

## Part III.3.B - Supplementary information sheet on aid for restructuring non-financial undertakings in difficulty: individual aid

*This supplementary information sheet must be filled in for the notification of individual restructuring aid covered by the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>1</sup> ("Guidelines").*

### 1. ELIGIBILITY

#### 1.1 Undertaking in difficulty:

A) Is the undertaking a limited liability company<sup>2</sup>, where more than half of its subscribed share capital has disappeared as a result of accumulated losses<sup>3</sup>?

yes

no

B) Is the undertaking a company where at least some members have unlimited liability for the debt of the company<sup>4</sup>, and where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses?

yes

no

C) Is the undertaking subject to collective insolvency proceedings or does it fulfil the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors?

yes

no

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<sup>1</sup> OJ C 246, 31.7.2014, p.1

<sup>2</sup> This refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

<sup>3</sup> This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.

<sup>4</sup> This refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.

**D)** In the case of an undertaking that is not an SME:

- has the undertaking's book debt to equity ratio been greater than 7, 5

and

- has the undertaking's EBITDA interest coverage ratio been below 1, 0  
for the past two years?

yes

no

**E)** If you have answered yes to any of the above questions, please substantiate your answer, including reference in your answer to the supporting evidence or documents provided in annex (latest profit and loss account statements with balance sheets, or court decision opening collective insolvency proceedings on the company or evidence that the criteria for being placed under insolvency proceedings at the request of creditors under national company law are met, etc.).

**1.2. Newly created undertaking/ larger business group:**

**A)** When was the undertaking created? .....

**B)** Since when has the undertaking been operating? .....

**C)** Does the company belong to a larger business group?

yes

no

**D)** If you have answered yes, please submit full details about the group (organisation chart, showing the links between the group's members with details on capital and voting rights) and demonstrate that the company's difficulties are intrinsic and are not the result of an arbitrary allocation of costs within the group, and that the difficulties are too serious to be dealt with by the group itself.

**1.3. Sectoral scope:**

Is the undertaking active in:

**A)** the coal sector<sup>5</sup>:  yes  no

**B)** the steel sector<sup>6</sup>:  yes  no

**C)** sectors covered by specific rules for financial institutions<sup>7</sup>:

yes  no

<sup>5</sup> As defined in Decision 2010/787/EU.

<sup>6</sup> As defined in Annex IV to the Communication from the Commission: Guidelines on regional state aid for 2014-2020 (OJ C 209, 23.7.2013, p. 1).

<sup>7</sup> Communication from the Commission on the application, from 1 August 2013, of the State aid rules to support measures in favour of banks in the context of the financial crisis ('Banking Communication') (OJ C 216, 30.7.2013, p. 1).

**1.4. SGEI provider:**

- A) Is the undertaking providing services of general economic interest?  
 yes  no
- B) If you have answered yes, please describe the service(s) of general economic interest and provide a copy of the entrustment act(s).  
.....
- C) If you have answered yes, please indicate the amount of the public service compensation the undertaking is receiving, describe the methodology of calculation of compensation as well as provide the relevant legal basis establishing the methodology of calculation of the public service compensation.  
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**2. COMPATIBILITY WITH THE INTERNAL MARKET**

**2.1. Contribution to an objective of common interest:**

- A) Is the beneficiary located in a region or regions (at NUTS level II) where the unemployment rate is either:  
- higher than the Union average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned,  
or  
- higher than the national average, persistent and accompanied by difficulty in creating new employment in the region(s) concerned.  
 yes  no
- B) Is there a risk of disruption to an important service which is hard to replicate and where would it be difficult for any competitor simply to step in (for example, a national infrastructure provider)?  
 yes  no
- C) Does the undertaking have any important systemic role in a particular region or sector? Would its exit have any potential negative consequences (for example as a supplier of an important input)?  
 yes  no
- D) Is there a risk of interruption to the continuity of provision of an SGEI?  
 yes  no
- E) Would the failure or adverse incentives of credit markets push an otherwise viable undertaking into bankruptcy?  
 yes  no
- F) Would the exit from the market of the undertaking concerned lead to an irremediable loss of important technical knowledge or expertise?  
 yes  no

G) Would the failure of the beneficiary involve any similar situation of severe hardship not listed above?  yes  no

H) If you have answered yes to any of the above questions, please fully substantiate your answer(s), including reference to the further supporting evidence or documents provided in annex.

