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Competition State Aid Brief

The access to finance rules in the revised GBER: an overview

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In a nutshell

Member State support for improving Small and Medium-Sized Enterprises' ('SMEs') access to finance is pivotal for the Union's ambition to deliver on the Green Deal and its objective to make Europe fit for the digital age. This Policy Brief highlights the recent amendment of the General Block Exemption Regulation (GBER) in its section on access to finance for SMEs (Articles 21-24).

Introduction to State aid for access to finance

Aid for access to finance for Small and Medium-Sized Enterprises ('SMEs')[1] is an important part of the State aid framework. Member State support for access to finance for SMEs can play a key role in helping the Union to achieve its central policy objectives, notably the Green Deal[2] and making Europe fit for the digital age[3].

The recent amendment of the General Block Exemption Regulation ('GBER')[4], so-called the 'Green Deal' revision, included a modification of the State aid rules on access to finance for SMEs. The amendment is a follow-up to the State aid fitness check[5], which found that the access to finance rules were still fit-for-purpose but could benefit from simplification and streamlining. The amendment also aimed at further facilitating the funding of the green and digital transitions[6].

The access to finance State aid rules include, mainly, **risk finance aid** (Article 21 GBER and Risk Finance Guidelines[7]) and **aid for start-ups** (Article 22 GBER). **Aid to alternative trading platforms specialised in SMEs** (Article 23 GBER) and **aid for scouting costs** (Article 24 GBER) are additional ways for Member States to support risk finance markets and improve access to finance for SMEs.

This Policy Brief addresses the raison d'être and main principles of risk finance State aid rules and provides an overview of the recent amendments of the relevant rules as laid down in Section 3 of the GBER[8].

The 'why' and the 'what' of risk finance aid for SMEs

A recognised market failure justifies public support

The main market failure that underlies the access to finance problem is asymmetric information. Investors and financial institutions are typically willing to provide financing only if they can appraise the credit worthiness or growth prospects of a company. However, such an appraisal is especially difficult for SMEs[9], in particular during their early stages. The latter often have a product that is not yet fully developed or tested in the market, implying there is a high degree of uncertainty about the viability and growth prospects. Further, they typically do not possess an operational track record to demonstrate their creditworthiness. In addition, they often cannot provide collateral, which is problematic as collateral could mitigate the high risk

[1] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, OJ L 124, 20.5.2003, p. 36–41.

[2] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/delivering-european-green-deal_en

[3] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age_en

[4] Commission Regulation ((EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 167/1, 30.6.2023.

[5] https://competition-policy.ec.europa.eu/state-aid/legislation/modernisation/fitness-check_en

[6] https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1523

[7] Communication from the Commission 'Guidelines on State aid to promote risk finance investments' (OJ C 508, 16.12.2021).

[8] The Risk Finance Guidelines have recently been revised, in a coordinated manner with the Article 21 GBER rules. For on overview of the revised Risk Finance Guidelines see Gianni De Stefano & Wouter Dutillieux (2022), Risk Finance Aid: Facilitating Access to Finance for SMEs, Start-Ups and Small or Innovative Middle-Capitalisation Firms, European State Aid Law Quarterly, Volume 21, Issue 3, pp. 222 – 236.

[9] European Union (2020), Evaluation support study on the EU rules on State aid for access to finance for SMEs - Publications Office of the EU (europa.eu) ('Evaluation study access to finance for SMEs').

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that comes with an investment in such companies. They are also relatively small, making the costs of screening by potential investors too high compared to the requested financing amounts.

This problem of asymmetric information discourages investments in early-stage SMEs. Consequently, these enterprises are left without the necessary equity or debt finance, which prevents them from growing and innovating. This market failure is one of the core reasons why Member States intervene and support the provision of risk finance to SMEs.

On the demand side of the market, early-stage SMEs may seek financing in different forms depending on their specific needs. Some may seek to obtain loans because they need to cover investment expenditures or working capital. Others, which are more growth-oriented, may seek financing in the form of quasi-equity or equity[10]. Recent evidence shows that access to finance remains a main concern for SMEs and that it applies across all financial instruments[11].

On the supply side of the market, the various forms of financing sought by early-stage SMEs can be provided by distinct financial institutions and investors. Loans are mainly provided by banks. In the absence of public support, banks tend to respond to the asymmetric information problem by credit rationing, i.e. charging very high interest rates or providing loans of only short maturity. Equity is mainly provided by Venture Capital funds and 'Business Angels'. Equity investments allow for the long-term development of growth-oriented companies who do not yet generate profits.

