RESPONSE OF THE EU STATE AID LAW ASSOCIATION TO THE COMMISSION CONSULTATION ON A DRAFT REGULATION 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

This response is submitted by the EU State Aid Law Association ("ESALA")[1] in response to the consultation on the draft regulation ("Draft") 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 (General Block Exemption Regulation or "GBER"), that started on 6th October 2021.

ESALA is a forum of leading practitioners in State aid law from law firms across Europe, as well as scholars specializing in State aid law.

ESALA welcomes the opportunity to respond to this Draft. For further information on ESALA or in relation to this response please contact Cees Dekker (cees.dekker@nysingh.nl), or Massimo Merola (massimo.merola@belex.com)

Comments on the Draft

We have focused our response on three themes: risk finance aid, research and development aid and environmental aid. Apart from our comments on those themes, we will make some comments on more general applicable issues.

I. General points

Applicability

1. The GBER is only partly applicable in case of aid to agricultural and fishery- undertakings. We suggest to broaden the applicability for these sectors where aid is granted for non-agricultural- or non-fishery-activities/purposes. For instance, GBER aid for restoring a monumental farmhouse (article 53 GBER) does not affect the agricultural activities of the farm located in and around the monumental building.

[1] The following ESALA members contributed to this response: Isabel Taylor (Slaughter & May), Annabelle Lepièce (CMS DeBacker), Fredrik Löwhagen (Linklaters), Ekram Belhadj (Nysingh), Doortje Ninck Blok (Windt Le Grand Leeuwenburgh), Carole Maczkovics (Covington & Burling), Cees Dekker (Nysingh). This response does not necessarily reflect the views of all individual members of the working group, nor the views of all ESALA members, their law firms or their clients.

Independent market investor

2. To the definition on "*independent market investor'* in Article 2(72) several examples have been added of entities not falling under the scope of the definition of an independent market investor. It seems to rule out loans and grants at market conditions granted by (local/regional) publicly owned banks. We recommend broadening the scope of this definition by including loans and grants at market conditions.

E-wiki and GBER Practical guide

3. We suggest to make the E-wiki-tool open to all practitioners and scholars in state aid law. Legal certainty and unambiguous application of the GBER in all member states can benefit from this source of guidance and information. We further suggest to update the GBER Practical Guide (the document "General Block Exemption Regulation (GBER) Frequently Asked Questions") and keep it updated more regularly.

Definition of "undertaking in difficulty"

4. We note that the draft regulation does not propose any changes in the current definition in the GBER of the term "undertaking in difficulties".

5. Article 1(4)(c) GBER provides that the GBER does not apply to aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes, regional operating aid schemes, aid schemes covered by Article 19b, aid to SMEs under Article 56f and aid to financial intermediaries under Articles 16, 21, 22 and 39 as well as Section 16 of Chapter III, provided undertakings in difficulty are not treated more favourably than other undertakings.

6. Thus, the definition of an undertaking in difficulty, as it is used in the GBER, is important because classification as an undertaking in difficulty means that businesses are generally unable to access GBER schemes, apart from those mentioned in Article 1(4)(c) GBER.

7. We are concerned that in some respects the current definition that is used in the GBER is overly broad and at risk of including businesses that would generally be regarded as financially viable. In particular this is a concern in relation to the requirements of Article 2(18) GBER in relation to businesses with net accumulated losses of over half of their subscribed share capital. This, in our experience, can have the effect of excluding certain types of business such as start-ups or innovative businesses that may have high liability to capital ratios due to their stage of development

or the nature of their funding (e.g. where company structures involve the use of sub-debt or hybrid instruments) but which would not conventionally be regarded as in financial difficulty. They will, however, be excluded from other forms of state aid than those listed in Article 1(4)(c) GBER. While Article 2(18) GBER excepts of this definition SME's "that has been in existence for less than three years or an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary", this exception merely applies in relation to risk finance.

8. We note that this concern was raised by other third parties during the Fitness Check and it is not clear to us that the proposed amendments will address this concern.[2]

II. Risk finance aid (Articles 21 to 24 Proposed GBER)

9. We welcome the proposed amendments to Articles 21 to 24 GBER. Overall, we see these proposals as aligned with the proposed revisions to the Risk Finance Guidelines and as likely to simplify and clarify the application of the GBER.

