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Policy and Strategy

State aid case support and policy

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Encoding information in the Transparency Award Module for State aid

1. Introduction

The Commission has developed an IT application (the Transparency Award Module - TAM) that helps Member States to fulfil their obligations to publish individual aid awards (known as 'the transparency obligations').

This document discusses a number of issues where guidance is needed to ensure that information submitted by granting authorities to the TAM is consistent and comparable across Member States. The identification of issues and proposed reporting solutions are based on the national contributions submitted in the context of the meetings of the Transparency Module Steering Group or directly to the functional mailbox COMP-TAM-SUPPORT@ec.europa.eu.

This paper only provides guidance on the interpretation of the transparency provisions under the State aid rules. The guidance does not apply to the interpretation of the substantive State aid rules.

The paper is structured as follows. First, it provides an overview of the existing transparency obligations. Second, the scope of the transparency obligations is defined. Third, the required items of information are reviewed, one by one, as specified in Article 9 and Annex III of the GBER¹ and the transparency provisions for notified cases. For each item, clarifications and guidance is provided.²

¹ This obligation applies mutatis mutandis to State aid granted under the texts included in Section 2 “The transparency obligations”. For simplicity, this guidance note will refer systematically to GBER.

² Some specific aspects are provided in Annex 5 (Aspects related to aid granted under ABER (Commission Regulation (EU) No 702/2014 and Commission Regulation (EU) No 2022/2472) and European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas) and Annex 6 (Aspects specific to aid granted under FIBER (Commission Regulation (EU) No 1388/2014) and the Guidelines for the Examination of State aid to the fishery and aquaculture sector).

Member States are invited to share their views on all the questions raised, and to contribute to the shaping of a shared understanding that would ensure data comparability and compliance with the transparency requirements.³

2. The transparency obligations

The transparency obligations are laid down in particular in the following texts:

2014 Block-exempted regulations:

- Commission Regulation (EU) No 651/2014 (GBER), in force from 1 July 2014, as amended
- Commission Regulation (EU) No 702/2014 (ABER), in force from 1 July 2014 to 31 December 2022
- Commission Regulation (EU) No 1388/2014 (FIBER), in force from 1 January 2015, as amended
- Commission Regulation (EU) 2022/2472 (2023 ABER), in force from 1 January 2023

State Aid Modernization (SAM) guidelines as amended by the Transparency Communication:

- Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (2014/C 204/01), in force from 1 July 2014 to 31 December 2022
- Guidelines for the examination of State aid to the fishery and aquaculture sector (2015/C 217/01), in force from 1 July 2015 to 30 March 2023
- Guidelines on regional State aid for 2014-2020 (2013/C 209/01), in force from 1 July 2014 to 31 December 2020
- State aid for films and other audio-visual works (2013/C 332/01), in force from 16 November 2013
- Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01), in force from 27 January 2013
- Guidelines on State aid to airports and airlines (2014/C 99/03), in force from 4 April 2014
- Guidelines on State aid to promote risk finance investments (2014-2021) (2014/C 19/04), in force from 1 July 2014 to 31 December 2020
- Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG) (2014/C 200/01), in force from 1 July 2014 to 31 December 2020
- 2014 R&D&I framework (2014/C 198/01), in force from 1 July 2014 to 18 October 2022
- Guidelines on state aid for rescuing and restructuring for non-financial undertakings in difficulty (2014/C 249/01), in force from 1 August 2014 until 31 December 2020
- Communication from the Commission on Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (2014/C 188/02), in force from 1 July 2014 until 31 December 2020
- Communications from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for

³ Written comments should be directed to COMP-TAM-SUPPORT@ec.europa.eu, with a subject line '[Member State] comments to the Award Module'. For authorised users, general State aid matters can also be submitted through the eState aid WIKI.

2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (2014/C 198/02), in force from 27 June 2014

Revised Commission State aid guidelines and frameworks:

- Guidelines for State aid in the agricultural and forestry sectors and in rural areas (2022/C 485/01) (2023 Agricultural Guidelines), in force from 1 January 2023
- Guidelines for State aid in the fishery and aquaculture sector (2023/C 107/01), in force from 1 April 2023
- Guidelines on State aid for broadband networks (2023/C 36/01), in force from 1 February 2023
- Guidelines on regional State aid for 2022-2027 (2021/C 153/01), from 1 January 2022
- Guidelines on State aid to promote risk finance investments (2021/C 508/01), in force from 1 January 2022
- Guidelines on State aid for climate, environmental protection and energy 2022 (CEEAG) (2022/C 80/01), in force from 27 January 2022
- Communication from the Commission extending the transitional period provided for in the Guidelines on State aid to airports and airlines concerning regional airports (2023/C 244/01), in force from 4 April 2014
- Guidelines on certain State aid measures in the context of the system from greenhouse gas emission allowance trading post-2021 (ETS 2021) (2020/C 317/04), in force from 1 January 2021
- 2022 R&D&I framework (2022/C 414/01), in force from 19 October 2022
- Communication from the Commission amending the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, as regards the period of application (C/2023/8035, OJ C, C/2023/1212, 29.11.2023)
- Communication from the Commission on criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (2021/C 528/02), in force from 1 January 2022

Temporary Frameworks:

- Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak of 19 March 2020, as amended on 3 April 2020, 8 May 2020, 29 June 2020, 13 October 2020, 28 January 2021, 18 November 2021 and 28 October 2022, in force from 19 March 2020 to 30 June 2022 (except for sections 3.13 and 3.14, for which aid could be granted until 31 December 2023)
- Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia of 23 March 2022, amended on 20 July 2022, 28 October 2022, 9 March 2023 (adoption of the Temporary Crisis and Transition Framework), 20 November 2023 and 2 May 2024, in force from 1 February 2022

Moreover, transparency obligations can also be defined for aid given directly under the TFEU if the Member State commits to transparency in the form notifying the State aid measure and a specific transparency commitment is included on the text of the decision.

