

**France Invest's response to the Open Public Consultation
on the General Block Exemption Regulation**

Conditions to access State aid are particularly important for EU start-ups, scale-ups and more generally innovative companies and for Europe to achieve its ambitions, in particular in terms of digital transformation and climate change. **It is of utmost importance to ensure that European innovative companies can find financing in the EU and fully benefit from risk finance aid measures.**

EU rules on State aid should not discourage private market players from co-investing in innovative projects with public operators. Otherwise, there is a risk that most quality projects end up finding private financing (through a simpler process), leaving lesser quality projects to be financed by public funds, or that public operators no longer find any private market players to co-invest with them, which would be detrimental for innovative companies.

More specifically, **the EU rules governing access to risk financing should not deter EU companies from looking for financing in the EU** and not lead them to turn to non-EU funding. The development of EU unicorns and EU champions depends on their ability to find in the EU the financial means they need to grow.

In this context, France Invest welcomes the Commission's consultation on the GBER. In particular, we would like to take this opportunity to reiterate **our urgent call for a revision of the current definition of SMEs**. Indeed, as recognised by the European Commission (Recommendation 2003/361/EC of 6 May 2003), the current definition of SMEs in the GBER prevents businesses which receive majority ownership from a venture capital company to be eligible to this status. In other words, under the current rules, SMEs are forced to choose between accessing public innovation support and attracting private financing from the market.

We expect that the revised Regulation, together with the Risk Finance Guidelines which were updated in 2022, will simplify the rules and introduce additional flexibility to conditions to access State aid, thus facilitating the deployment of State aid schemes and limiting competition distortions to the minimum.

Our key points concern:

- the definition of beneficiaries (SMEs, companies in difficulty, innovative companies, etc.);

- a relaxation of investment rules (follow-on investments, replacement capital, first loss pieces, etc.);
- greater consistency in regulations (definition of first loss pieces and small mid-caps, transitional provisions, etc.).

1. Introduction

The current version of 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 (“General Block Exemption Regulation” or “GBER”) entered into force on 1 July 2014 and applies until 31 December 2026. With this questionnaire, the Commission invites stakeholders to provide written input on the purpose and the scope of the revision of the GBER.

As the GBER encompasses many different aid categories, please mention precisely in your replies the specific GBER article or articles concerned.

For each question, please elaborate, if relevant, on the expected impact of the change on the reduction of the administrative burden for undertakings and Member States, competition in the market, legal certainty for undertakings, harmonised application of the competition rules, compliance or enforcement costs, innovation and sustainability. As regards these impacts (and more generally for all your replies), please provide, as much as possible, quantitative evidence underpinning your statements. This will ensure that the review process is based on facts and reliable evidence.

2. About you

3. Objectives of the GBER and of the GBER revision

3.1. Objectives of the GBER

15. In its 2012 [Communication](#) on State aid modernisation, the Commission considered that the objectives of State aid modernisation were the promotion of growth, the prioritisation of enforcement on aid with the highest impact on the single market, and the simplification of the State aid rules. Do you consider that the implementation of the GBER has contributed to the achievement of these objectives?

	1 - No, not at all	2 - Yes, to a small extent	3 - Yes, to a large extent	4 - Yes, to a very large extent
Promotion of growth		X		
Prioritisation of enforcement on aid with the highest impact on the single market (“big on big, small on small”)		X		

Simplification of the State aid rules		X		
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16. In your view, is the GBER well aligned with the following policy objectives?

	1 – Not at all	2 – To some extent	3 – To a large extent
Encouraging the green transition (including decarbonization)		X	
Fostering the digital transition		X	
Legal certainty (predictability and ease of understanding) for Member States and undertakings		X	
Promoting R&D and innovation		X	
Promoting the economic, social and territorial cohesion of Member States and the Union as a whole, as well as regional development of disadvantaged areas		X	
Promoting the uptake of private investment in the EU through de-risking		X	
Protecting a level playing field in the single market and minimising distortions of competition		X	
Strengthening the resilience of the EU economy against external shocks and dependency on third countries (including mining and processing of critical raw materials and growth of EU key strategic sectors referred to in the Competitiveness Compass)		X	
Supporting social protection measures		X	
Supporting the competitiveness of the EU		X	
Supporting the just transition		X	
The prioritisation of enforcement on the most distortive types of State aid, which should be notified to the Commission		X	

3.2. Objectives of the revision of the GBER

17. In your view, does the GBER adequately address the following issues?

	1. No	2. Yes, to a limited extent	3. Yes, to some extent	4. Yes, to a large extent

The reduction of the administrative burden of Member States and the Commission		X		
Improving the user-friendliness, readability, consistency and accessibility of the GBER		X		
Increasing the scope of the GBER to more aid measures			X	
Simplifying the compatibility conditions to block exempt more aid measures while keeping sufficient safeguards to avoid undue distortions			X	
Adapting the current text to take into account political, economic, technical and social changes			X	

18. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting the **transition towards a climate neutral, clean and sustainable economy**, in particular for SMEs? If not, please explain why. Please explain and provide examples (2000 character(s) maximum).

