Malta Development Bank (MDB) feedback on review of the GBER

As a potential implementing partner of Invest EU the MDB supports the rationale for the new exemptions proposed in the GBER amendment as they are primarily intended to facilitate the combination of national funds with financing from the EU budget (InvestEU). We welcome the Commission initiative to ensure that GBER is reviewed as necessary to facilitate that NPBs can exploit the full beneficial impact of InvestEU rather than being constrained by State Aid rules that were originally designed for a different scenario.

The following comments relate to the proposed amendments to the GBER:

1. Page 8: Article 6 Paragraph 5 – We support the EAPB's proposal to remove 5 (k) as the proof of the incentive effect is already an integral part of the Invest EU regulations. In fact, we think that by adding this, one would be casting doubt on the effectiveness of the incentive effect under the Invest EU regulation.

2. Page 13: Article 56d, paragraph 4 – We suggest adding "per project" as shown below for clarification purposes:
   The maximum thresholds laid down in Articles 56e and 56f shall apply to the total outstanding financing provided to the final beneficiary under any financial product supported by the InvestEU Fund, *per project*.

3. Page 14: Article 56e, paragraph 1 – We suggest defining the reference interest rate more precisely in order to ensure more legal certainty. As regards EURIBOR as mentioned in (b), this is expected to disappear at the end of 2020. Hence, we suggest that this is taken into account in the GBER to avoid legal uncertainties going forward.

4. Article 56e Paragraph 1 (b) - states that for loans with floating interest rates, the interest rate shall be at least the Euribor or IBOR. This may be an issue for local banks since some banks still consider their own base rate, which is a floating rate. MDB would appeal for better clarification of this aspect.

5. Article 56e Paragraph 11(b) – It seems that this paragraph relates to the de minimis limits. However, no specific reference is made to the de minimis regulation. If this is the intention, rather than repeating all the conditions of the de minimis (such as those relating to proportionality and GGE calculations), it would be easier to just make a reference to the De Minimis regulation.

   A further concern foreseen by this paragraph 11(b) is that the article introduces reduced thresholds for operations beyond 5 years and seems to exclude operations with a duration of longer than 10 years (since no reference is made to proportionality).

   In addition, the thresholds refer to the 'nominal amount' of the total financing, which differs from the de minimis regulation, where the threshold is based on the 'guaranteed amount' and the 'underlying loan'.

   MDB proposes clarifying this Article and increasing the thresholds as follows:

   The nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed:
   (i) Eur 2 million for 5-year loans;

(ii) Eur 1 million for 10-year loans;
(iii) Eur 3 million for loan guarantees up to 5-years;
(iv) Eur 1.5 million for loan guarantees up to 10-years;
(v) Eur 400,000 for equity

6. The definition of Market Funds on Page 5 (173) and its applicability under Article 56f: Further clarification on the meaning of Market Funds in practice as applied for 'commercially-driven financial products' under Article 56f, is requested. This is being raised since if market funds are to be interpreted to mean investors' funds than should these only incorporate the final beneficiary's own funds or funds raised by the final beneficiary from sources other than InvestEU or from the intermediary bank.

7. The InvestEU Team is proposing to extend the applicability of the existing GBER to December 2022, and that full implementation of the new GBER, which will incorporate the proposed amendments for InvestEU will come into effect in January 2023. This seems to leave a gap of 2 years between the introduction of Invest EU and the applicability of the proposed amendments. If this interpretation is correct, how is it possible to implement Invest EU without the GBER amendments in place?