Compliance with transparency requirements is not legally binding when neither the legal basis nor the Commission decision explicitly includes a transparency requirement. In such cases, transparency can be applied on a voluntary basis.

Furthermore, Commission's TAM is of discretionary use. However, the transparency requirements aim to offer comprehensive information on State aid beneficiaries to the

public and stakeholders, therefore the alternative to the TAM must be a comprehensive website following the properties as listed in Annex III of the GBER: “Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.”

3. Scope of the transparency obligations

When to publish information and what constitutes an 'aid award' for the purposes of transparency?

The transparency obligations originally provided for in the GBER and in the State Aid Modernization (SAM) guidelines as amended by the Transparency Communication have entered into force on 1 July 2016.⁴ Aid granted from 1 July 2016,⁵ including aid based on schemes that predate 1 July 2016, and equaling or exceeding a certain threshold falls under the transparency obligations and the awards have to be published. Said threshold will vary depending on the **legal basis of the scheme** and the **sector of activity of the undertaking**. Similarly, time lags will also be determined by the **legal basis of the scheme** and the **aid instrument**.⁶

Aid that has been granted before 1 July 2016 does not fall under the transparency obligations, even if (part of) the aid is actually paid out after 1 July 2016.

Entrance into force of the new legal basis and new thresholds

On 23 June 2023, the Commission formally adopted an amendment to the GBER (Commission Regulation (EU) 2023/1315). The GBER amendment entered into force on 1/7/2023 (Art. 3 GBER amendment). From this moment, for each individual aid award exceeding⁷ 100 000 EUR⁸ falls under the transparency obligations and the awards have to be published.

In the case in which a Member State wants to continue to use a GBER measure that was already in place before the amendment, it must align it with the new rules by the end of the transitional period (Article 58 (5) GBER), which lasts 6 months, from 1 July 2023 to 1 January 2024. The new rules become applicable from the moment a Member State has

⁴ In the fishery and aquaculture sector, transparency obligations under the FIBER apply as of 1st January 2017. Under the Guidelines for the examination of State aid to the fishery and aquaculture sector, Member States are not required to publish the required information before 1 July 2017. See Annex 6.

⁵ See GBER Article 2 (28) – 'Date of granting of the aid' means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

⁶ Further information can be found in Section 4 “Definition of key concepts”, paragraph “Deadline to publish”.

⁷ Article 9 (1) (c) of the GBER, as amended by Commission Regulation (EU) No 2023/1315 of 23 June 2023, as well as in the other relevant revised guidelines, reference is made to individual aid awards exceeding 100 000 EUR. To ensure transparency and consistency in reporting practices across Member States and to align with past practice, Member States are encouraged to encode all individual aid awards for which the amount granted equals or exceeds 100 000 EUR.

⁸ Or exceeding 10 000 EUR for beneficiaries active in the primary agricultural production or in the fishery and aquaculture sector. For aid involved in financial products supported by the InvestEU fund information must be published on each individual aid award exceeding 500 000 EUR.

amended the existing aid scheme to the new rules. The aid is to be reported under the amendment SA number, basing on the new thresholds.

Instead, for State aid measures that Member States introduced after the entry into force of the GBER amendment, the new rules are immediately applied.

The Transparency requirements, like all other relevant legal texts and in particular Chapter I of the GBER, refer to an '**individual aid award**' as synonymous to an "award of individual aid", in line with Article 1 (d) and (e) of the Procedural Regulation. Articles 2 (14) and (15) of the GBER define 'individual aid' by reference to an (aided activity or) project, as do Articles 4 (1) and (2) of the GBER (notification thresholds and prohibition of artificial splitting), Article 6 (2) of the GBER (incentive effect) and Article 8 (1) of the GBER (cumulation). It follows that the concept of 'individual aid award' used in Article 9 (1) (c) of the GBER (transparency) is also intrinsically linked to an aided activity or project. Also, according to Article 8 (1) of the GBER, "In determining whether the notification thresholds in Article 4 and the maximum aid intensities in Chapter III are respected, the total amount of State aid for the aided activity or project or undertaking shall be taken into account".

Since the interpretation of the concept of an individual aid award in the context of the transparency provisions must be coherent with the conditions that need to be verified by Member States at the moment of granting for ensuring the legality of the aid and the eligibility of undertakings, the verification of the transparency threshold for the relevant aid award has to take place for the same beneficiary⁹ and aided activity/project, irrespective of the number of granting acts, Granting Authorities or even aid schemes involved. In line with Annex III of the GBER, the information collected through the transparency requirement must allow interested stakeholders (the Commission, competitors and the wider public) to verify the conformity of the aid with the rules. A comprehensive reasoning and legal analysis on the interpretation of the notion of individual aid award is provided in Annex 7.

