

# Targeted consultation to the Member States on the De minimis Regulation

Fields marked with \* are mandatory.

## Introduction

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This targeted consultation is part of the fitness check of State aid rules. While the overall fitness check covers a range of topics, this questionnaire is only relevant for the evaluation of the De minimis Regulation. More information of the fitness check can be found under the following link: [http://ec.europa.eu/competition/state\\_aid/modernisation/fitness\\_check\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/fitness_check_en.html).

The following questions are addressed to Member States and shall enable the Commission to better understand Member States' experiences with the Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (hereinafter "De minimis Regulation"). This targeted consultation aims to ask supplementary questions in order to gather the views of national authorities on the implementation and compliance of the De minimis Regulation and to receive insights about potential gaps, overlaps or excessive regulatory burden.

When replying to the questions, please ensure to take the views of all relevant national authorities (including at federal, regional and local levels) or other services involved in the application of the De minimis Regulation.

It is possible to go back to previous questions and adjust your replies. It is also possible to save a draft of your replies already given and finalise the replies at a later stage. When replying to the questions, please make sure that you use the save button as you proceed with the questionnaire to avoid losing information that was already inserted - especially in the case of questions with open replies. At the end of the survey you will have an opportunity to provide broader, more general comments and to upload documents, which you consider to be relevant.

Should you have further comments or questions, please do not hesitate to contact us: [COMP-CONSULTATION-DE-MINIMIS@ec.europa.eu](mailto:COMP-CONSULTATION-DE-MINIMIS@ec.europa.eu).

In addition to the targeted consultation, the Commission launches a general consultation addressed to all stakeholders on the application of the De minimis Regulation. Further information on this general consultation on De minimis is available under [this link](#).

Please note that Member States do not have to answer to the general consultation since the present consultation is especially dedicated to national authorities and partially overlaps with the general

consultation.

Thank you for participating in this consultation.

## About You

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For your information, the Commission services do not intend to make any of the information and data contributed to this targeted consultation publicly accessible. Answers received will be analysed by the Commission services and the findings will serve as a basis for drawing conclusions on the evaluation of the De minimis Regulation. For the general rules on personal data protection on the EUROPA website, please see:

[http://ec.europa.eu/geninfo/legal\\_notices\\_en.htm#personaldata](http://ec.europa.eu/geninfo/legal_notices_en.htm#personaldata).

☒ I agree with the personal data protection provisions (see document in link below)

[Protection of your personal data.pdf](#)

\* Which Member State of the EU or EEA do you represent?

Netherlands

Should you want, you can add further information on it.

*250 character(s) maximum*

This response reflects the views of the Dutch 'Interdepartementaal Steun Overleg (ISO)'. The ISO is a central State aid coordination body composed of all Dutch ministries and representatives of the regional and local authorities.

\* Do you agree that we may contact you in case of follow-up questions?

☒ Yes

☐ No

\* Contact (First and last name, Organisation/Ministry)

Ministry of Economic Affairs and Climate Policy

\* E-mail address

## Questionnaire

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### Factual information

1. Have you granted aid under the De minimis Regulation? If so, please provide the following information from the time that the De minimis Regulation entered into force (2013), if possible:

a. the total amount of de minimis aid granted (total amount, average amount per undertaking);

*3000 character(s) maximum*

b. the number of beneficiaries, if possible including a breakdown for large, medium-sized and small undertakings;

*3000 character(s) maximum*

c. the sectors concerned;

*3000 character(s) maximum*

De-minimis aid is granted in a wide variety of sectors, except those which are excluded in the De minimis Regulation or to which sectors specific rules apply.

d. the type of aid instruments used (e.g. direct grant, loan, guarantees, etc.) and if possible the total amount of de minimis aid and the number of beneficiaries per year for each instrument.

*3000 character(s) maximum*

Aid is often granted in the form of a direct grant (subsidy), but other aid instruments are used as well.

2. Have you conducted an assessment on the impact of the de minimis aid granted? If so, please provide more information on that assessment and a summary of the results.

*3000 character(s) maximum*

When granting aid, the desirability and necessity of the aid is taken into consideration.