If the GBER includes provisions on environmental protection, it requires revisions to mobilise private capital at scale and de-risk investments. PE/VC funds, as long-term investors, are essential for the transitions, yet the framework does not fully account for the specificities of PE/VC-backed companies, particularly their growth models and successive fundraising rounds.

Key barriers arise from definitions in Article 2:

- **SMEs: The current definition excludes many PE/VC-backed companies.** First, it only refers to venture capital *companies*, leaving out *mutual funds* (the dominant form in France). Second, the “autonomous SME” concept and consolidation requirements are ill-suited, forcing SMEs to choose between accessing public innovation support and attracting private financing from the market. An investment fund should not be considered as a “linked enterprise” or a member of the group of the SME in which it invests. A full exemption for PE/VC-backed companies should be introduced, in line with the approach used in the EU Accounting Directive for calculating SME thresholds.
- **Undertakings in difficulty:** Current criteria wrongly classify growing VC/PE-backed firms. Only criteria (c)–(e) should apply, or quasi-equity should count as own funds.
- **Independent private investor:** PE/VC funds are omitted, creating uncertainty. They should be explicitly recognized.
- **Innovative enterprises:** The definition is too narrow, excluding fast-growing non-tech start-ups. It should be broadened to include EU/national labels (EIC, BPI, ADEME) or independent expert certifications, which are faster and less burdensome.

Other hindrances in Section 3 (“Aid for access to finance for SMEs”):

- **Follow-on investments:** Current rules requiring advance mention in business plans and strict linking provisions are unrealistic; greater flexibility is needed.
- **Replacement capital:** The 50% new capital rule blocks legitimate exits and deters early-stage investors.
- **Funding cap:** The static €15m cap should reset after a fixed period to reflect scale-up needs.
- **Risk-sharing:** The 25% cap on public first-loss absorption is too low. Raising it to 40% and aligning definitions with the Risk Finance Guidelines are necessary.

Overall, adapting the GBER to PE/VC realities will enhance flexibility, unlock private financing and strengthen Europe's innovation and green transition ecosystem.

19. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting a just transition (addressing negative impacts on territories and communities that are most affected by the transition to a climate-neutral, clean and sustainable economy), especially in view of the retraining and re-employment needs of workers from decarbonized industries? If not, please explain why (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to achieving the objective of supporting a just transition. The GBER needs to be revised in order to unlock the potential of PE/VC funds.

20. Digitalisation and new technologies are a key driver of innovation, competitiveness and growth. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting the transition towards a digitalised economy? If not, please explain why. Please explain and provide examples (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to achieving the objective of supporting the transition towards a digitalised economy. The GBER needs to be revised in order to unlock the potential of PE/VC funds.

21. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting the **resilience of the EU economy**, in particular of certain strategic sectors defined in the EU Competitiveness Compass, against external shocks and dependency on third countries? If not, please explain why. Please explain and provide examples (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to achieving the objective of supporting the resilience of the EU economy. The GBER needs to be revised in order to unlock the potential of PE/VC funds in supporting the development of EU companies in strategic sectors.

22. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting **research, development and innovation** activities? If not, please explain why. Please explain and provide examples (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to achieving the objective of supporting research, development and innovation activities. The GBER needs to be revised in order to unlock the potential of PE/VC funds in supporting innovative companies.

23. Do you consider that the current GBER contributes sufficiently to achieving the objective of supporting **cohesion objectives** (regional development, recognition of territorial specificities) or social objectives? If not, please explain why. Should in particular cohesion policy objectives be better taken into account in the various provisions of GBER (also beyond Section 1 of Chapter III), by including specific support in certain regions? Please explain and provide examples (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to achieving the objective of supporting these objectives. The GBER needs to be revised in order to unlock the potential of PE/VC funds in supporting companies situated across the regions.

24. Do you consider that the current GBER contributes sufficiently to the **competitiveness of the EU economy**? If not, please explain why. Please explain and provide examples (2000 character(s) maximum).

The current GBER does not sufficiently support EU competitiveness. Its design excludes many legitimate beneficiaries of risk finance, fails to accommodate private capital dynamics, and ultimately discourages innovation. A revision is needed to fully unlock the role of PE/VC funds in scaling EU companies, especially innovative ones.

Definitions of eligible beneficiaries should be revised:

- **SMEs (Annex I):** PE/VC-backed firms are wrongly treated as part of larger groups, despite being operationally independent. The definition should cover both legal forms of funds (companies and mutual funds) and exempt PE/VC-backed SMEs from thresholds and consolidation rules: an investment fund should not be considered as a “linked enterprise” or a member of the group of the SME in which it invests.
- **Undertakings in difficulty (UID):** Current criteria misclassify viable growth-stage firms. Only criteria (c)–(e) should apply to PE/VC-backed companies.
- **Innovative enterprises:** The definition overlooks innovation outside ICT, biotech, and healthcare, excluding business model/service innovation. Recognition should extend to labels from EU/national bodies (EIC, BPI, ADEME) and expert certifications, which are quicker, less costly, and more efficient.

