

| ROADMAP | |
|---|--|
| TITLE OF THE INITIATIVE | Targeted modification of the General Block Exemption Regulation in relation to the EU funding programmes |
| LEAD DG – RESPONSIBLE UNIT | DG COMP / UNIT 03 |
| LIKELY TYPE OF INITIATIVE | Commission autonomous act – Commission Regulation |
| INDICATIVE PLANNING | Adoption Q4 2019 |
| ADDITIONAL INFORMATION | - |
| This Roadmap is provided for information purposes only and its content might change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Roadmap, including its timing, are subject to change. | |

A. Context, Problem definition and Subsidiarity Check

Context

Under EU State aid rules, Member States, in general, have to notify any plans to grant new aid to the Commission before implementing them. The General Block Exemption Regulation (“GBER”) constitutes an important exemption to this rule. It lays down conditions on the basis of which certain aid measures are declared compatible with the internal market without any need for a prior notification to the Commission. These conditions are based on the Commission’s market experience and decision making practice. The GBER plays a crucial role in simplifying and clarifying rules, cutting red tape and allowing for well-defined projects to go ahead as fast as possible. It also allows the Commission to focus on the potentially most distortive cases.

The initiative intends to extend the scope of the GBER in particular as regards InvestEU and, thereby, provide an alignment between State aid rules on the one hand and EU funding rules on the other hand under the next Multiannual Financial Framework (“MFF”, next budget cycle of the EU). The aim is that resources managed by a Member State – including from the European Structural and Investment Fund managed at national level – and EU funds managed centrally by the Commission can be combined as seamlessly as possible under the next MFF, subject to certain conditions to ensure minimising the distortion of competition in the EU’s Single market.

Targeted simplifications are also envisaged for European Territorial Cooperation and Seals of Excellence under Horizon 2020 or Horizon Europe.

Problem the initiative aims to tackle

EU funds managed directly and centrally by the Commission that are not subject to any discretion by Member States do not constitute State aid in the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU). However, funding over which Member States exercise control, including money from funds under so-called shared management (such as Structural Funds), typically falls under State aid control and would, in principle, have to be notified to the Commission prior to its implementation.

In situations in which resources from EU funds managed centrally by the Commission are combined with resources managed by a Member State, including from the European Structural and Investment Fund managed at national level, the fact that the former does not constitute State aid while the latter does can lead to complexities. In addition, certain alignments between EU rules on Research, Development and Innovation (“RDI”) and on European Territorial Cooperation projects could be addressed.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for the initiative is Council Regulation (EC) No 1588/2015 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid, as amended by Council Regulation (EU) 2018/1911 of 26 November 2018.

Under Article 3 TFEU establishing competition rules necessary for the functioning of the internal market falls under the exclusive competence of the EU. Therefore, the subsidiarity principle does not apply to the initiative, which establishes competition rules in the area of State aid.

B. What does the initiative aim to achieve and how

To avoid complexities in situations of combining EU Funds resources managed centrally by the Commission and EU Funds resources managed by a Member State, including from the European Structural and Investment Fund managed at national level, as well as to improve the interplay between EU funding rules in the areas of RDI and of European Territorial Cooperation on the one hand and State aid rules on the other hand, this initiative intends to introduce targeted modifications to current State aid rules. This should ensure that these funds can be

combined as seamlessly as possible, subject to certain conditions to ensure minimising the distortion of competition in the EU's internal market.

The Commission proposed that the EU Funds rules under the next MFF incorporate certain key principles of State aid control, such as the requirement that State interventions be additional to private funding rather than crowding out such funding, directly into the EU funds rules. At the same time, the initiative subject to this Roadmap, based on these future EU funds rules, will improve the interplay between EU funding programs and State aid rules by extending the GBER to simplify the treatment of any State aid involved. This will be done in three areas, namely concerning (1) Member State financing that is combined with InvestEU instruments, (2) aid in the area of RDI, where the initiative intends to block exempt aid granted to research projects having been awarded a "Seal of Excellence" under Horizon 2020 or Horizon Europe as well as RDI projects evaluated and selected in line with the rules applicable to Horizon Europe and jointly funded by Horizon Europe and Member States (including from structural funds), where at least three Member States participate, and (3) aid granted for European Territorial Cooperation projects, an important priority for the EU's cohesion policy.

C. Better regulation

Consultation of citizens and stakeholders

As required in the legal basis of the GBER (Council Regulation 994/98 republished and revised as Council Regulation (EU) 2015/1588 of 13 July 2015, as amended by Council Regulation (EU) 2018/1911 of 26 November 2018), the Commission will carry out two consultations on drafts of the Regulation and will consult Member States in Advisory Committee meetings on both drafts. All stakeholders (meaning citizens, organisations and public authorities) will be welcome to contribute to these consultations. For the purposes of the consultations, the draft text of the Regulation will be published on <http://ec.europa.eu/competition/consultations/open.html> in all official EU languages. Stakeholders can submit contributions in all official EU Languages, which will also be published on <http://ec.europa.eu/competition/consultations/open.html>. The first consultation on a draft of the Regulation is planned to be launched during the first half of 2019.

Stakeholders are also invited to provide feedback to this roadmap.

Evidence base and data collection

The initiative is a measure to accompany the next MFF in targeted areas, namely for financial instruments under the InvestEU Fund, for RDI projects under Horizon Europe and for European Territorial Cooperation under the respective Regulation. It, therefore, relies largely on evidence and data collected in the context of the Commission proposals for the mentioned legislative acts, in combination with the Commission's market experience and experience stemming from its case practice. Given its nature as an accompanying measure, with only limited margin of discretion as to independent choices as to policy or design of parameters, a separate impact assessment for this initiative is not necessary.