## General policy questions

3. What have been the main positive economic effects of aid granted under the De minimis Regulation?

*3000 character(s) maximum*

The De minimis Regulation provides Member States a low key instrument to grant aid (more) easily and makes it possible to start projects / economic activities faster, without distorting the competition in the European internal market. Especially for economic activities which are not covered in a Block Exemption Regulation, De minimis aid can be useful to stimulate economic activities effectively and thus promoting growth and innovation.

Explain and give specific examples.

*3000 character(s) maximum*

#### 4. What have been the main negative economic effects of aid granted under the De minimis Regulation?

*3000 character(s) maximum*

The current De minimis threshold limits granting authorities in their possibilities to stimulate economic activities via De minimis aid that require a higher aid amount. The Dutch authorities are of the opinion that there are no major negative economic effects of the De minimis Regulation. According to the Dutch authorities the De minimis threshold can be (limited) increased without having a negative impact on competition in the European internal market.

Explain and give specific examples.

*3000 character(s) maximum*

#### \* Definitions

5. The Commission has introduced a simplified definition of 'single undertaking' based on an exhaustive list of criteria that determine when two or more companies within the same Member State are to be considered as a single undertaking.

a. Have you encountered difficulties in applying the definition of 'single undertaking'?

- ☐ Yes  
☒ No  
☐ I do not know

If yes, please explain why.

*3000 character(s) maximum*

\* b. Is the definition of 'single undertaking' adequate?

- ☐ Yes  
☒ No  
☐ I do not know

If not, please explain why.

*3000 character(s) maximum*

To provide more legal certainty, the European Commission could clarify the definition of a single undertaking by integrating jurisprudence of the Court of Justice of the EU (C-110/13 and C-53/17) in its practice and translating the former jurisprudence in clear and specific criteria.

#### \* Amounts and cumulation

6. Have you encountered difficulties in applying the three-year period to calculate the amount under the de minimis ceiling?

- ☐ Yes

☒ No

If yes, please explain why.

*3000 character(s) maximum*

The Dutch authorities suggest to explore whether it would be more sufficient and simple to determine the three year period by reference to calendar years besides fiscal years.

\* 7. Is the three-year period to calculate the amount under the de minimis ceiling adequate?

- ☒ Yes  
☐ No  
☐ I do not know

If not, please explain why.

*3000 character(s) maximum*

\* 8. In the De minimis Regulation, the Commission considers that de minimis aid does not constitute State aid within the meaning of Article 107(1) of the Treaty of the Functioning of the European Union.

Is the amount of de minimis aid that can be granted still adequate given the impact of the inflation in the EU internal market?

- ☐ Yes  
☒ No  
☐ I do not know

If not, please explain why.

*3000 character(s) maximum*

The Dutch authorities endorse the essence and objectives of the De minimis Regulation. According to the Dutch authorities the De minimis threshold can be increased without having a negative impact on competition in the European internal market. The Dutch authorities suggest to raise the threshold to enable Member States to grant aid to stimulate economic activities for growth and innovation without being restricted by State aid rules. The De minimis threshold could be brought in line with the De minimis aid granted to undertakings providing Services of General Economic Interest and in line with the Transparency Aid Module level. A (limited) higher threshold would decrease the administrative burden for both Member States and beneficiaries. Consequently, this allows Member States to respond more adequately to situations that require limited public financial support.

\* 9. Are the provisions on cumulation (Article 5) clear and easy to apply?

- ☐ Yes  
☒ No  
☐ I do not know

If not, please explain why.

*3000 character(s) maximum*

With regard to the anti-cumulation rules, the interaction between De minimis aid, other State aid frameworks (especially the General Block Exemption Regulation) and European funds could be further improved and clarified.

Also, the definition of the “same eligible costs” could be further clarified, as well as the consequences for the situation when aid is not granted for specified costs but for a specific project as a whole.

It would be helpful if the European Commission provides more (practical) guidance, for example by providing calculation tools or concrete examples.

### \* **Gross grant equivalent**

10. Have you encountered difficulties in applying the transparency requirements?

- ☐ Yes  
☒ No  
☐ I do not know

If yes, please explain why.