Overview of the principles underlying risk finance aid

Risk finance State aid rules rely on a set of principles in order to improve access to finance for SMEs in an efficient way:

- Risk finance aid must be **limited in amount and target companies particularly afflicted by an access to finance problem,** i.e. unlisted early-stage SMEs. This principle reflects the need for aid to be proportionate and necessary in terms of scope of eligible undertakings and of the amount of State aid to be provided.
- Risk finance investment **must be channelled through financial intermediaries**. The State thus cannot invest directly into beneficiary enterprises. This requirement builds on the expertise and profit-seeking motivation of financial intermediaries in the selection of economically viable or promising beneficiary companies (risk finance aid in the form of tax incentives for investors does not rely on financial intermediaries, but in such schemes the investors perform the functions of screening and selecting the economically viable or most promising beneficiary companies).
- Risk finance aid must **leverage private co-investment**. This principle is based on the need to instil a market logic in the selection of the final beneficiaries, to leverage additional (to the public support) private funding for beneficiary companies and support the development of risk finance markets in the longer run. At the same time, asymmetric sharing of profits and losses between the public and private investors is possible.
- Risk finance must be **in the form of financial instruments (equity, loans, guarantees) - grants are not allowed**. This increases the efficiency and effectiveness of public support, as beneficiary companies must be sufficiently disciplined to generate profits. Public authorities also benefit further by being able to use the reflows from maturing risk finance investments for additional investments.

These principles translate into a three-layered structure of risk finance aid: the State (or its entrusted entity) provides aid to financial intermediaries, who in turn will co-invest with private investors into eligible beneficiaries (in the case of tax incentives, there is no intermediary and hence there are only two layers).

From a State aid perspective, it must be ensured that, at each level of involved parties, aid remains appropriate and proportionate in order to achieve the objective of providing risk finance to the beneficiary companies in a way that does not distort the internal market.

Article 21 and 21a GBER vs. the Risk Finance Guidelines

When setting up risk finance schemes, Member States can implement block exempted measures under Article 21 GBER, which do not require an individual notification, as set out in Article 108(3) of the Treaty on the Functioning of the European Union. The GBER conditions are considered as sufficient safeguards to allow a presumption that the market failure is adequately addressed without undue distortion of competition.

Provided their design complies with the principles mentioned above, the specific conditions for risk finance schemes under Article 21 GBER are the following:

- The total outstanding financing amount for any final beneficiary is limited to EUR 16.5 million.
- The eligible undertakings can be only unlisted, early-stage SMEs, whereby the 'early-stage' criteria are differentiated amongst the following three stages of development:
    - i. before operating in any market,
    - ii. operating in a market for less than ten years following their registration or less than seven years after the first commercial sale, or
    - iii. getting into a new economic activity requiring an investment which is 50% higher than annual turnover.

[10] OECD (2015), New Approaches to SME and Entrepreneurship Financing: Broadening the Range of Instruments, OECD Publishing, Paris, https://doi.org/10.1787/9789264240957-en.

[11] Evaluation study access to finance for SMEs (see footnote 9).

- The required co-investment depends primarily on the development stage of the SMEs, whereas unlisted SMEs require a private co-investment of at least 10% in stage i), 40% in stage ii), and 60% in stage iii).
- Asymmetric sharing of profits should be given preference to downside protection from losses and the asymmetric sharing of losses between public and private investors should be limited in terms of losses borne by the public investor.

The key condition for risk finance schemes under Article 21a GBER is that tax incentives can only be provided to natural persons as investors.

Member States must notify risk finance measures that go beyond the scope of GBER. These can be approved under the Risk Finance Guidelines, which allow for the following parameters exceeding the GBER conditions:

- Financing amounts can be higher than EUR 16.5 million, when there is a demonstrable unmet demand for finance (funding gap) by eligible companies.
- Eligible beneficiary companies can be small or innovative mid-caps[12], if the latter are afflicted by the market failure of asymmetric information.
- The minimum private investor participation rate can be reduced in situations where private investors are scarce.
- There is a wider scope for asymmetric sharing of risk and returns to attract private co-investment.
- Tax incentives can be provided to corporate investors, subject to limits that ensure proportionality of the aid to investors.