As regards the definition and scope of a project or an aided activity, this must be coherent with the application for aid submitted by the beneficiary before the work on the project or activity starts, in line with the incentive effect requirement of Article 6 (2) of the GBER. For example, where two granting acts relate to aid to the same company and the same planned set of interrelated tasks over the same time frame, then it should typically be considered they both aid the same project.

An additional decisive factor is whether there are separate project decisions or several inter-linked transactions concerning a single project decision by the applicant.¹⁰ The national and regional authorities concerned are often best placed to judge whether they are in the presence of one project decision by the applicant or several ones, since the aid application(s) will contain the relevant background information; also, the application(s) is(are) usually subject to a variety of permits (construction, environmental, etc.) which clarify the initial intention of the applicant.

⁹ A beneficiary must be systematically understood in this context as a single undertaking or an economic unit.

¹⁰ To this effect, see guidance provided in the eState aid wiki.

Given the current institutional set up or legal framework of some Member States, checking for project definition and therefore cumulation per project/aided activity at the moment of publication for transparency purposes or reporting all information including below the threshold may however be difficult. Therefore, while transparency in principle requires cumulation and publication per project or aided activity, even if this includes different eligible costs or objectives, formal compliance checks will be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project in order to comply at least with the minimum requirements of Article 8 of the GBER.¹¹

The transparency obligation aims at collecting information on aid awards at the moment of granting and is not intended to follow-up on project and expenditure developments. Therefore, it should be noted that from the perspective of EU state aid control, the transparency database is currently a tool to monitor and provide insights to the benefit of all interested parties on the granting behaviour of national authorities, rather than a tool to verify expense. For aid granted on the basis of a granting act, Granting Authorities are thus not obliged to apply any corrections if the granted aid is in the end not fully paid¹² or even not paid at all, or later recovered. On the contrary, if the revision would actually entail reaching the publication threshold, it must be published. Revision is needed also in case errors regarding the initial granting are later found out.

Appropriate measures

With regard to existing aid schemes, the Commission staff has clarified that, following SAM, transparency is a compatibility condition of aid schemes and individual aid measures granted on the basis of the SAM guidelines¹³ and of Articles 93 and 107 of the Treaty (as spelled out in notification requirements and in the Commission decisions). For existing schemes, the obligation applies only to new aid granted as from 1st July 2016. To ensure legal certainty and equal treatment, all Member States sent letters confirming the acceptance of "appropriate measures" to bring their existing schemes into line with the transparency requirements.

Please note that transparency requirements are not fulfilled by the sole recording of aid awards on TAM, but this should be complemented with the reporting of expenditures on SARI2. In this respect, the difference between TAM and SARI2 should be highlighted:

- The TAM (Transparency Award Module) is the IT platform that assists Member States in complying with the transparency requirement by facilitating collection and processing of relevant information on aid awards by Member States for subsequent publication in the public domain.
- SARI2 (State Aid Reporting Interactive 2), instead, is an IT-tool supporting the post-decision and monitoring sub-process (expenditure reporting and monitoring) of the State aid business process, by which Member States submit to the Commission their annual reports on state aid expenditure. It includes all existing aid measures on which Member States shall report expenditure.

¹¹ To this effect, see guidance provided in the eState aid wiki.

¹² E.g. corrective notice for fiscal declaration.

¹³ See Section 2 "The transparency obligations".

It is also important to distinguish these reporting tool from SANI2 (State Aid Notifications Interactive), that is instead the platform is used by Member States to pre-notify/notify every new relevant individual State aid measures and schemes and is therefore not used for case reporting.

4. Definition of key concepts

Definition of aid award and granting act

Transparency information is required per **aid award**. For the purpose of recording, an aid award corresponds to the aid granted to the same beneficiary for the same aided activity or project, even if this may sometimes involve different instruments, be awarded through different granting acts and/or by different Granting Authorities, or even concern different objectives. Usually, but not necessarily, the aided activity or project is covered by a single State aid measure (scheme or ad-hoc aid).

Therefore, an aid award can be composed of several entries in the TAM. An entry in the TAM is uniquely identified by the following parameters: Aid Measure number; beneficiary name; granted amount, date of granting, aid instrument, aid objective and Granting Authority.

The **granting act** is the legal instrument that entitles the beneficiary to the receipt of an aid. It normally contains information in relation to the amount granted (or to be granted), the project or aided activity concerned, the date of granting, the Granting Authority(-ies), the beneficiary(-ies), the objective(s), the instruments and/or the conditions attached to the aid.

Article 9 (1) of GBER regarding the publication of individual aid awards is based on the principle that aid awards per beneficiary and usually per scheme¹⁴ should be reported. Therefore, all the legal granting acts issued for the same project or aided activity must be added up to define the amount of aid that the beneficiary can expect under a scheme or ad hoc aid.

Cumulation of granting acts

As soon as the aid awarded through different granting acts under the same aided activity or project (i.e. usually for the same State aid measure) for the same beneficiary equals or exceeds the threshold indicated in the legal basis, the different amounts granted through the granting acts should all be recorded in the TAM through different entries as they would constitute one single aid award.¹⁵

This also means that under the same State aid measure, aid to the same beneficiary given by different Granting Authorities for the same aided activity or project (co-financed), even if sometimes through different granting acts, needs to be added up and recorded in the TAM as soon as the threshold is reached.