Provisions under Article 21 also require changes:

- **Article 21(3)(a):** Start-ups earning limited secondary turnover to fund R&D should remain eligible. Eligibility should be tied to the *core market*.
- **Article 21(3)(b):** The 7-year age limit is too restrictive, particularly in biotech/medtech where scale-up is longer. It should be extended to 10 years from first commercial sale, with a €250,000 turnover threshold to define that milestone.
- **Article 21(3)(c):** The requirement that new activity investments exceed 50% of past 5-year turnover is unrealistic. Thresholds should be lowered to 20%, and the reference period reduced to 3 years, reflecting actual SME financing needs.

By modernising definitions and adapting eligibility rules, the GBER will better reflect PE/VC realities, expand access to risk finance, and strengthen Europe's innovation ecosystem.

25. Do you consider that the current GBER contributes sufficiently to improving the business environment (including access to finance) for SMEs, small mid-caps, startups and scale ups? Please explain in particular whether the possibility of benefitting from block exempted aid improves the business environment for SMEs, for example by facilitating or accelerating the completion of projects carried out by SMEs (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to improving the business environment for SMEs, mid-caps, startups and scale ups.

The current design flaws restrict the ability of innovative businesses to secure timely public support, as many high-potential companies are excluded from risk finance support due to definitions and thresholds that do not reflect market realities – thus leaving out the most dynamic parts of the EU economy. Please see our response to Question 24.

26. Do you consider that the current GBER contributes sufficiently to supporting integrated investments/projects, such as those combining **multiple objectives** (and thus possibly multiple articles of Chapter III) and **multiple types of costs** (related to infrastructure, equipment, personnel, services, etc.)? Please explain and provide examples (2000 character(s) maximum).

Article 8 (4) states that “Aid without identifiable eligible costs exempted under Articles 21, 22 and 23 of this Regulation may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission.”

⇒ We would welcome clarification that aid towards non-identifiable eligible costs exempted under Article 21 should be cumulated with aid towards non-identifiable eligible costs exempted under Articles 22 and/or 23.

27. Do you consider that the current GBER contributes sufficiently to promoting the uptake of private investment in the EU through de-risking? If not, please explain why (2000 character(s) maximum).

No, we do not consider that the current GBER contributes sufficiently to promoting the uptake of private investment in the EU through de-risking.

EU rules on State aid should not discourage private market players from co-investing in innovative projects with public operators. Otherwise, there is a risk that most quality projects end up finding private financing (through a simpler process), leaving lesser quality projects to be financed by public funds, or that public operators no longer find any private market players to co-invest with them, which would be detrimental for innovative companies.

More specifically, **the EU rules governing access to risk financing should not deter EU companies from looking for financing in the EU** and not lead them to turn to non-EU funding. The development of EU unicorns and EU champions depends on their ability to find in the EU the financial means they need to grow.

4. Common compatibility conditions (Chapter I of the GBER)

28. Do you consider that certain articles (or parts thereof) in Chapter III are not or not often used (**multiple choice**)?

	Answer
No	
Yes, certain articles (or parts thereof) are not or not often used and should be updated	
Yes, certain articles (or parts thereof) are not or not often used and should be deleted.	
I don't know	

4.1 Scope of the GBER

Article 1(1) of Council [Regulation](#) (EU) 2015/1588 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 (the “Enabling Regulation”) empowered the Commission to block exempt 15 different categories of State aid in favour of (i) SMEs, (ii) research, development and innovation, (iii) environmental protection, (iv) employment and training, (v) culture and heritage conservation, (vi) making good the damage caused by natural disasters, (vii) making good the damage caused by certain adverse weather conditions in fisheries, (viii), forestry, (ix) promotion of food sector products not listed in Annex I of the TFEU, (x) conservation of marine and freshwater biological resources, (xi) sports, (xii) residents of remote regions, (xiii) certain telecommunications infrastructure, (xiv) infrastructure in support of the objectives above, of cohesion, and of other objectives of common interest, (xv) aid that complies with the regional aid maps. The GBER may only block exempt these aid categories from the notification obligation.

31. Do you consider that, within the scope of the Enabling Regulation, there are categories of aid that meet the block exemption criteria and that are not included in the GBER?

	Answer
No	
Yes	
I don't know	

4.2 Application of the GBER to primary agricultural production and fisheries/aquaculture

The GBER only exceptionally applies to the sectors of primary agricultural production and fisheries/aquaculture (the scope is defined in Article 1(3)(a) and (b)), given that tailor-made

Block Exemption Regulations exist for those sectors. This initiative concerns a revision of the GBER, not of the specific block exemption regulations applicable to agriculture, forestry, fisheries and aquaculture (Regulation (EU) 2022/2472 'ABER' and Regulation Regulation (EU) 2022/2473 'FiBER').

33. Do you think that other GBER articles, which are currently not applicable to the sectors of primary agricultural production/fisheries and aquaculture, should be opened to those sectors, taking into account the existing block-exemptions under ABER and FiBER?