Articles 21 GBER vs. Article 22 GBER on aid for start-ups

For start-up companies, which are small unlisted enterprises up to 5 years following their registration, the asymmetric information problem is exacerbated. Moreover, such companies are less susceptible to distort competition when receiving aid due to their size and because they typically do not yet have a fully developed product. Therefore, Article 22 GBER relies on a simpler approach than that of Article 21:

- Public authorities do not need to implement a scheme via financial intermediaries, they can also grant aid directly to beneficiary companies.
- There is no requirement for private co-investment.
- The financing to companies may also be provided in the form of grants and grant-equivalent instruments.
- Maximum financing amounts are significantly smaller than under Article 21 GBER and are differentiated by type of financial instruments.

The Economic View: State aid expenditures

Data collected by the Commission on EU-27 Members States' expenditures on aid for access to finance[13] under the old GBER[14] shows that such aid to companies has generated more than EUR 1 billion of public financing per year in the last three years and around EUR 9 billion in the period 2014 to 2022. The data shows that access to finance State aid is distributed relatively evenly between: (i) risk finance aid under the Risk Finance Guidelines, (ii) risk finance aid under Article 21 GBER and (iii) aid for start-ups under Article 22 GBER[15] .

Table 1: Aggregate nominal financing amounts under access to finance State aid (million EUR, EU-27)

Category	2014	2015	2016	2017	2018
Risk Finance Guidelines	**282**	**342**	**508**	**512**	**261**
# of active schemes	*23*	*18*	*16*	*12*	*12*
Av. expenditure per scheme (million EUR)	*12*	*19*	*32*	*43*	*22*
Risk finance (Article 21)	**17**	**480**	**461**	**465**	**263**
# of active schemes	*3*	*15*	*21*	*24*	*30*
Av. expenditure per scheme (million EUR)	*6*	*32*	*22*	*19*	*9*
Start-up aid (Article 22)	**20**	**71**	**128**	**503**	**266**
# of active schemes	*7*	*30*	*49*	*80*	*118*
Av. expenditure per scheme (million EUR)	*3*	*2*	*3*	*6*	*2*
Total Access to finance	**319**	**892**	**1,098**	**1,480**	**790**

[12] Small mid-caps are non-SME undertakings whose number of employees does not exceed 499 and whose annual turnover does not exceed EUR 100 million or whose annual balance sheet does not exceed EUR 86 million. Mid-caps are non-SME undertakings whose number of employees does not exceed 1 500 (see paragraph 35(23) and (30) of the Risk Finance Guidelines). See Article 2(80) GBER for the definition of being 'innovative' and the section below on Article 22 for a description of the amendments to that definition.

[13] The data excludes the UK.

[14] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ, L 187/1, 26.6.2014.

[15] Expenditures under Article 23 and 24 GBER are quite small. In the period 2014-2015, expenditure on these Articles amounted to EUR 1 million and 3 million, respectively.

Table 1 (continued)

Category	2019	2020	2021	2022	Sum 2014-2022
Risk Finance Guidelines	**147**	**217**	**487**	**368**	**3,125**
# of active schemes	*9*	*8*	*10*	*9*	
Av. expenditure per scheme (million EUR)	*16*	*27*	*49*	*41*	
Risk finance (Article 21)	**434**	**598**	**477**	**242**	**3,436**
# of active schemes	*38*	*45*	*49*	*53*	
Av. expenditure per scheme (million EUR)	*11*	*13*	*10*	*5*	
Start-up aid (Article 22)	**357**	**439**	**415**	**469**	**2,668**
# of active schemes	*126*	*146*	*190*	*187*	
Av. expenditure per scheme (million EUR)	*3*	*3*	*2*	*3*	
Total Access to finance	**939**	**1,254**	**1,381**	**1,079**	**9,232**

While the aggregate aid amounts are similar across the different types of aid for access to finance, there are considerably fewer risk finance schemes under the Risk Finance Guidelines than under the GBER. Regarding GBER schemes, there are significantly more Article 22 schemes than Articles 21 and 21a schemes, although financing amounts are comparable.

Update on the access to finance Green Deal GBER amendment

This section reviews the main amendments of the State aid rules on access to finance for SMEs under section 3 of the GBER.