¹⁴ In case of a second application (and therefore granting of aid) for the same aided activity or project, in particular if this covers the same eligible costs, Member States should carefully check that the second granting of aid complies with all compatibility criteria (incentive effect, maximum aid amount/intensity ...).

¹⁵ Some specificities in the agriculture and forestry sectors may apply, see Annex 5.

Also, in line with Article 8 (5) of the GBER and with Article 5 (3) of the *de minimis* Regulation, if *de minimis* aid is granted in relation to clearly defined eligible costs,¹⁶ it must be cumulated with aid granted for the same eligible costs under e.g. GBER and therefore loses its *de minimis* character for the verification of the relevant transparency threshold.

In case of subsequent applications (and aid grants) for the same aided activity or project, Member States should check for cumulation and (i) if the threshold was already exceeded in the previous applications, the new one must be reported as a separate entry in the TAM; (ii) if the threshold has not been reached in previous applications but is exceeded with the latter, the entire amount awarded must be published in the TAM through one or several entries. The deadline to report starts to run from the moment the threshold is reached. The TAM has been designed in a way that national/regional/sectorial offices are able to report and/or validate information on behalf of subordinated Granting Authorities, which allows them to exercise a coordinating role for recording purposes.

As long as the aid is granted for the same aided activity or project and the same beneficiary, cumulation should be verified even if the aid is granted through different instruments and/or for different sectors, and possibly even for different objectives. Cases of successive applications (and therefore granting of aid) for the same aided activity or project must remain the exception, since (i) it is not possible to cumulate aid above the most favourable intensity and (ii) there is an incentive effect requirement. This is why situations that would require successive recording (i.e. an individual aid award composed of several entries in the TAM) should be relatively rare. Aid awards for different projects should not be cumulated.

Transparency in principle requires cumulation and publication per project or aided activity even if this includes different eligible costs or objectives, in line with the legal interpretation provided in Annex 7. However, as already mentioned previously, for administrative simplification reasons, it is expected that Member States at least cumulate different granting acts for the same beneficiary and the same eligible costs under the same project or aided activity. Formal compliance checks will thus be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project or aided activity, in order to comply at least with the minimum requirements of Article 8 of the GBER.

In the light of the GBER amendment, it may occur that State aid measure that had previously been approved under the original legal basis is linked¹⁷ to a new State aid measure approved after the GBER amendment, thus under the “new threshold” of 100 000 EUR.¹⁸ In this case, the two measures should be treated as separate and shall not be cumulated, meaning that only the aid awards exceeding the threshold under each of the single SA measures should be registered.

¹⁶ *De minimis* aid can be granted in relation to any activity or cost. However, *de minimis* aid may also be granted as a lump sum, without the need to link it to certain eligible costs or the existence of a project. See also recital (21) of the *de minimis* Regulation 1407/2013

¹⁷ Meaning that they represent the same aid, with the same eligible costs, for the same objective, under the same project, and for the same beneficiary.

¹⁸ Or 10 000 EUR for beneficiaries active in the primary agricultural production or in the fishery and aquaculture sector and 500 000 EUR for aid involved in financial products supported by the InvestEU fund.

Payments in instalments

Payments in instalments under the same granting act have to be considered as one award. Usually, when the aid is to be paid in several instalments, the granted amount is either the maximum amount of aid allowed for the project or has to be estimated ex-ante and discounted to its value at the moment it is granted. If the aid is granted for longer than a year, the interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted, in line with Article 7 (3) of GBER. The resulting amount should be the granted amount and published in one entry. If the advantage is enjoyed at several intervals within the same year (e.g. monthly or quarterly), the aid should be cumulated on a yearly basis. However, when there is no maximum amount of aid allowed for the project or the amount cannot be estimated ex-ante, the amount of aid should be calculated and reported ex post in several entries. This applies also to fiscal aid. Several practical examples are provided in Annex 2.¹⁹

Deadline to publish

The information about the aid award has to be published no later than 6 months from the date of granting. However, in some cases, the deadline can vary. Therefore, reference should be made to the relevant legislation.

For aid provided under the Temporary Crisis and Transition Framework, there is a general deadline of 12 months from the date of granting. However, aid granted under section 2.8 must be published within 6 months from the date of granting.

For aid granted through financial intermediaries or entrusted entities for the benefit of other undertakings (investees),²⁰ the six-month period shall run from the date the intermediaries provide the relevant information, e.g. through annual reports, to the competent public authority on the investments passed to the final beneficiaries. Member States are responsible to ensure that such reports are submitted to them in view of complying with the corresponding transparency requirement and fulfilling Article 21 (14) of the GBER.

If a financial product has been implemented by a Member State under the InvestEU Member State compartment or by a national promotional bank acting as an implementing partner or acting as a financial intermediary under InvestEU, the Member State remains under the obligation to ensure the publication of information as laid down in GBER Article 9 (1) (c). However, this obligation is deemed to be fulfilled if the implementing partner provides to the Commission the information as laid down in in GBER Article 9 (1) (c) no later than the 30th of June of the year following the financial year in which the aid was granted and if the guarantee agreement signed between the Commission and the implementing partner stipulates the requirement to provide to the Commission the information as laid down in in GBER Article 9 (1) (c).