	Answer
No	
Yes	
I don't know	

35. Is the GBER used to grant aid to the sector of primary agricultural production and/or fisheries and aquaculture? If yes, which provisions of the GBER are used and were there difficulties to apply these provisions? (2000 character(s) maximum)

36. Under the current version of the GBER, there are specific aid measures which apply to the fisheries and aquaculture sector but not to primary agricultural production (or the other way around) leading to a difference in treatment between these sectors. Is this problematic in your view or are the exclusions justified by the specificities of the sectors, e.g. because the aid categories would not be relevant for the excluded sectors? Please substantiate your reply and provide relevant evidence (2000 character(s) maximum).

4.3 Definitions

37. Article 2 of the GBER provides a list of definitions of certain terms or concepts. What is your position regarding the definitions laid down in the GBER (multiple choice)?

	Answer
The current list of definitions is fine.	
Certain concepts should be defined while they currently are not.	
Certain definitions should be updated.	X
Certain definitions are unnecessary and should be deleted.	
Certain definitions rather constitute substantial compatibility conditions and should be moved to Chapter III.	
I don't know.	

39. If you replied that some definitions should be updated, please provide a list, the exact suggestion for an update and explain (3000 character(s) maximum).

Several definition-related issues persist that restrict access to state aid for legitimate beneficiaries. We suggest the following updates:

- SMEs (Article 2 (2) & Annex I): to acknowledge differences between PE/VC ownership and trade groups, the GBER should be amended to ensure that, **when owned by a PE/VC structure, a company always remains eligible to State aid.**

Additionally, as **venture capital funds may take the legal form not only of companies but also of mutual funds**, an SME whose capital is held by a VC mutual fund cannot obtain public subsidies. **The reference should, therefore, be clarified in order to encompass all relevant types of legal forms.** This is a major point for French PE and VC AIFs, which have essentially been set up as mutual funds.

- The definition of “Undertakings in difficulty” set out in Article 2(18) relies on static balance sheet indicators that do not reflect how private investors assess risk.

⇒ We propose the following updates:

- for companies owned by closed-ended investment funds, only criteria (c)–(e) should apply, provided other safeguards are met (Article 4 Directive 2016/1164),
 - alternatively, quasi-equity instruments (as per Article 2(66)) should be recognised as part of own funds.
- The current definition of “Independent private investor” set out in Article 2(72) omits PE/VC funds, despite their essential role in providing risk finance. We suggest amending the provision to reflect the importance of PE/VC as source of risk finance.
 - The criteria attached to the definition of ‘innovative enterprises’ set out in Article 2(80) focus heavily on R&D intensity or specific EU labels (e.g., the EIC Seal of Excellence). **The definition should become more sector-neutral** and allow broader recognition of innovation, including labels or funding by other European or national public institutions, companies certified by independent experts, and companies having received (or about to receive) support from private market players such as venture capital or business angels.

4.4 Evaluation

42. In 2014, the corollary of the expansion of GBER to new aid categories was the obligation of Member States to conduct an ex post evaluation of large aid schemes. As a result, the GBER does not apply to large aid schemes under certain sections of Chapter III beyond a period of 6 months after their entry into force, unless the Commission has approved an evaluation plan (Article 1(2)(a) GBER). Large aid schemes are defined as those having an average annual budget above €150 million (certain articles of Sections 1, 2, 3, 4 and 7) or above €200 million (Section 16). What is your position concerning the obligation to submit an **evaluation plan for large aid schemes?**

	Answer
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The evaluation obligation has contributed to the efficiency and effectiveness of large aid schemes and should be maintained as it is.	
The notion of large aid schemes should be expanded (e.g. lower thresholds, more Sections of Chapter III).	
The notion of large aid schemes should be restricted (e.g. higher thresholds, fewer Sections of Chapter III, only long-term schemes beyond a certain duration, because it is difficult to carry out an evaluation of short-term schemes, only schemes which were not subject to an evaluation plan carried out in the past).	
The evaluation obligation should no longer be a requirement for block exemption and could be moved to Chapter 2, by analogy to the conditions on reporting).	
The evaluation obligation does not add value and should be deleted.	
Other	

43. Please explain your reply as to the evaluation requirement (2000 character(s) maximum)

4.5. Undertakings in difficulty

44. In principle, aid to undertakings in difficulty cannot be block exempted (Article 1(4)(c)) GBER). There are exceptions concerning aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes, regional operating aid schemes, aid schemes to SMEs benefitting from community-led local development projects, and aid to financial intermediaries under certain articles. While **the general principle of exclusion should remain** because State aid to undertakings in difficulty is among the most distortive types of aid, do you see a **need for adaptations of the exceptions** to this general exclusion or to the definition in Article 2(18) of the GBER?

	Answer
No	
Yes	X
I don't know	

45. If you consider that adaptations are necessary as regards the exclusion of undertakings in difficulties (or the definition of such undertakings) please explain what issues were encountered so far and consequently what adaptations should be done (2000 character(s) maximum)

We agree that state aid should not support insolvent firms. However, **the current definition of “undertakings in difficulty” (UID) under Article 2(18) leads to the unintended**

exclusion of viable, high-potential businesses backed by PE/VC. This is especially detrimental if it leads the GBER to favor businesses much more at risk of failing compared to PE/VC-backed businesses, which are generally more resilient and vetted.