Main amendments of Article 21

Restructuring of Article 21 and introduction of Article 21a

The restructuring of Article 21, grouping together the provisions applicable to respectively private co-investors, financial intermediaries and final beneficiaries, aimed at highlighting the three-layered structure of aided risk finance investments. The new Article 21a covers the set-up where natural persons receive fiscal incentives to invest in final beneficiaries (see below). This restructuring of Article 21 and the creation of the new Article 21a contributes to the streamlining and simplification of the access to finance rules.

Private co-investment

The Green Deal GBER amendment has addressed the objective of risk finance State aid to leverage private co-investment in two ways.

First, by amending the notion of private investors under the 'independent private investor' definition (Article 2(72) GBER)[16]. Private investors are defined as investors who, irrespective of their ownership structure, pursue a purely commercial interest, use their own resources, and bear the full risk in respect of their investment. Such genuine private investors are typically credit institutions investing at own risk and from own resources, private endowments and foundations, family offices and 'business angels', corporate investors, insurance undertakings, pension funds, academic institutions, as well as natural persons who either conduct an economic activity or not. The amended GBER clarifies that (semi) public entities such as the European Investment Bank, the European Investment Fund or other multilateral/international financial institutions, national promotional banks or institutions are not considered as private investors. The objective of this amendment is twofold: to ensure that an element of commercial logic is always present in a risk finance scheme and to foster the development of genuinely private risk finance markets in the longer term.

Second, the Green Deal GBER amendment introduces, in Article 21(12) GBER, an additional basis for differentiation of the minimum independent private investor participation rates, acknowledging that it is more difficult to attract private co-investment for risk finance investments in certain regions and market segments. To do so on the basis of the development stage of the company as listed in Section 2.3, the amended GBER provides for halved participation rates for SMEs in their early stages 'ii)' and 'iii)' for investments in assisted areas under Article 107(3)(a) TFEU and investments in projects that receive financial support either on the basis of the Member State's recovery and resilience plan or from the European Defence Fund or under the Union Space Programme or from Union funds implemented under shared management[17].

The risk finance rules continue to allow for an asymmetric sharing of profits and losses between the public and private investors. There is thus a built-in incentive mechanism to attract private co-investment by protecting those investments from a share of the losses and/or giving them a preferential return.

Eligibility criteria for beneficiaries

Under the revised GBER (Article 21(3)(b)), the eligibility criterion for unlisted SMEs has been expanded to also cover SMEs which, at the time of the initial risk finance investment, operate in any market for less than ten years following their registration. This criterion is easier to implement than the existing 'seven years-after first commercial sale' criterion. However, keeping this new criterion as the only option could be too limiting for companies with long periods of research and development. The amended GBER offers therefore to the granting authorities the flexibility to choose either approach.

Further, the revised provision on aid for the expansion of a company's business activities when higher than 50% of the company's average annual turnover in the preceding 5 years under Article 21(3)(c) addressed concerns that the reference to "a new product market or geographical market" could create legal

[16] 'Independent' investor means an investor that is not a shareholder of the eligible undertaking in which it invests. This criterion has not been amended.

[17] Article 21(12) GBER.

risks, given that the methodology used for the definition of a market (e.g. as applied in antitrust and merger law) cannot be easily replicated beyond doubt at the level of an individual undertaking. The new reference to "new economic activity" is focusing on economic substance, i.e. the need to use the investment proceeds to expand the economic activity of the company rather than refinancing existing financial instruments. To facilitate the Union's green transition and contribute to the Union's strategic autonomy, the eligible threshold of the average annual turnover was revised downwards to 30% for environmentally friendly investments and investments in the area of critical raw materials.

Maximum financing amounts for beneficiary companies

The revised GBER, under Article 21(8), increases the maximum threshold for the total outstanding amount of risk finance investment per beneficiary from EUR 15 million to EUR 16.5 million. This increase is in line with an overall inflation-adjusted increase of maximum aid and financing amounts in the GBER.

The new Article 21a on tax incentives

The revised GBER introduces a separate article for risk finance aid in the form of tax incentives provided to private investors who are natural persons when the latter invest in SMEs. The creation of a stand-alone article was merited in order to streamline the rules and facilitate the implementation of fiscal schemes by national authorities.

Such fiscal schemes do not necessarily involve financial intermediaries, as the selection of final beneficiaries is done by the aided investors.