In case of cumulation, the six-month deadline starts from the date of the award that brings the total amount granted for the same aided activity or project and beneficiary equal to or above the threshold.

¹⁹ Examples also illustrate the identification of the aid amount to be reported.

²⁰ This concerns the Risk Finance Guidelines, Articles 16, 21, 22 and 39 of the GBER and cases directly under the TFEU with "risk finance", "urban development" and "energy efficiency in buildings" objectives.

For aid in the form of a tax advantage, the information has to be published within one year from the date the tax declaration is due (Article 9 (4) of GBER). For fiscal aid, the one-year period starts running from the date the tax declaration is due, even if the tax declaration has been submitted before the deadline expired. In this way, Member States do not have to track the effective date when the tax declaration was actually submitted, nor calculate different one-year periods for each undertaking.

In case no formal requirement for an annual declaration exists, the 31st of December of the year for which the aid was granted will be considered as the granting date for recording purposes.

Provisions for recurrent aid

Certain Member States operate i.a. fiscal schemes in which a multi-year corporate tax advantage is granted, or feed-in tariff schemes for green electricity. In such schemes, the advantage applies in relation to a given project. Depending on the scheme, either both the duration of the advantage and its maximum amount can already be foreseen ex-ante with some accuracy²¹ (for instance in relation to the project's costs) or this is not possible ex-ante, for instance, because the payments are dependent on the evolution of certain variables. In the former case, Member States should discount the overall advantage available over the whole period / in relation to the project to the date when the advantage was granted. In the latter, the amount of the advantage will be known only ex-post. The total amount of the advantage must therefore be cumulated over the years and reported as soon as the threshold is reached, via (i) one single entry with the entire cumulated granted amount by the Granting Authority who has issued the last granting act which has brought the entire cumulated amount above the threshold or (ii) several entries with the respective granted amounts of all corresponding granting acts introduced either directly by the different Granting Authorities involved or by one of the responsible national/regional/sectorial offices on behalf of the subordinated Granting Authorities involved. Moreover, once the threshold has been exceeded, every subsequent annual declaration should be recorded through separate entries.

5. Key elements of the transparency provisions to be published

Reference to the aid measure

The reference to the aid measure is the one provided by the Commission under the electronic procedure, as referred to in Article 11 (1) (a) of the GBER.²² In the TAM, to specify the relevant reference to the aid measure, either the reference SA number or the original title of the State aid measure can be inputted.

Once the reference to the aid measure has been provided, an automatically generated link to the State aid case register of the Commission will allow complying with Art 9 (1) (a)

²¹ If the amounts of aid may be accurately estimated ex-ante, they must be discounted and reported in the TAM. In particular if there is a maximum aid amount that can be granted, that must be considered as the estimate. In case of large discrepancies between the estimated amount and the amount spent (ex-post), Member States can still exceptionally correct the amount in the TAM. However, even if this correction leads to the aid amount falling below, for example, the 100 000 EUR threshold, the record can be corrected but not altogether deleted.

²² Once the Member State reports the summary information about each exempted aid measure in the standardised format laid down in Annex II, supplied through SANI2.

and (b) of the GBER and similar obligations included in the guidelines. However, as the obligation deriving from Articles 9 (1) (a) and (b) should be fulfilled once the respective schemes are in place, independent of the amount of individual aid awards to be granted (i.e. even for measures that do not have to comply with the obligation under Article 9 (1) (c)), the starting page of the TAM also includes a general link to the State aid registry,²³ providing access to information on all cases, including notified and GBER measures.

Name of the beneficiary

Most Member States have expressed a preference for reporting the name of the legal entity receiving the aid, and not the full group to which it belongs, in particular when the headquarters of the group or the parent company are located in another Member State. For practical purposes and to reduce administrative burden, this can be accepted for the purpose of publishing information, without prejudice to the notion of undertaking (group) for the purposes of applying competition law. Therefore, despite this simplification, cumulation should be always checked at group level.²⁴

In case of alteration of the perimeter of a company, it is the legal entity of the beneficiary at the time the aid is granted that should be published in the TAM. The fact that the beneficiary may subsequently merge, split or enter into a joint venture before the six-month period for publication lapses should not be relevant. Likewise, even if the legal entity that benefitted from the aid changes within the six-month period allowed for publishing, the name of the beneficiary should be the one of the legal entity existing at the time the aid was granted.

When the aid is granted via a third party, the third parties (including financial intermediaries) must collect the relevant information on payments to final beneficiaries and transmit it to the relevant authorities in the Member States, or alternatively, final beneficiaries must submit a declaration to the relevant authorities in the Member States.²⁵

Beneficiary identifier

The beneficiary identifier enables the unique identification of each undertaking in a given Member State. Member States can use their own national identifier type(s)²⁶, communicated to the Commission for TAM purposes.

If a beneficiary no longer exists and no specific Beneficiary National ID can be found, one first has to figure out if the date of granting of the aid is after July 2016 and if the individual

²³ <https://competition-cases.ec.europa.eu/search>

²⁴ Cf. footnote 3 to Annex II of GBER: "An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking". Therefore, all the GBER conditions have to be met at the level of the single economic unit ("undertaking"), which Member States have to ensure.