10. This is particularly the case in relation to the proposed modification to the eligibility test to allow companies to receive risk finance aid under Article 21 for businesses that have been operating "for less than 10 years following their registration", which we think will be simpler for small businesses to understand and apply. We agree with the proposal to keep the alternative 7 year test for innovative enterprises.

11. We also welcome the clarification of the "extension of business" situation to focus on new economic activity rather than product and geographic markets. Again we see this as likely to be simpler and easier for businesses to understand.

12. The new Article 21.2, relating to the implementation of State aid interventions, now sets out much needed clear guidance in relation to the structure of the funding and the role of the financial intermediary.

13. We would also encourage the Commission to consider whether more could be done within the GBER to allow streamlined support for SMEs in general.

14. The fact that only a subset of SMEs are eligible for risk finance can make it harder for

[2] Fitness Check, Part ¼, p.77.

undertakings to access the scheme: as highlighted in studies of the European Commission both pre-pandemic[3] and post-COVID-19 crisis[4], SMEs typically have limited resources to invest in understanding the terms of support schemes, and creating additional barriers to eligibility risks disenfranchising legitimate candidates from access to risk finance.

15. Whilst some of this gap is currently filled by more general measures introduced under the Temporary Framework, the issues faced by SMEs are likely to endure beyond the duration of the Covid-19 pandemic and the related State aid instruments. Increased flexibility to design schemes under GBER targeted at SMEs in general would increase the provision of finance to a greater variety of SMEs of differing levels of sophistication and in diverse economic sectors at a time when doing so will have a particularly positive impact.

III. Research and development aid

16. Research and development and innovation (**"RDI"**) is an essential instrument for ensuring the international competitiveness of the EU economy, for the digital and green transitions, and more generally for creating well-being and employment opportunities across the EU. Increasing RDI efforts in the EU is also a key component of the European Industrial Strategy, the NextGenerationEU recovery instrument and the Green Deal.

17. Much RDI in the private sector is carried out on market terms, without any public support, but market failures are widespread in this area. It is widely recognised that RDI, by incrementing the general body of knowledge, has positive effects that reach far beyond its direct impact on the undertaking that carries out the RDI. However, it is often difficult to internalise such positive externalities, which means that undertakings are not incentivised to pursue social welfare-enhancing RDI investments. In other words, the dissemination of knowledge, which is positive for society as a whole is, from the individual undertaking's perspective, a free-rider problem. IP-rights are one tool that aim at remedying this market failure, but not all RDI results are IP-protectable and even to extent that they are, the protection offered may be insufficient. In addition, there is a tension between IP-

[3] SME Envoys Finance - SME access to finance situation in EU Member States - Final Report of 2019 : Final report 2018 2019.pdf

[4] SME Envoys - Finance subgroup Conclusions of the 2021 Survey and Roundtable on national solvency measures for SMEs during and after the Covid-19 crisis SME Envoys Finance - Final conclusions on national solvency measures for SMEs October 2021.pdf (europa.eu)

rights and dissemination, and to rely on strong protection of IP-rights only is not necessarily the best solution.

18. The Draft also refers to market failures stemming from coordination failures and information asymmetries.

19. Public support, including State aid, plays a key role in tackling such market failures and enabling social welfare-maximising RDI. We therefore urge the Commission to be bold in its ambitions and to maximise the potential of the GBER to contribute to the EU's policy goals in this area and at the same time alleviate its own workload.

20. The Draft however contains few significant changes in relation to RDI aid. The only major modification proposed is the introduction of "investment aid for testing and experimentation infrastructure" as a new type of aid in Article 26a. This is helpful but falls short of expectations. For example, no change at all is proposed as regards the notification thresholds in Article 4 or as regards the maximum aid intensities in Articles 25 to 30.

21. In the following, we provide specific comments regarding certain provisions in the Draft that relate to RDI:

- The updated definitions of concepts like "industrial research", "experimental development" and "innovation clusters" in Article 2 are generally helpful. However, the wording and the examples used are technology-focused, in particular on digital/IT-technology, and we would welcome references also to RDI relating to energy and environment/decarbonisation.