UID criteria (a) and (b) – focused on accumulated losses against subscribed capital – exclude many growth-stage businesses that are not distressed but are still scaling, particularly in R&D or capital-intensive sectors. PE/VC-backed firms operate with long-term investment horizons, rely on quasi-equity, and do not show early profitability. Yet they are viable, investor-backed, and essential to innovation.

- ⇒ Only criteria (c) to (e) should be applicable to VC/PE backed companies.
- ⇒ Alternatively, quasi equity could be deemed as own funds. In such case, rather than applying ratios based on subscribed capital, the sum of equity and quasi equity would be taken into consideration: 3 where the sum of equity and quasi equity is positive, companies would not be considered as undertakings in difficulty.

4.6 Incentive effect

46. The incentive effect requirement under the GBER is generally met if a written application for the aid has been submitted before the start of works, which covers among others any commitment that "makes the investment irreversible" (Article 6 in combination with Article 2(23) GBER). This is to ensure that an undertaking does not receive aid if it was able to execute the project without it. What is your position on the assessment of the incentive effect?

	Answer
This condition functions well.	
This condition is complex to apply and could be simplified.	
This condition is not sufficient and should be reinforced.	
I don't know	

47. Please explain your reply as to the incentive effect requirement and provide specific examples. If you consider that the condition can be simplified, please explain why and how it could be simplified to reduce the administrative burden while preserving this essential compatibility condition (2000 character(s) maximum).

4.7 Simplified cost options

48. Article 7(1) of the GBER lays down the general possibility of **calculating eligible costs** in accordance with simplified cost options (SCOs), provided that the operation is "at least partly financed through a Union fund that allows the use of simplified cost options". Other articles also lay down specific possibilities of using SCOs. What is your position on the use of SCOs under the GBER?

	Answer
The possibilities of using SCOs are sufficient.	

The possibilities of using SCOs are not sufficient for small enterprises.	
The possibilities of using SCOs are not sufficient for SMEs.	
The possibilities of using SCOs are not sufficient for all types of beneficiaries.	
I don't know	

49. Please explain your reply as to the use of SCOs. If you consider that a wider use of SCOs is needed, please explain for which aid categories and under which conditions (2000 character(s) maximum).

Article 8 (4) states that “Aid without identifiable eligible costs exempted under Articles 21, 22 and 23 of this Regulation may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission.”

- ⇒ We would welcome clarification that aid towards non-identifiable eligible costs exempted under Article 21 should be cumulated with aid towards non-identifiable eligible costs exempted under Articles 22 and/or 23.

5. **Specific conditions for compatibility (Chapter III of the GBER)**

5.1 Complexity of the conditions

50. Which provisions of the GBER are too complex, raise difficulties of interpretation or application, and should in your view be updated or clarified? Please refer to specific provisions and explain why. Please specify how you consider these provisions could be clarified (3000 character(s) maximum).

51. Apart from aid intensities and eligible costs, Chapter III of the GBER lays down a series of other compatibility conditions, for instance related to the **eligibility of the beneficiaries and/or projects**. Are any of these other compatibility conditions unnecessary or disproportionate in your view? Why? How should they be updated, relaxed or should they be completely lifted? (3000 character(s) maximum).

The current GBER imposes compatibility conditions that often create barriers to investment and fail to reflect the realities of private capital. Several provisions under Article 21 need revision to better align with how private markets function and to encourage innovation and scale-up financing.

1. Eligibility criteria (Article 21(3)(a)): The rule that undertakings “have not been operating in any market” is too restrictive. Many start-ups generate minor turnover from secondary activities to finance their R&D, without having entered their core market. Such companies should not be excluded from aid. The article should be clarified to state that eligible undertakings “have not been operating in any their core market **as a prime activity**.”

2. Follow-on investments (Article 21(4)): The current framework is ill-suited to VC/PE practices:

- **Business plan requirement (21(4)(b)):** Requiring follow-ons to be foreseen in the original plan is unrealistic, since plans evolve and capital needs cannot be precisely forecasted. The article should instead allow for follow-ons if “the original business plan or business model foresaw that further injections of capital may be necessary to achieve a certain stage of development.”
- **Linking rule (21(4)(c)):** This provision should be clarified so that follow-on aid remains possible if the beneficiary and its linked company form a new entity meeting the SME definition in Annex II.

3. Replacement capital (Article 21(7)): The rigid requirement that at least 50% of each round be new capital is disproportionate and penalizes minority shareholders who will not be able to transfer their shares to another shareholder. It should be removed. Alternatively, the percentage of new capital combination should be limited to 10% of the capital of the company.

4. Total outstanding amount of risk finance investment (Article 21(8)): The static EUR 15 million ceiling does not reflect the realities of scale-up funding needs. A reset mechanism after a fixed period (e.g. every two years) would enable continued, proportionate support that matches long-term growth trajectories.

5. First loss arrangements (Article 21(10)(b)): The cap on public investors’ first-loss absorption at 25% may not sufficiently crowd in private capital for higher-risk cases. Raising the cap to 40%, while remaining below half of potential losses, would offer more flexibility. To ensure clarity and consistency, the definition of “first loss pieces” from the 2022 Risk Finance Guidelines should also be incorporated: “the most junior risk tranche that carries the highest risk of losses, comprising the expected losses of the target portfolio.”