²⁵ Examples of such situations are: subsidized services in agriculture where the aid is paid to the service provider, tax reductions to certain users of electricity where the electricity company applies and collects the reduced taxes on behalf of the State, risk finance, urban development and energy efficiency in buildings.

²⁶ Such as SIREN or SIRET in France, or the national organisation number in Sweden, the national Commercial Register Code number in Estonia or the BULSTAT number in Bulgaria.

aid awards exceed the threshold for publication of EUR 100 000. After verifying the company's adherence to these previously expressed requirements, for companies that no longer exist and for which an ID was not found, the Member States must select the type of identifier as “other” and write “Company no longer exists”.

If multiple companies bid together in a consortium contract, the problem occurs that, together, they do not have a single Beneficiary National ID but only their individual IDs. Since it is generally not possible to distribute the granted amount among all the companies and then catalog them individually, it is indicated to proceed as follows. Once it has been verified that the granted amount is above the publication threshold, only one aid award is reported on the TAM, categorized as follows:

- company name: "Consortium (name of companies involved)"
- identifiers: list of all company identifiers

In the area of primary agriculture, the IACS used for the purposes of direct payments from the European Agricultural Guarantee Fund can be used as beneficiary ID for publishing under the transparency requirements.

Type of enterprise (SME/large) at the time of granting

In line with the transparency provisions, it must be reported if the individual beneficiary is a SME or a large undertaking²⁷. However, no other types of enterprises are considered in the TAM. Therefore, the requirement to identify 'small mid caps' and 'innovative mid caps' for risk finance schemes is not pertinent for the purpose of TAM.

Enterprise category	Headcount: Annual Work Unit (AWU)	Annual turnover	Or	Annual balance sheet
Medium-sized	< 250	≤ €50 million	Or	≤ €43 million
Small	< 50	≤ €10 million	Or	≤ €10 million
Micro	< 10	≤ €2 million	Or	≤ €2 million

Region

According to the transparency provisions, the region must be the one in which the beneficiary is located, at NUTS level. Although Annex III of the GBER asks Member States to "typically" notify beneficiaries at NUTS level II, Member States have discretion in choosing any of the NUTS levels to publish in the TAM, i.e. NUTS0, NUTS1, NUTS2,

²⁷ Two criteria allow defining an SME according to fixed thresholds: the head count (below 250) and either the balance sheet (below 43 million EUR) or the annual turnover (below 50 million EUR). See Annex I of the GBER. The User Guide on SME definition provides additional explanations.

NUTS3.²⁸ For the sake of joined interpretation with the other key elements of transparency, we suggest to report the region in which the project has its greatest effect.

Therefore, when publishing in the TAM, the region of the beneficiary will be the region relevant for the purpose of the aid award in question, i.e. where the project to which aid is awarded will be located. Only one region can be attributed to a single entry in the Award Module, but there is a flexibility regarding the level of geographical aggregation, except for Regional aid that must be always reported in NUTS 2 or NUTS 3 level. If the project is located in different regions and the aid is granted in one single granting act, the total amount of aid should be reported, together with the region where the largest part of the project is located. Alternatively a higher level of aggregation may be reported, up to NUTS0 (Member State level).

Sector of activity

According to the transparency provisions, the sector must be the beneficiary's sector of activity, at NACE rev 2 group level.²⁹

In case the beneficiary operates in several sectors, the sector indicated in the TAM should be the sector where the aid will have its greatest effect. Indeed, in case the aid covers several sectors (e.g. Regional aid), the sectoral information to be recorded in the TAM should be based on the most relevant sector of activity for a given award. Therefore, only one sector can be selected in the TAM.

Aid amount

The aid element is expressed as full amount, i.e. not in millions, in national currency. For amounts provided in non-EUR currencies, on the basis of the date of granting provided, an automatic conversion of the amount to EUR, using daily exchange rates from the European Central Bank will be provided for information.³⁰ When the aid is to be paid in several instalments and can be estimated ex-ante, the granted amount to be recorded is equal to the total granted amount discounted to its value at the moment it is first granted.

Annex III of the GBER clarifies that the aid element provided must be the Gross Grant Equivalent for loans and guarantees. Fiscal aid can be published in the ranges provided in Article 9 (2) of GBER, 9 (3) of 2014 ABER, 9 (2) of FIBER, 9 (2) of 2023 ABER.³¹

²⁸ Source of A, C, N regions up to NUTS 3 level in the Commission's excel file at http://ec.europa.eu/competition/state_aid/regional_aid/regional_aid.html

²⁹ NACE available at <https://ec.europa.eu/eurostat/web/nace/overview> with explanations of a general nature, and the full NACE classification at http://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=ACT_OTH_DFLT_LAYOUT&StrNom=NACE_REV2&StrLanguageCode=EN

³⁰ If the currency is different than EUR, a conversion in EUR of nominal and granted amounts is automatically performed using the ECB exchange rate applicable on the granted date. The exchange rates are updated in TAM from the ECB (European Central Bank) daily in the morning with rates of the day before. If there are no exchange rates available for any technical reason, the system will use the most recent available exchange rate.