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**2.2. Restructuring plan and return to long-term viability**

Please provide the restructuring plan<sup>8</sup> aiming at restoring the long-term viability<sup>9</sup> of the beneficiary within a reasonable timescale together with a market survey and a sensitivity analysis identifying the driving parameters of the beneficiary's performance and the main risk factors going forward (please follow the indicative restructuring plan set out in Annex II to the Guidelines to the extent possible).

**3. NEED FOR STATE INTERVENTION / INCENTIVE EFFECT**

3.1. Please provide a comparison between the measures set out in the restructuring plan and a credible alternative scenario not involving State aid<sup>10</sup> demonstrating that in such an alternative scenario the relevant objective or objectives that you have identified in section 3.1 above would not be attained, or would be attained to a lesser degree.

3.2. Please demonstrate that in the absence of the aid, the beneficiary would have been restructured, sold or wound up in a way that would not have achieved the objective of common interest that you have identified in section 3.1 above.

**4. APPROPRIATENESS**

4.1. Please provide a short description of the State aid instruments chosen, including the form, amount and remuneration<sup>11</sup>:

.....  
.....

4.2. Please explain whether the problems of the beneficiary are caused by liquidity and/or solvency issues:

<sup>8</sup> Restructuring may involve one or more of the following elements: the reorganisation and rationalisation of the beneficiary's activities on to a more efficient basis, typically involving withdrawal from loss-making activities, restructuring of those existing activities that can be made competitive again and, possibly, diversification towards new and viable activities. It typically also involves financial restructuring in the form of capital injections by new or existing shareholders and debt reduction by existing creditors.

<sup>9</sup> Long-term viability is achieved when an undertaking is able to provide an appropriate projected return on capital after having covered all its costs including depreciation and financial charges. The restructured undertaking should be able to compete in the marketplace on its own merits.

<sup>10</sup> The alternative scenario may concern, for example: debt reorganisation, asset disposal, private capital raising, sale to a competitor or break-up, in each case either through entry into an insolvency or reorganisation procedure or otherwise.

<sup>11</sup> Please also see point 56 of the Guidelines.

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.....  
4.3 Please demonstrate that the State aid instruments chosen are appropriate to address the problems identified above (i.e. liquidity or solvency).  
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.....

**5. PROPORTIONALITY OF THE AID / AID LIMITED TO THE MINIMUM**

5.1 **Own contribution**

A) Does the own contribution of the beneficiary amounts at least to 50 % of the restructuring costs<sup>12</sup>?

yes  no

B) Please describe and quantify each category of restructuring costs to be incurred, provide for their total amount and indicate which percentage of the restructuring costs is going to be covered the own contribution:  
.....

C) Please describe and quantify the own contribution to the restructuring costs to be provided from the own resources of the beneficiary, its shareholders or creditors, or the business group to which it belongs, or from new investors:  
.....

D) Please explain why you consider this own contribution to be real and aid-free:  
.....

E) Please demonstrate that the own contribution is comparable to the aid granted in terms of effects on the solvency or liquidity position of the beneficiary<sup>13</sup> and, if not, explain why, with reference, if appropriate, to supporting documents in annex (e.g. balance sheet, cash flow statements):  
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5.2 **Burden sharing**

*To be completed if the State aid is granted in a form that enhances the beneficiary's equity position<sup>14</sup>:*

A) Have the beneficiary's losses been fully accounted for, attributed and absorbed by existing shareholders and/or subordinated creditors?

yes  no

B) If you have answered yes to the above question, please provide evidence, on the basis of an up-to-date analysis of the beneficiary's balance sheet situation, that this is the case.  
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<sup>12</sup> Please also see point 64 of the Guidelines.

<sup>13</sup> For example, where the aid to be granted enhances the beneficiary's equity position, the own contribution should similarly include measures that are equity-enhancing, such as raising fresh equity from incumbent shareholders, the write-down of existing debt and capital notes or the conversion of existing debt to equity, or the raising of new external equity on market terms.

<sup>14</sup> For example where the State provides grants, injects capital or writes off debt.

