**Question:**

As defined in par. 52 xvii of Guidelines on State aid to promote risk finance investments, “independent private investor” means a private investor who is not a shareholder of the eligible undertaking in which it invests, including business angels and financial institutions, irrespective of their ownership, to the extent that they bear the full risk in respect of their investment.

When the investment is in replacement capital, meeting all the conditions of Section 2.1 of the Guidelines, we would like kindly to ask the Commission to clarify if the share of 30% from an independent private investor in such investment is enough to eliminate the state aid to the shareholder who sells its shares to the investment fund, or it is necessary to guarantee the market price of the investment in other way? The question arises because of the possible dependency between this particular shareholder and the independent private investor.

**Reply:**

As a preliminary remark, please note that that Article 21(7) of the GBER prescribes that risk finance aid may only provide support for replacement capital if the latter is combined with new capital representing at least 50% of each investment round into the eligible undertakings and that in principle risk finance aid should not be used for buyouts (see for instance point 25 of the Risk Finance Guidelines (hereafter "RFG"))

Please also note that point 44 of the RFG explains that if there is aid at the level of the investors, the financial intermediary or the manager, the Commission will in general consider that the aid is at least partially passed on the target undertaking. In general, the Commission will indeed assume that - thanks to the risk finance aid- risk finance money becomes available to the eligible undertaking, which otherwise would not have become available to the eligible entity (or only at less favourable conditions)

How market conformity of a measure can be established is explained in for instance points 73 to 116 of the "Notice of Aid".  Please note however that when one was to use the pari passu principle to establish market conformity, the intervention of the market economy operator – which is used as a comparison point – has to have the same starting point. In that regard, comparing with an existing investor does most probably not allow to establish market conformity of new investments. Finally, for a pari passu reasoning, the economic contribution of the market economy operator has to be indeed economically significant.

*Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.*