³¹ For GBER the ranges are (in € million): (a) 0,5-1; (b) 1-2; (c) 2-5; (d) 5-10; (e) 10-30; and (f) 30 and more. For ABER the ranges are (in € million): (a) 0,06-0,5 only for primary agricultural production; (b) 0,5-1; (c) 1 to 2; (d) 2 to 5; (e) 5 to 10; (f) 10 to 30; and (g) 30 and more. For FIBER the ranges are (in € million): (a) 0,03-0,2 (b) 0,2-0,4 (c) 0,4-0,6 (d) 0,6-0,8 (e) 0,8-1, and for MARE Guidelines the ranges are different

In case the aid amount can't be determined precisely ex-ante, the maximum amount of aid that can be granted, as specified in the granting act/decision, should be recorded. If the decision does not specify any maximum amount of aid allowed, a precise estimate should be inserted.

For aid given in the context of the COVID-19 crisis or the energy crisis following the aggression against Ukraine by Russia, as specified in the Temporary Framework and in the Temporary Crisis and Transition Framework, the Member States are required to publish the nominal amount of the aid but not to estimate the aid element of repayable instruments.³²

Nominal amount

In line with reporting for financial crisis aid and Annex II of the GBER, the nominal amount of loans and guarantees can be provided in the nominal amount field in order to understand the Gross Grant Equivalent.

Aid instrument

Annex III of the GBER lists the following possible aid instruments that may be published in the TAM: Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Risk finance, Other (please specify).

Depending on the State aid measure under which the aid was granted, the list of aid instruments that may be selected will be restricted to the relevant instruments, i.e. those specified ex ante in the notification or in the GBER summary sheet.

The TAM only allows to select one instrument by entry. Therefore, in line with the transparency provisions, if the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument (footnote 4 to Annex III of the GBER) through separate entries in the TAM. All instruments concerning the same project or aided activity and the same beneficiary have to be cumulated for the purposes of applying the publication threshold.

(in € million): 0,03-0,5; above 0,5-1; above 1-2; above 2. However, successive amendments have changed these ranges.

For GBER as amended by Commission Regulation (EU) No 2023/1315 the ranges are (in € million): (a) 0,01-0,1 (only for fishery and aquaculture as well as primary agricultural production); (b) 0,1-0,5; (c) 0,5-1; (d) 1-2; (e) 2-5; (f) 5-10; (g) 10-30; and (h) 30 and more. For 2023 ABER the ranges are (in € million): (a) 0,01-0,1 only for primary agricultural production; (b) 0,1-0,5; (c) 0,5-1; (d) 1 to 2; (e) 2 to 5; (f) 5 to 10; (g) 10 to 30; and (h) 30 and more. For FIBER as amended by Commission Regulation (EU) No 2022/2473 the ranges are (in € million): (a) 0,01-0,2 (b) 0,2-0,4 (c) 0,4-0,6 (d) 0,6-0,8 (e) 0,8-1. For 2022 Risk Finance Guidelines the ranges are (in € million): (a) 0,1-0,5; (b) 0,5-1; (c) 1-2; (d) 2-5; (e) 5-10; (f) 10-30; (g) 30-60; (h) 60-100; (i) 100-250; (l) 250 and over.

³² Cfr. Footnotes 81 and 82 of the Temporary Framework (2020/C 91 I/01) and footnotes 159 and 160 of the Temporary Crisis and Transition Framework (2023/C 101/03): "For repayable advances, guarantees, loans, subordinated loans and other forms the nominal value of the underlying instrument shall be inserted per beneficiary."

Date of granting

The date of granting is the date when the legal right to receive the aid is conferred on the beneficiary, as stated in Article 2 (28) of the GBER. For fiscal measures, in principle, the date to mention in the award module is the date when the tax declaration for the full year has been submitted. However, for simplicity reasons, the date on which the declaration for the full year is due may be provided instead.

In case no tax declaration for the full year is due, the date of granting is the date on which the granted aid is known by the relevant Member State authority. Also in case of aid granted through a financial intermediary to a final beneficiary, the date of granting is the date on which the intermediaries submitted to the Member States detailed information on investments passed to the final beneficiaries insofar as there is no precise date when the advantage is passed on to the final beneficiary. In case of social security contributions' exemptions, the date of granting corresponds to the date of the legal act making it possible for beneficiaries to get these exemptions.

As already stated above, in case no formal requirement for an annual declaration exists, the 31st of December of the year for which the aid has been granted will be considered as the granting date for reporting purposes.

Objective of the aid

Depending on the State aid measure under which the aid was granted, the list of aid objectives that may be selected will be restricted to the relevant objectives, i.e. those specified in the notification or in the GBER summary sheet.

There should be only one objective recorded per entry. If several objectives are pursued by the same project or aided activity, the total amount of aid granted must be cumulated for the purposes of applying the publication threshold. The most relevant objective should be identified and reported in the TAM. In exceptional circumstances, if aid has been granted for different objectives in more or less equal proportions, the aid may however be published in more than one entry in the Award Module, using different records for each objective and dividing the total amount accordingly.

However, as already mentioned previously, for administrative simplification reasons, it is expected that Member States at least cumulate different granting acts for the same beneficiary and the same eligible costs under the same project or aided activity. Formal compliance checks will thus be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project or aided activity, in order to comply at least with the minimum requirements of Article 8 of the GBER.

