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

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EAPB answer to public consultation and comments on the “Review of the Communication on the Framework for State aid for research and development and innovation”

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The EAPB welcomes the opportunity to comment on the Public consultation “Review of the Communication on the Framework for State aid for research and development and innovation”.

Tightening of transparency rules

According to the current rules, aid recipients with an aid amount of more than EUR 500,000 are required to publish certain funding data. According to the drafted regulation in point 101, this sum is to be lowered to EUR 100,000. This lowering of the threshold is not acceptable. The previous threshold of EUR 500,000 has proven itself and is also sufficient. This allows projects of a relevant amount to be identified and at the same time limits the administrative burden in a sensible way.

Flat rate for indirect costs

In point 81, the Commission proposes the introduction of an option for calculating the indirect costs of a project. This involves a mark-up of 15 percent of the eligible direct costs. We expressly welcome this. This option would lead to a simplification in the funding procedure. In the General Block Exemption Regulation (GBER), however, the simplified cost option only applies to projects that are at least partially financed by a Union fund. Since the Commission itself now recognises that the use of lump sums is also permissible in the case of exclusive funding by the Member States, i.e. without additional Union funds, this regulation should also find its way into Article 7 of the GBER.

Furthermore, we propose that all simplified cost options mentioned in the Structural Funds Regulations should also be included in the State aid rules.

Controlling of economic secondary activities for at least 10 years (point 22)

The demarcation between economic and non-economic activities of research institutions/research infrastructures has remained almost the same. What is new is the rule that the economic secondary activity, insofar as this gives the entire activity a non-economic character, must be monitored for at least 10 years from the start of the activity. Methodologically, this delimitation should be in line with the provisions of the Commission's notice on the concept of state aid. However, such a rule is not apparent from the notice. In practical implementation, this rule can lead to considerable difficulties, e.g. if the period of the economic useful life of the assets acquired with a subsidy is far below the 10-year period. Further difficulties can arise if at the end of the 10-year period or a longer period the limit of the economic secondary activity is exceeded.

In order to prevent any misunderstandings, we would welcome a more detailed explanation by the Commission by the means of an example.

Unclear new concept of "good accounting practice

In the provisions for determining the eligible costs, a new, as yet unknown concept of "good accounting practice" has been introduced (cf. Annex 1, section "Aid for R&D projects", letter b). We see this text as an indication for a future adaptation of the GBER. We cannot assess to what extent this would regulate broader or narrower depreciation rules for subsidised assets that are not used over the entire period of use in the project. In the GBER, the term “generally

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accepted accounting principles" is used. We therefore propose deleting "good accounting practice" and using the terminology from the GBER.

Financial Instruments

We propose to add "Financial Instruments" after p. 88 (3.2.3.1.3. Fiscal measures) as a new point

In the case of State aid granted through financial instruments, the aid intensity can be calculated either on the basis of individual projects or, at the level of an undertaking, as the ratio between the gross grant equivalent and the sum of all eligible R&D&I costs incurred in a period starting from the moment in which the disbursement of the financial product was approved. In the latter case, the measure through financial instrument may apply without distinction to all eligible activities, but must not exceed the applicable aid intensity for experimental development.

The use of well-known and widespread definitions on the market is particularly important for the effective use of financial instruments that contain State aid, and in particular those that mobilize private capital (mostly bank resources).

The more the identification of eligible costs (and therefore the calculation of the aid) uses well-known and widespread practices on the market, the more it is possible that state resources are able to mobilize a greater amount of private capital, reducing the operational risks borne by it and without increasing too much the additional costs that would otherwise be incurred in making these risks acceptable to private capital (coordination problems). Moreover, the additional costs that private capital must face for this reason, even if incurred by it in the first instance, are inevitably passed on to state resources or to the final recipients.

The use of state resources that are increasingly capable of mobilizing private capital in achieving objectives of common interest, such as a significant increase in R&D&I expenditure in Europe, could therefore be better pursued if the eligible costs, in the case of aid granted through financial instruments, were those defined as such by the European legislation on undertaking financial statements and referred to all eligible R&D&I costs incurred at the level of an undertaking, as already provided only for tax measures.
This expenditure can be verified by any independent auditor qualified to carry out statutory audits of accounting documents (in accordance with Directive 2006/43/EC) that is a widespread and well-known practice on the market.
It could therefore be useful to clarify (not necessarily in the framework) if the reference could be the International Financial Reporting Standard n. 38 (Intangible assets), although net of prudential assessments about the existence of future economic benefits. These assessments, necessary so that these expenses can be fixed instead of being classified as operating costs, are aimed at preserving the value of the shareholders' equity as a guarantee for third-party debtors, but are in contrast with a framework that intends to incentivise the development of activities that undertakings "consider reaching a positive economic result as overly risky" (p. 3 of the Introduction).
Moreover, as now also envisaged by the ESIF Regulation on financial instruments, the aid can be granted as a capital rebate (i.e. an allowance for a certain amount of loan instalments) provided that R&D&I expenditure in one or more subsequent years exceed a certain predetermined level (i.e. that recorded in the year or years preceding that in which the loan was granted).

This would be a very simple way for the manager of the financial instrument to grant State aids (and for any other financial institutions involved in risk sharing) and it seem to be effective in aligning the interests of the Public Authorities and the beneficiary undertakings. A very simple and effective way, therefore, that could make a significant contribution to finally achieving the common goal of a level of R&D&I expenditure equal to at least 3% of GDP (in particular to increase its private component).

** **The European Association of Public Banks (EAPB)** gathers over 30 member organisations which include promotional banks such as national or regional public development banks and local funding agencies, public financial institutions, associations of public banks and banks with similar interests from 17 European Member States and countries, representing directly and indirectly the interests of over 90 financial institutions towards the EU and other European stakeholders.*

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