Maximum thresholds of tax relief

Paragraphs 5 and 6 of Article 21a regulate the thresholds up to which tax reliefs can be granted as function of the eligible investment. The criteria for setting up such different thresholds are, firstly, the two or three-layered structure of the investment (direct or indirect through a financial intermediary) and secondly, the developmental stage of the eligible undertaking.

According to Article 21a (5), which is applicable when the independent private investor provides risk finance directly to the eligible undertaking, in order to ensure an adequate participation of such independent private investor, the thresholds for the tax reliefs granted, across all tax incentives combined, shall not surpass:

- 50% of the eligible investment into the undertaking not operating in any market, as referred to in Article 21(3), point (a);
- 35% of the eligible investment into the undertaking (a) not operating in any market for less than 10 years following registration or (b) not operating in any market for less than seven years after their first commercial sale, as referred to in Article 21(3), point (b);
- 20% of the eligible investments into the undertaking whose investments are considered a new economic activity as referred to in Article 21(3), point (c) or of a follow-up investment into an undertaking after the eligibility period referred to in Article 21(3), point (b) (see previous point).

An upward derogation of an additional 15% on top of each of the above thresholds is possible for the same specific situations as in Article 21(12) (see section 3.1.2. above).

Where the independent private investor provides risk finance to the eligible undertaking indirectly, through a financial intermediary, Article 21(a)(6) is applicable. In that case, the tax relief shall not surpass 30% of the eligible investment carried out by the independent private investor into an eligible undertaking. Under the same reasoning that calls for a derogation and an increase of the corresponding threshold under Article 21(a)(5), the maximum threshold of Article 21(a)(6) can also be increased from 30% to 50%.

Amendments in Article 22

The Green Deal GBER revision of Article 22 on aid for start-ups aims at offering a broader scope of the financing possibilities than Articles 21 and 21a.

Eligibility criteria for beneficiaries

Regarding the concept of the eligible undertakings for start-up aid, which requires SMEs to be unlisted and to operate up to 5 years following their registration, the GBER amendment broadens the scope of this notion by introducing materiality thresholds when determining the age of an eligible undertaking that has merged with or taken over another undertaking.

Furthermore, the revised GBER clarifies that start-up aid schemes can be implemented through one or more financial intermediaries, subject to compliance with certain conditions of Article 21 for these intermediaries.

Two new forms of aid

The revised GBER expands the scope of the form of start-up aid to include tax incentives, in addition to loans, guarantees and grants (including equity or quasi equity investment, interest rate and guarantee premium reductions).

Another change is the possibility for Member States to provide, in addition to the amounts covered by paragraphs 3, 4 and 5 of Article 22 (see the table below), public support under start-up aid schemes in the form of transfer of intellectual property (IP) or of a grant of the related access rights. This new possibility is subject to certain conditions. Namely, the purpose of such schemes must be to bring a new product or service to the market and the IP transfer or grant may not exceed in value EUR 1 million unless the excess amount is covered by the eligible undertaking with own funds or other means. The IP transfer further requires that the value of the IP is set at market price and the provision explains how this can be demonstrated.

Maximum financing amounts at the level of the beneficiary

With the revision of the GBER, the financing amounts under Article 22 have also been increased, in line with the general adjustments of aid and financing amounts under GBER.

The maximum nominal financing amounts are differentiated by type of financial instrument, the region of the start-up and whether the start-up is innovative (see Table 2 below).

Another change affecting the doubling of the maximum financing amount for innovative companies is that the latter are now defined differently under Article 2(80) GBER. The new definition expands the scope of this notion. The widened definition of innovative enterprises includes enterprises that, in the three years preceding the granting of the aid,

- have been awarded a Seal of Excellence quality label by the European Innovation Council or received an investment by the European Innovation Council Fund;
- have participated in any action of the Commission's space initiative 'CASSINI', have received investment from the CASSINI Seed and Growth Funding Facility or the InnovFin Space Equity Pilot, have been awarded a CASSINI Prize, or have been granted funding in accordance with Regulation (EU) 2021/695 in the space research area resulting in the creation of a start-up;
- have been granted funding as a beneficiary of a research and development action under the European Defence Fund or have been granted funding under the European Defence Industrial Development Programme.