*3000 character(s) maximum*

\* 11. What has been your experience in using loan, guarantee and equity instruments (financial instruments) under the De minimis Regulation? In particular:

a. Have you encountered difficulties in calculating the gross grant equivalent of aid in loans or guarantees?

- ☐ Yes  
☒ No  
☐ I do not know

If yes, please explain why and provide specific examples.

*3000 character(s) maximum*

\* b. Have the criteria for small loans and guarantees of short duration under Article 4 (3)(b) and Article 4(6)(b) simplified the handling of these instruments?

- ☒ Yes  
☐ No  
☐ I do not know

If not, please explain why and provide specific examples.

*3000 character(s) maximum*

c. For loan and guarantee instruments involving financial intermediaries, have you encountered difficulties in passing on the aid to the final beneficiaries?

- ☐ Yes  
☒ No  
☐ I do not know

If yes, please explain why and provide specific examples.

*3000 character(s) maximum*

## Monitoring

12. If you have a central register, please explain:

a. How many authorities use the central register?

*3000 character(s) maximum*

b. Is the central register accessible to the public?

- ☐ Yes  
☐ No  
☐ I do not know

If not, please explain why.

*3000 character(s) maximum*

c. If you have a central register, what is your cost estimate for setting it up and maintaining it?

*3000 character(s) maximum*

13. If you do not have a central register, please describe how you comply with Article 6 by explaining:

a. Why have you not set up a central register?

*3000 character(s) maximum*

The Dutch authorities use a De minimis declaration in which the beneficiary of De minimis aid declares that he is still eligible for this type of aid.

In the Netherlands, public authorities on different levels (central and local governments) are each responsible for compliance with the State aid rules. A central register is not suitable for this decentralized system.

Besides, the Dutch authorities would like to avoid new administrative burdens for granting authorities as

much as possible. Another register, requires more effort from public authorities and takes more time, especially with regards to startup- and ict- problems. According to the Dutch authorities a De minimis declaration is sufficient.

**b. What other means have you put in place to ensure that all the conditions under Article 6 on awarding de minimis aid are met?**

*3000 character(s) maximum*

Before granting De minimis aid, the Dutch Authorities request a De minimis declaration from every beneficiary of aid granted under the De minimis Regulation, formally stating that the beneficiary is eligible for De minimis aid. A special format of such a de Minimis declaration is part of the national state aid manual for all granting authorities.

**c. Have you encountered difficulties in applying the provision on monitoring (Article 6)? Please explain and give any specific examples.**

*3000 character(s) maximum*

**14. If you do not have a central register, how are your records on de minimis aid kept? Please describe the functioning of your record system.**

*3000 character(s) maximum*

In the Netherlands, public authorities on different levels (central and local governments) are each responsible for compliance with the State aid rules. In general, data (like the aid measures and the De minimis declaration) are kept at file level.

**15. If you do not have a central register, what is your cost estimate for compiling and keeping the records to comply with Article 6(4)?**

*3000 character(s) maximum*

The Dutch Authorities cannot estimate these costs on short term. In addition, it depends on the conditions of a possible register. Besides, the costs for creating the surroundings of such a register, the in kind contribution of granting authorities to upload and check all information have to be taken into account.

**\* 16. Should there be a centralised de minimis register at EU level?**

- ☐ Yes  
☒ No  
☐ I do not know

**Please explain why.**

*3000 character(s) maximum*

The Dutch Authorities are not in favor of a (centralised) De minimis registry at the EU level. De minimis aid does not have a negative impact on competition in the internal market, which means that an instrument at EU level is not necessary.

**Other**



17. Do you have any additional comments on the application of the De minimis Regulation?

*5000 character(s) maximum*

18. Please provide copies of any documents, data or studies that may be relevant for assessing the application of the De minimis Regulation.

The maximum file size is 1 MB

## Additional information

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Further to your replies of the questionnaire, you may provide below any additional comments, observations, information, or suggestions you deem relevant to share with us.

*5000 character(s) maximum*

Thank you for your participation!

## Contact

COMP-CONSULTATION-DE-MINIMIS@ec.europa.eu