By modernising these provisions, the GBER will align more closely with how private capital operates. Introducing flexibility on eligibility, follow-on investments, replacement capital, risk-sharing, and funding caps will help unlock greater private investment and strengthen Europe’s ability to scale innovative companies.

52. The amount of aid can be determined in several ways under the GBER: by reference to a **maximum aid intensity** applied to eligible costs determined with or without a counterfactual scenario, by reference to a **funding gap** or by reference to a **competitive bidding process**. What is your position concerning the possibility for Member States of determining State aid by reference to a funding gap (e.g. instead of using a maximum aid intensity)?

	Answer
Funding gap calculations should remain in the GBER, because they are most of the time not mandatory and national authorities may already rely on other methods to demonstrate the proportionality of aid.	
Funding gap calculations should not be required for small aid amounts, or they should be replaced with other methods (e.g. aid intensity).	

Funding gap calculations should be removed from the GBER, because they are too complex and not commonly used by granting authorities.	
Other	

54. Some GBER provisions lay down that the **eligible costs** are the extra costs of a project by comparison to a counterfactual scenario in the absence of aid. The rationale for requiring a counterfactual scenario is the need for calibrating aid and avoiding that the aid covers costs that the beneficiary would have incurred in any event. It aims at ensuring that the aid only covers the extra costs of the green investment. What is your position concerning this condition?

	Answer
This condition is reasonable and does not need to be changed. Member States should have the choice between either determining aid by reference to a counterfactual with higher aid intensities or without counterfactual but with lower aid intensities.	
This condition is too complex. To simplify, Member States should only have the possibility of granting the aid without reference to the counterfactual based on aid intensities that already take the counterfactual into account.	
Other	

56. Certain articles in Chapter III lay down the possibility of carrying out a **competitive bidding process** as an appropriate way to ensure proportionality of aid and lay down additional conditions compared to the general definition in Article 2(38) GBER. This is because a competitive bidding process ensures that the aid amount is kept to the minimum. What is your position?

	Answer
A competitive bidding process is an efficient way to keep the aid amount limited to the minimum and the current criteria do not involve a particular administrative burden.	
Some conditions are unnecessary and could be simplified.	
A competitive bidding process is burdensome especially for small projects and should be replaced with another method such as aid intensities.	
Other	

5.2 Consistency of the conditions (within the GBER, with other EU rules and with the evolution of technology and markets)

58. The GBER sometimes uses conditions or concepts which seem very similar (for instance 'competitive bidding process', 'competitive selection procedure' or 'competitive selection process'). The revision will seek to harmonise this terminology. Are there other concepts (or conditions) for which you consider that the **terminology used in the GBER should be standardised**? Please list them (3000 character(s) maximum).

First, the **definition of "first loss pieces"** set out in the Risk Finance Guidelines should be applied in GBER.

“first loss piece” means the most junior risk tranche that carries the highest risk of losses, comprising the expected losses of the target portfolio”.

Second, the GBER **definition of “small mid-cap”** should be adjusted to reflect recent developments at EU level. Indeed, the Commission’s Recommendation of 21 May 2025 on the definition of small mid-cap enterprises broadens the scope of small mid-caps compared to the category defined in the GBER.

	GBER	Recommendation on the definition of small mid-cap enterprises
Number of employees	499	750
Turnover	EUR 100 million	EUR 150 million
Balance sheet	EUR 86 million	EUR 129 million

Any inconsistency would risk creating misalignment across EU instruments, excluding high-potential businesses that qualify as small mid-caps under broader EU definitions but are not eligible under GBER-based schemes.

Moreover, the 2025 Recommendation acknowledges the role of private capital in helping companies scale, recognizing that such investors should not automatically be treated as “linked enterprises” when they maintain separate accounts and have a clear exit strategy.

⇒ **We recommend that the GBER be updated in line with the Commission’s May 2025 Recommendation.**

59. Are there **concepts and definitions** used in the GBER that are not well aligned with other concepts and definitions already laid down in EU law? (3000 character(s) maximum).

Please refer to our answer to Question 58.

60. Does the GBER appropriately reflect technological and market development?

	Answer
No	
Yes	
I don’t know	

62. What do you think about the alignment between the GBER and conditions laid down by support programmes funded or co-funded by the EU budget?

	Answer
The GBER conditions are well aligned	
Better alignment is needed	
I don’t know	

65. Under the current Multiannual Financial Framework (2021-2027), EU funds can be granted until the end of 2029, while the GBER will expire by 31 December 2026. Should **transitional provisions** in the GBER be introduced to ensure that measures co-financed under the next Multiannual Financial Framework 2028-2034 remain block-exempted even after the expiry of the validity of the GBER (similarly to the provisions in Article 62(2) of Commission Regulation (EU) 2022/2472)?