- C) Will cash outflows from the beneficiary to holders of equity and/or subordinated debt be prevented during the restructuring period?  
 yes  no
- D) If you have answered no to the above question, please explain the reason(s).  
 .....
- E) Will the State receive a reasonable share of future gains in value of the beneficiary, in view of the amount of State equity injected in comparison with the remaining equity of the company after losses have been accounted for?  
 yes  no
- F) If you have answered yes to the above question, please substantiate your answer and provide evidence.  
 .....
- G) If any of the above conditions are not fulfilled, please explain the reasons, in particular why full implementation of the above conditions would be lead to disproportionate results:
- H) Are senior debt holders contributing to restoring the beneficiary's equity position?  
 yes  no
- I) If you have answered yes to the above question, please explain how.  
 .....

## 6. NEGATIVE EFFECTS

### 6.1. One time, last time' principle:

- A) Has the undertaking (or the group to which it belongs) already received in the past any rescue aid, restructuring aid or temporary restructuring support<sup>15</sup> and/or any non-notified aid?  
 yes  no
- B) If yes, please provide full details (date, amount, reference to previous Commission decision if applicable, etc.)<sup>16</sup>.  
 .....

### 6.2. Measures to limit distortions of competition:

*Structural measures – divestments and reduction of business activities.*

- A) Please describe the divestments of assets, reduction of capacity or market presence committed to be undertaken. Please show that divestments, write-offs and closure of

<sup>15</sup> Including any such aid granted before the entry into force of Guidelines, i.e. before 1.08.2014.

<sup>16</sup> Please note where less than 10 years have elapsed since the rescue aid or temporary restructuring support was granted or the restructuring period came to an end or implementation of the restructuring plan was halted (whichever occurred the latest), further rescue aid, restructuring aid or temporary restructuring support can be only granted: (a) where temporary restructuring support follows the granting of rescue aid as part of a single restructuring operation; (b) where restructuring aid follows the granting of rescue aid or temporary restructuring support as part of a single restructuring operation; (c) where rescue aid or temporary restructuring support has been granted in accordance with these guidelines and that aid was not followed by restructuring aid, if: i it could reasonably have been believed that the beneficiary would be viable in the long term when the aid pursuant to these guidelines was granted, and ii. new rescue or restructuring aid or temporary restructuring support becomes necessary after at least five years due to unforeseeable circumstances for which the beneficiary is not responsible; (d) in exceptional and unforeseeable circumstances for which the beneficiary is not responsible.

loss-making activities included in the commitments are not necessary to restore long-term viability of the beneficiary. Please indicate in addition the relevant markets on which those divestments will take place and their timing<sup>17</sup>. Please indicate as well whether the beneficiary will facilitate divestitures, for example through ring-fencing of activities and by agreeing not to solicit clients of the divested business.

.....

- B) If structural measures exceptionally take the form of divestment of assets alone and do not involve the creation of a viable entity able to compete in the market, please demonstrate that no other form of structural measures would be feasible or that other structural measures would seriously jeopardise the economic viability of the undertaking:
- .....

*Behavioural measures*

- C) Does the beneficiary agree to refrain from acquiring shares in any company during the restructuring period, except where indispensable to ensure its long-term viability and subject, in that case, to notification to and approval by the Commission?  
 yes                       no
- D) Does the beneficiary agree to refrain from publicising State support as a competitive advantage when marketing its products and services?  
 yes                       no
- E) Are there any other behavioural measures foreseen?  
 yes                       no
- .....

*Market opening measures*

- F) Will any measures be adopted by your Member State or by the beneficiary, that are aimed at promoting more open, sound and competitive markets, for instance by favouring entry and exit<sup>18</sup>?  
 yes                       no
- G) If yes, please describe which measures and on which market, indicating how the measures are directly or indirectly linked to the beneficiary's activities:
- .....

*Calibration of measures to limit distortions of competition*

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<sup>17</sup> Divestments to limit distortions of competition should take place without undue delay, taking into account the type of asset being divested and any obstacles to its disposal, and in any case within the duration of the restructuring plan.

<sup>18</sup> This could in particular include measures to open up certain markets directly or indirectly linked to the beneficiary's activities to other Union operators, in compliance with Union law. Such initiatives may replace other measures to limit distortions of competition that would normally be required of the beneficiary.

H) Is any of the aid aimed at covering the social costs of restructuring<sup>19</sup>?

yes  no

I) If yes, please describe:

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<b>7. OTHER INFORMATION</b>
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7.1 Please indicate here any other information you consider relevant for the assessment of the measure(s) concerned under the Guidelines:

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<sup>19</sup> Please see points 32 to 35 of the Guidelines for the types of measures covered by the notion of "aid to cover the social costs of restructuring".