- In relation to the definition of the concept of "testing and experimentation infrastructure" in Article 2(98a) of the Draft, we note that it refers to the users being *"mainly industrial players, including SMEs"*. Does this legal definition mean that the users of the infrastructure *must* include SMEs? In our view, it would make more sense to require that the infrastructure should be *open* to SMEs on equal terms. Whether or not there are actually any SME users will depend on a variety of circumstances that may be less relevant to the compatibility assessment. Moreover, we note that the reference to SMEs is not repeated in Article 26a(3) of the Draft, which regulates the conditions of access to the infrastructure; this adds to the confusion as to the exact meaning and relevance of the legal definition in Article 2(98a).

- The addition of a simplified flat-rate calculation of indirect project costs in Article 25(3)(e) as regards aid for research and development projects is welcome. However, the suggested wording

of point (e) needs to be reviewed. For example, if would be helpful to clarify whether "indirect project costs" is used as a synonym for *"additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project"*. In addition, since the final sentence in point (e) starts by saying *"in this case"*, when it is in fact immediately preceded by two distinct cases, it becomes unclear what it is actually meant to refer to. Moreover, the same sentence says that *"direct and indirect costs"* shall *"comprise only eligible R&D costs listed above in points (a) to (d)"*. However, points (a) to (d) refer to direct costs, which would suggest that indirect costs can never be eligible, which can hardly be the Commission's intention.

- As regards Article 25(6)(b)(iii), the Draft proposes that IP-rights to research results must be made available *"at a market price"*. It is however notoriously difficult to establish a "market price" for IP-rights, which means that it would be a daunting task for Member States and aid recipients alike to assess whether the GBER conditions are met, and the purpose of the GBER to provide legal certainty and establish clear and foreseeable criteria would be seriously undermined.

IV. Climate, environmental and Energy Aid (CEEA)

General remarks

Changes calculation eligible costs

22. Comparing the eligible costs in the current and draft Articles 36(5), 37(3) and 38(3) the conclusion must be drawn that calculating the eligible cost is more complex in the draft and in some cases even impossible.

23. The draft requires a comparison between the costs of the investment to those of a counterfactual investment that would be undertaken in the absence of the aid, as will be further explained below.

SME's and regional EEA-aid

24. In the current GBER Articles 36, 37 and 38 provide an increase of the aid intensity of the eligible cost of 20% for small undertakings and 20% for medium-sized undertakings. In the Draft these increases have been scrapped without any explanation, whereas Article 46(3) of the Draft

maintains this increase. We advise to maintain the increase of the aid intensity of SME's in the before mentioned Articles.

25. The draft deletes the increase of aid intensity for EEA aid in assisted areas as well when it comes to Articles 36, 37 and 38. We suggest to maintain the increase of the aid intensity for EEA aid in assisted areas in the before mentioned articles.

Lowering the aid(intensity)

26. In various Articles (e.g. Article 41 (renewables) the aid intensity decreases compared to the current GBER. In combination with a changed (more complicated and sometimes unfeasible) calculation (e.g. Article 38) on the eligible costs it seems to narrow the aid possibilities.

27. Indeed, one would expect an increase of aid intensities to tackle the present challenges in the field of environment and climate. Therefore, we would suggest a simpler calculation of eligible cost and, as the case may be, increase of the aid intensity.

Article 36 - Investment aid for environmental protection, including climate protection

28. Article 36(2)(a) not only the beneficiary, but also 'another entity' can increase the level of environmental protection. This broadens the scope and allows aid to focus on the effect of the aid measure, which we encourage.

29. Article 36(5): Comparing the eligible costs in the current and draft Article 36(5) the conclusion must be drawn that calculating the eligible cost is more complex in the draft and in some cases even impossible.

30. The draft requires a comparison between the costs of the investment to those of a counterfactual investment that would be undertaken in the absence of the aid.

31. These changes have the following undesirable consequences. Firstly, due to the fact that the current paragraph 5a – a simplified calculation for clear environmental aid – is no longer applicable calculations become more time-consuming and complicated. Secondly, new and innovative concepts/projects risk falling out of the scope of Article 36 due to the impossibility to determining a counterfactual investment that would be undertaken in the absence of the aid, for instance, when it comes to new technologies in the field of waste recycling or CO2 capture.