	Answer
No	
Yes	<input checked="" type="checkbox"/>
I don't know	

66. Please explain your reply

Given that public funding plays a catalytic role in mobilising private investment, regulatory consistency across programming periods should be ensured. **If the GBER expires without appropriate transitional provisions, co-financed measures may fall into regulatory limbo.** Without clarity on whether these measures remain block-exempted, public authorities and fund managers will be uncertain about their legal basis, potentially freezing approvals, disbursements, and delaying investments, especially under multi-annual instruments running past 2026.

This uncertainty risks delaying support to startups, scaleups, and innovation, which is the objective of the GBER. Moreover, with new priorities expected under the upcoming Multiannual Financial Framework (2028–2034), including the deepening of EU capital markets and greater institutional investor participation, **transitional GBER provisions will help preserve flexibility and investor confidence.**

5.3 Aid in the form of financial instruments

67. Member States may in some cases provide aid in the form of financial instruments instead of (or in addition to) aid in the form of grants. Financial instruments are a vehicle to deliver support via a multi-layer structure through which financial instruments (e.g. loans, guarantees, equity) are provided to final recipients in order to leverage private investment. The multi-layer structure may involve – apart from Member State authorities providing the aid – also implementing bodies or partners (e.g. international/multilateral financial institutions, national promotional banks and institutions and financial intermediaries) and private co-investors, and may therefore imply the presence of aid at different levels. Some GBER articles directly cover **aid in the form of financial instruments** (e.g. Article 39 on investment aid for energy efficiency in buildings in the form of financial instruments). Do current GBER rules sufficiently accommodate the use of financial instruments to provide aid to final beneficiaries?

	Answer
No	<input checked="" type="checkbox"/>
Yes	
I don't know	

68. If not, please explain. For example, please explain how the GBER currently falls short of supporting the use of financial instruments to provide aid to final beneficiaries and how it could address these shortcomings (3000 character(s) maximum)

As highlighted previously, **current GBER rules do not always reflect how the PE/VC industry operates**. Certain provisions require fine-tuning to fully support the layered financing structures that blend public and private capital.

- A key example is the treatment of **“first loss pieces”** (repeated across Articles 39(8)(c), and 16(8)(c)). These mechanisms are welcome additions but the current 25% cap on the share of losses borne by public investors may be too low to effectively de-risk investments in high-risk sectors, such as early-stage venture. We suggest **increasing this cap to 40%** and adding the definition included in the Risk Finance Guidelines (as revised in 2022).
- In addition, the concept of **“independent private investor”** (referenced also in Articles 39 (7) and (8)(c), 16 (6) and (8)(b), and 21a, 23 (2), and 56e (10)(a)(i)) currently excludes PE/VC funds, despite their central role in crowding in private capital, hindering the GBER’s capacity to unlock private investment.

69. Do the current GBER rules appropriately accommodate and promote the use of specific type of financial instrument, such as **equity**?

	Answer
Yes	
No	X

70. Please explain your reply (2000 character(s) maximum)

Please refer to our answer to Question 68.

71. Should the GBER be simplified to enable **participation of financial intermediaries** other than banks and involvement of co-investors in financing programmes?

	Answer
Yes	X
No	

72. Please explain your reply (2000 character(s) maximum)

As highlighted previously, although private capital plays a central role in financing innovation, current GBER rules do not adequately reflect the way PE/VC funds operate.

PE/VC fund managers adopt long-term investment horizons, backed by committed capital over several years. They invest in multiple rounds, often in businesses with non-traditional capital structures, and support growth over time, not based on immediate profitability, but on long-term value creation. PE/VC investments follow rigorous due diligence and reflect a

market-based assessment of value. **The GBER must evolve and better take into account the characteristics of PE/VC.**

5.4 Training and employment aid

73. The Communication on training aid provides guidance on the compatibility assessment of notifiable training aid measures. The Communication dates from 2009 and overlaps to a large extent with the training aid measures now block exempted under Article 31 GBER (Chapter III, Section 5). In light of this, is this Communication still relevant?

	Answer
No	
Yes	
I don't know	

75. Do you consider that the GBER requirements on training aid are appropriate?

	Answer
No	
Yes	
I don't know	

77. The Communication on employment aid provides guidance on the compatibility assessment of notifiable training aid measures. The Communication dates from 2009 and overlaps to a large extent with the training aid measures now block exempted under Article 31 GBER (Chapter III, Section 5). In light of this, is this Communication still relevant?

	Answer
No	
Yes	
I don't know	

79. Do you consider that the GBER requirements on employment aid are appropriate?

	Answer
No	
Yes	
I don't know	

81. The definition of disadvantaged workers is provided in Article 2(4) GBER and has not been updated since 2008. Is this definition still relevant?

	Answer
No	
Yes	
I don't know	

5.5 SMEs and small mid-caps

83. Annex I to the GBER provides a definition of SMEs based on the 2003 Recommendation. Because of their limited size, SMEs generally benefit from more favourable rules under the GBER, such as specific aid categories or higher aid intensities (recitals 40-46 to the GBER). **Should the SME definition be clarified?**

	Answer
No	
Yes	<input checked="" type="checkbox"/>
I don't know	

84. Please specify and provide examples (3000 character(s) maximum):

The EU definition of an SME penalizes companies backed by PE/VC, disadvantaging both PE/VC and the competitiveness of EU companies.

