assessed exclusively on the basis of the financing conditions—market-level pricing, risk structure, and the absence of preferential treatment—and not on the fact that the entity holds the status of a national or regional promotional bank.

We therefore propose that national and regional promotional banks be treated as private investors whenever they operate as such.



Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## Article 3 – Conditions for exemption

### Article 3(2)(a) – Infrastructure

EAPB has significant concerns regarding the proposed introduction of the depreciation period as an alternative to the ten-year period for infrastructure obligations proposed in the first GBER draft. It is unclear whether the relevant period should be ten years or the shorter applicable use or depreciation period, and who would determine the depreciation period and bear the associated risk.

More fundamentally, the provision appears to introduce a new compliance assessment after the aid has been granted. The GBER should provide legal certainty at the time of granting. Granting authorities and beneficiaries should not be required to carry out a further substantive assessment at a later stage to determine whether aid which was exempted at the time of granting remains exempted. EAPB therefore recommends that the Commission clarify the provision and preserve the principle that compliance with the GBER is assessed at the time of granting.

The use of “payment” as a relevant point in time should also be reconsidered, particularly for loans and other financial instruments. In promotional lending, the aid element frequently consists of an interest-rate advantage rather than a payment to the beneficiary.

### Article 3(2)(b) – Responsibility for compliance

EAPB recommends clarifying the respective responsibilities of beneficiaries and granting authorities and avoiding a framework that could place disproportionate liability on granting authorities for information exclusively within the beneficiary’s control.



### Article 3(2)(c) – Infrastructure operated by third parties

EAPB has concerns about applying the proposed competitive, transparent, non-discriminatory and unconditional access requirements to construction and modernisation of infrastructure by third parties.

EAPB recommends excluding construction and modernisation by third parties from the general provision, with any necessary requirements being addressed in the relevant specific aid provisions.

### Article 3(3) – Discounting

EAPB welcomes the clarification that the applicable reference rate on the date of granting is to be used for discounting cash flows.

Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## Risk finance and promotional banks

### Article 20 – Investment aid for SMEs

The prohibition on aid for replacement investments is no longer explicitly mentioned. We assume that this is presumably intended to be inferred from the overall context; however, for the sake of clarity, we suggest reinserting the sentence, as some of the provisions relating to environmental protection also refer to this point.

Furthermore, in paragraph 5(b), the requirement for the acquisition of assets of an establishment that only the costs of acquisition from third parties not connected with the purchaser are eligible has been removed. The provision that, in the case of the acquisition of a small enterprise by family members of the original owners or by employees, the assets must be acquired from third parties having no relationship with the purchaser is also deleted without replacement. In future, the only relevant requirements will therefore be that the establishment has been closed or would have been closed without the acquisition, and that the acquisition takes place under market conditions. These deletions are welcomed, as the requirements had proved rather detailed and burdensome in the assessment.

In addition, it would be desirable to extend the scope of the Article to small mid-cap enterprises as well. A separate aid intensity could be introduced for these enterprises in paragraph 8.

10

### Article 25 – Risk finance aid for SMEs through financial intermediaries

Article 25(2) expressly excludes entrusted entities from investing directly in eligible undertakings without the involvement of a financial intermediary.

This could create an important structural problem for promotional banks.

Where a promotional bank itself fulfils all the requirements applicable to financial intermediaries, requiring an additional intermediary for larger transactions would unnecessarily lengthen the intermediation chain.

Such a requirement would run counter to the objectives of the Capital Markets Union and Investment Union.

EAPB therefore recommends that Article 25(2) be amended to allow entrusted entities which fulfil the requirements of paragraphs 16 and 17 to invest directly, on their own responsibility, in eligible undertakings.

This would ensure that promotional banks are not required to introduce an additional intermediary where they already meet the relevant requirements.

**Article 27 – Risk finance aid granted by entrusted entities**

EAPB recommends fully aligning the possibilities for reducing minimum private-investor participation under Article 27 with those under Article 25. In particular, the reduction applicable to measures co-financed through EU instruments should be consistently reflected.

EAPB recommends:

- fully aligning Article 27(8) with Article 25(13); and
- deleting or clarifying the separate weighting rule for mixed portfolios in Article 27(7).

The treatment of promotional banks as private investors under Article 2(81) should also be reflected in the operation of these provisions.

**Article 29 – Aid for young enterprises and start-ups**

EAPB welcomes the continued possibility of doubling aid amounts for particularly innovative undertakings. However, the restructuring of Article 29 substantially increases complexity.

EAPB recommends returning as far as possible to the simple structure of the existing Article 22, while retaining the possibility of increased aid for undertakings meeting the innovation criterion.

The Regulation should clarify:

- which aid instruments are available to innovative start-ups;
- how maximum aid amounts apply;
- how the doubling mechanism operates; and
- whether Article 29 remains applicable after the expiry of the five-year period.



**Article 32 – Research and development**

EAPB welcomes the increased thresholds and their adjustment from 1 January 2031.

Applied research The new category of “applied research” should be defined in Article 2 rather than only in the recitals.

**Digitalisation**

EAPB recommends extending Article 32 to cover investment in the digitalisation maturity of undertakings. The costs of implementing digitalisation should be eligible, in addition to research where digitalisation itself constitutes the research subject.

This recommendation should be read together with EAPB’s proposal for a dedicated horizontal digitalisation and cybersecurity aid category.

**Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels**
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

**Simplified cost option**

EAPB recommends retaining the existing simplified option for calculating additional overhead and operating costs through a flat-rate approach. If the Commission considers that the new wording already permits such an approach, this should be expressly confirmed.



**Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels**
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

## Environmental and circular-economy investments

**Articles 51, 52 and 65 – Counterfactual investment**

EAPB has concerns about the administrative burden created by systematic calculation of eligible costs by reference to the difference between investment costs and a counterfactual investment. Establishing a credible counterfactual can be particularly difficult for new installations where there is no directly comparable market investment.

EAPB therefore recommends extending to Articles 51, 52 and 65 a simplified option comparable to the existing approach under Article 36 of the current GBER, whereby the counterfactual can be avoided in exchange for an appropriately reduced aid intensity applied to total investment costs.

This would provide a predictable and administratively workable alternative.

**Article 65 – Circular economy**

EAPB is concerned about the practical applicability of Article 65(7), which excludes investments involving technology that constitutes a profitable and established commercial practice throughout the EU.

While the provision is intended to ensure that aid is not granted for investments that would occur on the market without State aid, the relevant condition is insufficiently clear and operational.



There is currently no sufficiently precise guidance on how granting authorities should determine whether a technology constitutes a "profitable and established commercial practice throughout the Union".

This creates significant legal uncertainty.

The issue is particularly important for circular-economy investments, where innovative or emerging technologies may progressively become commercially viable but may nevertheless require public support during the transition to market deployment.

The current formulation risks making the circular-economy aid provision difficult to use in practice and could prevent support for investments that are environmentally valuable or strategically important.

EAPB therefore recommends that the Commission:

- clarify the meaning of "profitable and established commercial practice throughout the Union";
- provide clear and practical assessment criteria;
- clarify the evidence that granting authorities are expected to use; and
- ensure that the provision does not effectively become inapplicable because of an overly broad interpretation of the exclusion.

**Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels**
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**

A clear distinction should be maintained between technologies that are genuinely established and profitable throughout the Union without public support and technologies which, although commercially available, still require support to accelerate deployment and achieve EU circular-economy objectives.

## Articles 44, 53, 54, 55, 56 and 78

### Article 44 – Training aid

EAPB recommends clarifying that costs of training measures procured through competitive tendering may be eligible and that aid may, where appropriate, be paid directly to the provider of the training or advisory service.

### Article 53 – Clean and zero-emission vehicles

EAPB recommends allowing an alternative calculation based on total investment costs, accompanied where necessary by an appropriate reduction in aid intensity.

A similar simplification should be considered for Article 54.

### Article 55 – Energy-efficiency measures not related to buildings

The provisions in paragraph 6, under which investments that amortise very quickly are to be excluded from an aid award, can only be implemented at considerable effort for aid beneficiaries and granting authorities, since for all aid applied for under this exemption, beneficiaries would have to submit an amortisation calculation and granting authorities would have to assess its plausibility. Furthermore, it is not specified that this is to be forecast solely by way of an ex-ante analysis, meaning that for the review after five years the profitability calculation would have to be redrawn and reviewed using the actual figures. This appears unjustified, particularly for smaller projects with total investments of up to EUR 10 million. The demonstration of a longer amortisation period should therefore be limited to an ex-ante analysis for projects exceeding EUR 10 million.



### Article 56 – Energy-efficiency measures for buildings

EAPB recommends increasing the notification threshold to EUR 60 million per undertaking and investment project.

The provision should also accommodate step-by-step building renovation rather than requiring the full 20% improvement to be achieved through a single investment.

A graduated aid-intensity approach would preserve incentives for deep renovation while also supporting incremental investments.

The text should clarify that for measures relating to social housing and affordable housing, the Member State shall ensure that the investments in overall energy efficiency may only entail, vis-à-vis tenants, the financial burden on the tenant that is respectively permissible under national law, and that the rent remains below the market price.

**Article 78 – Local infrastructure**

EAPB welcomes the increased thresholds under Article 78. However, EAPB recommends reconsidering the proposed exclusion of transport infrastructure, particularly for larger infrastructure projects supporting climate neutrality and economic resilience.

The revised GBER should retain an effective horizontal basis for support where no more specific category is available.

EAPB also recommends retaining a simple methodology based on eligible costs and operating profit rather than introducing unnecessarily complex approaches based on projected cash flows.

## Annex I

**SME definition**

EAPB considers that the SME definition should be simplified and better aligned with the de minimis framework.

Linked enterprises

The definition should be aligned with the concept of "single undertaking" under the de minimis Regulation to avoid situations where the same undertaking is treated differently under different State aid instruments.



EAPB recommends removing the reference to natural persons as a linking factor and focusing on capital and voting-right relationships.

**Partner enterprises**

EAPB recommends reconsidering the partner-enterprise concept where it creates disproportionate administrative burdens, particularly where the enterprises concerned:

- operate in completely separate markets;
- have no common management structures; and
- do not share resources.

**SME thresholds**

EAPB supports updating the current SME thresholds, which have remained unchanged since Commission Recommendation 2003/361/EC despite significant economic developments.

An increase of 50% could be considered as a basis for updating the thresholds:

375 employees;

EUR 75 million turnover; and

EUR 64.5 million balance sheet total.

**Avenue de la Joyeuse Entrée 1-5, B-1040 Brussels**
Phone: **0032 490 44 19 22**• E-mail: **info@eapb.eu** • Website: **www.eapb.eu** • EU Transparency Register: **8754829960-3**