Article 37, 38 and 39 - Investment aid for early adaptation to future Union standards

32. Article 37 GBER on 'Investment aid for early adaptation to future Union standards' would be deleted. Instead, the modification of Articles 38 and 39 GBER on Investment aid for efficiency

measures would allow aid for improvements to the energy efficiency of buildings for the purpose of compliance with Union standards that have been adopted but are not yet in force, provided that the investment is implemented and finalised at least 18 months before the standard enters into force. In doing so, the draft requires implementation and finalisation of the investment half a year earlier than under current Article 37 GBER. That means in substance that for this possibility to ever materialise, the new EU standard should be adopted long before it enters into force, to allow sufficient time for the beneficiary to request an aid from the granting authority, for the granting authority to accept the request for public funding and for the beneficiary to implement and finalise its investment. If this possibility is felt necessary, we would recommend to reconsider the timing of application of that provision.

Article 38 - Investment aid for energy efficiency measures

33. The Draft modifies Article 38 on 'Investment aid for energy efficiency measures'. To determine the costs eligible to State aid, the amendment describes in greater detail the use of the counterfactual scenario absent the aid. The counterfactual situation must relate to an investment with the same output capacity and economic lifetime that complies with applicable Union standards and credible in the light of legal requirements, market conditions and incentives generated by the EU ETS system. Whereas this amendment introduces a more economic approach, it also renders the identification of an appropriate counterfactual situation cumbersome and complex:

- First, this exercise alone may incur costs for the requesting beneficiary, that are not covered by the potential aid. Similarly, important expertise must be deployed within granting authorities to run or verify the complex economic analyses provided by the requesting beneficiary.

- Second, it can even be questioned whether this exercise would ever be possible. The provision refers to various situations and provides with parameters to take into account for the comparison.

34. Such amendment may produce effects reverse to the objective of legal certainty pursued by the GBER, since State aid that does not comply with the conditions of the GBER is unlawful. We think that the GBER should provide for simple rules to determine eligible costs. This would be the case, for instance, of the total investment costs (provided it is demonstrated that the investment will achieve a higher level of energy efficiency), as provided for residential buildings, buildings for education and social purposes and buildings used for the exercise of public powers, and possibly revise the aid intensities, as proposed for the amendment of Article 41 GBER.

Given the counterfactual, one might wonder whether the aid intensities would not be too low to be of any importance when considering the need to improve the energy efficiency of buildings, whose European stock is relatively old.

Article 39 - investment aid for energy efficiency projects in buildings in the form of financial instruments

35. The Draft amends Article 39 GBER relating to investment aid for energy efficiency projects in buildings in the form of financial instruments. The amendment does not modify substantially the original provision of the GBER. It would appear that this provision has not been much used, whereas the market shows a development of (financial) intermediaries to fund energy efficiency projects. In this respect, the initial aid to the fund or the financial intermediary, that must take the form of an endowment, equity, a guarantee or a loan, may be too restrictive. In our view, the provision should allow more largely innovative funding models.

Article 40 - Investment aid for high-efficiency cogeneration / article 41 – Investment aid for the promotion of renewable energy sources

36. Article 40 GBER on Investment aid for high-efficiency cogeneration would be deleted due to the extension of Article 41.

37. The amendment to Article 41 relates now to Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration. The GBER would thus continue to cover investment for high-efficiency cogeneration, provided however, that it is not fossil-fuel fired. The draft excepts natural gas where compliance with the 2030 and 2050 climate targets is ensured. The Commission reiterates thereby that gas remains an important source of energy in the transition period.

38. Investment aid for storage projects would be exempted from prior notification only if it is granted on the basis of a scheme open to combined renewable and storage projects (behind-the-meter) where both are installed and put into operation at the same time. Investment aid for the production of hydrogen is only exempted for installations producing exclusively renewable hydrogen. High-efficiency cogeneration could be aided under the GBER only if it is not fossil fuel fired. Here again the objective to avoid aid to 'brown' projects is reiterated.

39. The eligible costs would not be limited as in current Article 41 to the extra investment costs necessary to promote the production of energy from renewable sources, but would cover the total investment costs. Contrary to the new Article 38, this constitutes a welcome simplification of the

determination of the eligible costs. On the other hand, the aid intensities would be set at the lower level of 30% of the eligible costs, previously foreseen, and 15%, for projects involving electricity storage. Bidding processes, as in the current version, can increase the aid intensity to 100% of the eligible costs.