Table 2: Maximum nominal financing amounts under Article 22 GBER

Type of Support	Threshold	Threshold undertakings in Article 107(3)(c) assisted areas)	Threshold undertakings in Article 107(3)(a) assisted areas)	Threshold (innovative undertakings
Grants and grant-like instruments (EUR GGE)	500,000	750,000	1,000,000	Double the applicable maximum amount
Subsidized Loans[18] (EUR loan amount)	1,100,000	1,650,000	2,200,000	
Subsidised Guarantees[19] (EUR guaranteed amount	1,650,000	2,480,000	3,300,000	

Further amendments in Articles 23 and 24 GBER

Article 23 of GBER sets out conditions for aid to alternative trading platforms specialised in SMEs, which are multilateral trading facilities (as defined under the EU directive on markets in financial instruments or MiFID[20]) where at least 50% of the financial instruments admitted to trading are issued by SMEs. Aid to such platforms can take the form of either start-up aid to the platform operator, in compliance with Article 22 on start-up aid, or, following the GBER revision, also of tax incentives to investors that are natural persons investing via an alternative platform trading in SME shares.

Article 24 covers aid for scouting costs, meaning it covers partially the research costs incurred by managers of financial intermediaries or by other investors for screening eligible SMEs under Article 21, natural persons investing in these SMEs under Article 21a, and start-ups under Article 22. Following the Green Deal revision of the GBER, Article 24(2)(b) and (3) widens the scope for aid for scouting costs and now includes the costs for investment research, provided that this research is publicly disseminated (previously, the only costs eligible were those for scouting SMEs in which the intermediaries invested). In case the research has been disseminated to the clients of the investment research provider before public dissemination, the research has to be publicly disseminated in the same form and no later than three months after the first dissemination to clients. The objective is to incentivise the production and dissemination of research on early-stage SMEs, which helps reducing the asymmetric information problem.

Member States can also invest on market terms

Member States might also choose to design risk finance measures that do not provide any advantage compared to the market and are therefore in line with normal market conditions. Such measures do not entail State aid under Article 107(1) TFEU and do not need to be notified to the Commission.

The Commission has clarified, in the Commission Notice on the Notion of State aid[21], its understanding on how the notion of State aid under Article 107(1) TFEU should be interpreted, including when a public support measure does not constitute State aid due to being carried out under normal market conditions (see section 4 of the Notice on the Notion of State aid).

In the area of risk finance, the Notice on the Notion of State aid explains that a practical way to establish market conformity of the investment is by way of the *pari passu* test, which is used to demonstrate that the investment by public investors is made on market terms[22]. DG COMP has recently published guidance on the

[18] Maturity of 10 years. Adjustments for loans with a duration between 5 and 10 years apply (see Article 21(3)(a)).

[19] Maturity of 10 years. Adjustments for guarantees with a duration between 5 and 10 years apply (see Article 21(3)(b)).

[20] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173, 12.6.2014, p. 349–496.

[21] Commission Notice C/2016/2946 on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, OJ C 262, 19.7.2016, p. 1–50.

[22] It is also necessary to exclude aid at the level of the financial intermediary. This can be ensured if the intermediary has been selected in an open and transparent selection procedure or if the remuneration is market conform and linked to performance.

application of the Market Economy Operator Test for risk finance measures, which includes a description of the *pari passu* test[23].

Concluding remarks

The State aid rules for access to finance provide ample scope for public authorities to financially support early-stage SMEs and, in justified circumstances, certain mid-caps.

The applicable State aid rules are differentiated and proportionate to the severity of the underlying market failure. Public authorities can directly provide financing, including grants, to start-ups, who are particularly afflicted by the asymmetric information problem. To support early-stage SMEs, Member States must devise schemes which provide financing via financial intermediaries, and which must leverage co-investment from private investors.

By simplifying the rules and broadening the scope for support, the Green Deal GBER amendment of the aid for access to finance rules is expected to facilitate further public finance support for start-ups and early-stage SMEs. The targeted amendments should also contribute to facilitating the green and digital transition of the EU economy.

The guidance on market conform risk financing provides clarity to Member States and their public authorities, including national promotional banks when they want to provide risk finance on market terms. Such financing on market terms is not restricted in terms of amounts or type of eligible companies.

In conclusion, Member States have now at their disposal a revised and fit-for-purpose access to finance State aid framework, under which they can provide companies with financing tailored to their specific needs.

[23] https://competition-policy.ec.europa.eu/state-aid/legislation/horizontal-rules/risk-finance-aid_en