Two issues are most problematic: the “**linked enterprise**” concept under Annex I, and the narrow reference to “**venture capital companies**” as a legal form.

1. Under the current rules, when a PE/VC investor meets one or more of the control criteria in Article 3(3) of Annex I, the portfolio company is presumed to be “linked” to the investor and any other companies it is supporting. This results in the SME losing its status, despite having **no operational ties** to these other companies. It creates an **unjustified exclusion based purely on ownership**, not on actual group synergies or financial advantage.

PE/VC-backed firms are not integrated entities. They have: separate accounts, do not share consolidated financial statements, are managed independently, and do not benefit from shared services or have access to portfolio-wide funds. The fund’s role is limited and does not get involved in the day-to-day management of the company and always has an exit strategy. There is no centralized control or group strategy, including for the investors in the fund, for which the PE firm acts an intermediary. This treatment penalizes innovative firms for choosing a type of financing that is designed to meet their specific development needs.

The 2025 Recommendation acknowledges the role of private capital in helping companies scale, recognizing that such investors should not automatically be treated as “linked enterprises” when they maintain separate accounts and have a clear exit strategy.

2. Moreover, the current definition refers only to “venture capital companies.” However, **PE/VC funds often take the legal form of mutual funds**, not companies, resulting in additional exclusions from SME status and public support eligibility. The term should be broadened to include other legal forms, such as mutual funds, to avoid legal-technical barriers to SME recognition. This is a major point for French PE and VC AIFs, which have essentially been set up as mutual funds.

85. Are the current GBER rules (e.g. Articles 38b and 56e GBER) sufficient to accommodate the needs of **small mid caps**?

	Answer
No	X
Yes	
I don't know	

86. Please explain why and provide specific examples (3000 character(s) maximum):

The current GBER small mid-cap definition should be adjusted to reflect recent developments at EU level. Indeed, the Commission's Recommendation of 21 May 2025 on the definition of small mid-cap enterprises broadens the scope of small mid-caps compared to the category defined in the GBER.

	GBER	Recommendation on the definition of small mid-cap enterprises
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Any inconsistency would risk creating misalignment across EU instruments, excluding high-potential businesses that qualify as small mid-caps under broader EU definitions but are not eligible under GBER-based schemes.

Moreover, the 2025 Recommendation acknowledges the role of private capital in helping companies scale, recognizing that such investors should not automatically be treated as "linked enterprises" when they maintain separate accounts and have a clear exit strategy.

⇒ **We recommend that the GBER be updated in line with the May 2025 Commission Recommendation.**

5.6 Other

87. Should the GBER be updated or simplified for other reasons? Please provide justifications and examples (3000 character(s) maximum):

6. Structure of the GBER

88. The GBER is currently divided into four chapters containing common provisions (Chapter I), monitoring (Chapter II), specific provisions for different categories of aid (Chapter III) and final provisions (Chapter IV). There are also four annexes on the definition of micro, small and medium-sized enterprises (SMEs – Annex I), information sheets (Annexes II and III) and a list of critical raw materials for the purposes of specific compatibility provisions (Annex IV). Do you consider that the current structure of the GBER is satisfactory?

	Answer
Yes	
No, all provisions in Chapter I (Common provisions) should be moved to Chapter III (Specific provisions for different categories of aid), such that all compatibility conditions would be, for each aid category, laid down in a self-standing chapter or section.	
No, some provisions in Chapter I (Common provisions) should be moved to Chapter III (Specific provisions for different categories of aid).	
Other	

91. The current structure of Chapter III of the GBER (Specific provisions for different categories of aid) is based on the list of aid categories laid down in the Enabling Regulation. For example, there are distinct sections within Chapter III on, among others, aid to SMEs (Section 2), aid for R&D&I (Section 4), aid for environmental protection (Section 7), etc. This leads to a situation where distinct GBER articles cover relatively similar activities (e.g. Articles 18 and 49 about consultancy services, Articles 25 and 30 about R&D&I).

	Answer
The current structure of Chapter III of the GBER is sufficiently clear.	
Chapter III of the GBER should be organised using a different structure which would be more helpful for granting authorities.	
I don't know	

94. The structure of individual articles in Chapter III is not always the same, in that the order of provisions regulating an article's scope, eligibility conditions, compatibility conditions and proportionality is not uniform across all the articles. Do you see a need for harmonisation of the structure of each article in Chapter III?

	Answer
No	
Yes	
I don't know	

7. Guidance on (and interpretation of) the GBER

Since the State aid modernisation, the Commission has provided central national authorities with guidance on the interpretation of State aid legislation, and especially on the GBER, through the e-State aid wiki platform.

96. Should the Commission consider ways of providing guidance on the interpretation of the GBER?

	Answer
No, the current e-State aid wiki system (through which only Member States may ask interpretation questions) works well.	

Yes, the Commission should provide guidance in a different format in addition to replies on e-State aid wiki	X
I don't know	

The “Guide de l'utilisateur pour la définition des PME”¹ should be updated alongside the GBER.

¹ <https://op.europa.eu/fr/publication-detail/-/publication/756d9260-ee54-11ea-991b-01aa75ed71a1>