40. In its background note, the Commission explains that the text increases notification thresholds while taking account of the cost reduction of mature technologies and their market integration. However, higher attention could be given to elements in the energy chain for which public funding may remain needed and that are key to achieve an internal market of energy and the objectives of the EU Green Deal, such as interconnections.

Article 44 - Aid in the form reductions in taxes under Directive 2003/96/EC

41. Article 44(5) provides for tax relief for energy-intensive companies, with additional obligations applying if those companies are large enterprises. They must comply with the obligation under Article 44(5)(a) to carry out an energy audit within the meaning of Article 8 of Directive 2012/27/EU, either as a stand-alone energy audit or within the under a certified energy management system or environmental management system, such as the Union Eco-Management and Audit Scheme (EMAS). Article 8(4) of that Directive provides that large enterprises are subject to an energy audit at least every four years. We suggest to clarify in Article 44(5)(a) GBER whether an energy audit must be carried out within a certain period of time after granting the aid. For example, if an energy audit was carried out one month prior to the granting of the aid and the aid is granted for only one year, the question is whether a new energy audit should be carried out in that year or whether it can take place after at least four years after the last audit was carried out. Given the link with Directive 2012/27/EU, our suggestion is to include the same minimum term in Article 44(5), *i.e.* at least every four years.

42. Article 44(5)(b) then refers to a period of three years after the granting of the aid, within which the large enterprise, in certain cases, must implement the recommendations of the audit report. This three-year period is not in line with Article 8(4) of Directive 2012/27/EU. Article 44(5)(b) seems to be based on an audit that is carried out after the granting of the aid, as (a) refers to the obligation to "conduct" an energy audit, which implies a future obligation. In view of the opening words of Article 44(5)(b), if the undertaking has already carried out an audit before the aid is granted, that undertaking would have to carry out a new audit within three years instead of four years after the last audit in order to be able to comply with the obligation of Article 45(b). We recommend to align this provision with the term of Directive 2007/27/EU.

43. In practice, Article 44(5)(b), paragraph 1, gives rise to additional ambiguities. The recommendations only need to be implemented if the pay-back period of the investments that have to be made can be recovered within three years and the costs of those investments are proportionate. Wat does "proportionate" mean and when are the costs disproportionate? Since the application of the GBER is intended to provide legal certainty, large enterprises should not be confronted at a later stage with an opinion that the costs they have identified as disproportionate are nevertheless proportionate. We recommend the Commission – at least – provide guidance on this matter. A similar lack of clarity can also be found in Article 44(5)(b)(2), which refers to a "significant" share of at least 50% of the aid amount to be invested in the projects referred to therein and of investments leading to reductions that are "well below" the relevant benchmark used for the free allocation in the EU ETS. For the sake of legal certainty, we recommend to clearly state in the GBER what is meant by "significant" and "well below".

Article 44a - Aid in the form of reductions in environmental taxes or parafiscal levies

44. This article allowing aid in the form of reductions in environmental taxes or parafiscal charges is a welcome addition. We wonder, however, whether this provision does not miss its purpose. Due to the wording in paragraph 2, this provision appears to apply only to situations where taxes or levies are increased. We do not see why the situation in which taxes or levies remain at the same level and the situation in which taxes or levies are increased, are similar given the purpose of the provision. We also note that recital 12 of the GBER states the following in that regard: "While reductions in environmental taxes or parafiscal levies may adversely impact that objective, such an approach may nevertheless be needed where the beneficiaries would otherwise be placed at such a competitive disadvantage that it would not be feasible to introduce the environmental tax or parafiscal levy in the first place."

Article 45 - Investment aid for the remediation of environmental damage, the rehabilitation of natural habitats and ecosystems, the protection or restoration of biodiversity or the implementation of nature-based solutions for climate change adaptation and mitigation

45. Article 45(2)(b) provides that aid for rehabilitation following the closure of power plants and mining operations shall not be exempted from the notification requirement of Article 108(3) TFEU. Firstly, this raises the question of whether this concerns aid for rehabilitation at the site of a power plant or mine, or also aid for the rehabilitation of natural habitats and ecosystems in the vicinity that have been degraded. Secondly, it could be reconsidered whether aid for rehabilitation after the closure of power plants and mining activities should be exempted under the GBER. The turnaround time when applying the GBER is considerably shorter than when the aid has to be notified in

accordance with Article 108(3) TFEU, which means that the necessary rehabilitation can be started more quickly.

46. For the sake of completeness, in Article 45(5a) after "For investments in the protection or restoration of biodiversity (…)" the following may be added: "or of ecosystems". Rehabilitation of "ecosystems" is also a result for which aid under Article 45(2)(c) aid may be granted. The addition of "or of ecosystems" may also be included in Article 45(6)(b) and Article 45(7).

47. Given the importance of biodiversity, ecosystems and nature-based solutions for climate adaptation and mitigation in contributing to counteracting the effects of the climate crisis in the world, there is reason to increase the aid intensity to 100% (regardless of the size of the beneficiary). This provides more incentive for companies to make investments that benefit this significant general interest as a whole.

Article 46 - Investment aid for energy efficient district heating and cooling

48. Pursuant to Article 46(1b)(a) aid shall not be granted for the construction or upgrade of fossil fuel based generation facilities, except for natural gas. Aid for the construction or upgrade of natural gas based generation may be granted only where compliance with the 2030 and 2050 climate targets is ensured. In practice, the application of "compliance with the 2030 and 2050 climate targets" may lead to difficulties in the sense that it is not clear what exactly needs to be met and thus what needs to be demonstrated in order to provide the aid is granted in accordance with this provision. This also applies to Article 46(1c)(c). We recommend clarifying this provision, for example by including a definition of "compliance with the 2030 and 2050 climate targets".

49. The Dutch version of Article 46(1c)(b) states “de upgrade resulteert in een toegenomen productie van energie uit fossiele brandstoffen met uitzondering van aardgas;” (translated: “the upgrade results in an increased production of energy from fossil fuels, with the exception of natural gas;”). The English version states: “the upgrade does *not* result in an increased generation of energy from fossil fuels except for natural gas;”. The French version reads : « la modernization n’entraîne *pas* une augmentation de la production d’énergie à partir de combustibles fossiles, à l’exception du gaz naturel. » Having regard to the intent of Article 46(1c) and the wording in the other language versions, in the Dutch version the word “niet” should be added.

50. Given the need to stimulate the energy transition, so that more use is made of sustainably produced energy, we suggest to increase the aid intensity in Article 46(3). An aid intensity of 30% is relatively low.

Article 47 – Investment support for resource efficiency and to support the transition to a circular economy

51. Our suggestion is to replace the word “feedstock” in the Dutch version of Article 47(2)(a), second indent, with “brandstoffen”.

52. With regard to Article 47(6), the question arises as to how an undertaking can demonstrate that “the investment shall go beyond economically profitable or established commercial practices that are generally applied throughout the Union and across technologies”. Apparently it is not enough for the beneficiary to go beyond what it would have been able to do without aid through the investment itself. In practice it will be almost impossible to demonstrate that it goes beyond what is “economically profitable or established commercial practices that are generally applied throughout the Union and across technologies”. We recommend to adjust this provision in such a way that only a comparison is made to the company in question.

53. In view of the very small extent to which the transition to a circular economy is currently being made, and the importance of accelerating it, we recommend increasing the aid intensity further than the increase that is currently applied (5% compared to the current version of the GBER).

Article 48 Investment aid for energy infrastructure

54. Aid for energy infrastructure that is partly or fully exempted from third party access or tariff regulation in accordance with internal energy market legislation is excluded from the application of Article 48. The purpose for which Article 48 is intended does not justify a prior exclusion of such specific energy infrastructure from the application of Article 108(3) TFEU. Although it is not exactly clear in which situations the exclusion will occur, it is conceivable that in some cases there could be an infrastructure that contributes to the climate goals, for which the same conditions should apply as for other infrastructure.

Article 49 Aid for studies or consultancy services in the field of environmental protections and energy

55. We welcome that the aid intensity increases with 10% and the top-up of the aid intensity of SME's remains, which will give a positive effect to the sector.