Granting Authority

This is the authority granting the aid at any level of government (i.e. national, regional, local). The institutional setup and competences of granting authorities reflect national specificities of State aid control: some Member States do not have a centralised State aid function while others have highly centralised State aid policy control. The role of each office and granting authority can differ substantially between Member States also with respect to recording and validating the information to be published under the transparency requirements.

6. Specific transparency provisions

This section outlines the specific provisions that apply for aid granted under the Risk Finance Guidelines, Articles 16, 21, 22 and 39 of the GBER and for cases decided directly under the TFEU with "risk finance", "urban development" or "energy efficiency in buildings" objectives.

In such cases, the Member States may act through entrusted entities and co-invest and/or share risk with financial intermediaries³³ in order to enhance the provision of finance to the final beneficiaries. An advantage, therefore, may be present at the level of entrusted entity, financial intermediary or investors, depending on the measure. Subsequently, the entrusted entities and/or the financial intermediaries (or the investors directly) invest in final beneficiaries which thus receive an indirect advantage. In the TAM, to accommodate these specificities, additional fields are automatically provided requesting the authority to report either the entrusted entity or financial intermediary(-ies) or investors, depending on the measure.

According to the kind of measure being considered, different types of beneficiaries (above the threshold) must be recorded in the TAM.

5.1 Non fiscal aid (equity, loans, guarantees and others)

The total investment to each final beneficiary (investee) must be reported. However, if it is possible to calculate precisely the aid element passed on to the investee, it can be reported as well. The NACE code to be reported is the sector relevant for the corresponding project, and the identity of the entrusted entity should be provided if applicable together with the names of the relevant financial intermediaries.³⁴

5.2 Fiscal aid

The aid granted to the corporate investors must be reported. The NACE code to be reported is the one for financial service activities (K 64) and the names of the relevant financial intermediary(-ies) should be provided if applicable. In addition, the total investment to each final beneficiary (investee) must be reported. The NACE code to be reported is the sector relevant for the corresponding project.

Deadline to report

Each individual final beneficiary (investee) receiving an investment above or equal to the threshold indicated in the legal basis will have to be recorded in the TAM 6 months after the date on which public authorities are informed.³⁵ Member States are responsible to ensure that such reports are submitted to them in view of complying with the corresponding transparency requirement.

³³ Or investors, depending on the set-up of the measure.

³⁴ In the case of a measure involving a fund, the relevant entities may be the fund itself, the fund manager(s) and the investor(s) in the fund. In the other cases, the relevant intermediaries may be the financial intermediary(-ies) and if applicable the investor(s) co-investing with the financial intermediary(-ies).

³⁵ i.e. when the intermediary submits its annual report to the Member States or when the investor's fiscal declaration is due (with a 1-year reporting deadline in case of fiscal aid).

In case of fiscal aid, investors have to be recorded in the TAM as beneficiaries only if they are corporate investors (and not private investors that are natural persons).³⁶ In such cases, the fiscal advantage received can be indicated in ranges, within 1 year from when the tax declaration is due.

Nominal amount/aid element

The aid amount must be recorded as follows:

- In the case of fiscal aid, the total amount of the investment in full amount or ranges must be provided;
- In the case of financial instruments, the total amount of the investment in full amount must be provided; For loans and guarantees, the advantage in Gross Grant Equivalent can also be provided, if available.

GBER Article 21a

Under Article 21a of GBER, the aid amount is the nominal total risk finance investment in the final beneficiaries. In this case, the final beneficiaries are the eligible SMEs (as opposed to the financial intermediaries or the investors).

Indeed, for the purpose of the provision of information on TAM under Art. 9(1)(c) GBER, Member States should provide as aid amount “the gross grant equivalent, or for measures under Articles 16, 21, 22 or 39 of this Regulation, the amount of the investment” (footnote 3 of Annex III to GBER). This approach should also be applied to Art. 21a GBER (which used to be integrated in Art. 21 before the amendment of the GBER in 2023 – see to this effect Art. 21 (3) GBER in the version dated 25 May 2023).

As regards timing, Member States are required to publish the information on the aid award within 1 year from the date the tax declaration is due (see Article 9 (4) GBER).

³⁶ However, in this context, the TAM can accommodate recording other forms of both financial investors and aid instruments.

Annex I

Cumulation of granting acts: Examples

As soon as the cumulated aid for the same project or aided activity and for the same beneficiary exceeds or equals the threshold indicated in the legal basis,³⁷ even if awarded through different granting acts, the different amounts granted through the granting acts should all be recorded in the TAM, where appropriate through different entries constituting one single aid award.³⁸

However, for administrative simplicity reasons,³⁹ it is expected that Member States will at least cumulate different granting acts for the same beneficiary, the same project and the same eligible costs (i.e. cumulatively for the same objective).

When a beneficiary receives aid for multiple projects, requiring a more complex calculation to determine if the publication threshold has been exceeded, the cumulation shall be assessed at the beneficiary level.

Member States should perform cumulation checks for state aid and assess whether the threshold for publication has been reached, with specific consideration for aid granted under the Temporary Framework and Temporary Crisis (and Transition) Framework. While these frameworks do not require estimating the gross grant equivalent of guarantees, general cumulation principles still apply. The threshold for publication must be assessed according to the applicable rules, unaffected by the estimation exceptions under the Temporary Framework and Temporary Crisis (and Transition) Framework.

Example 1 – Companies belonging to the same group

For verifying if the threshold for publication has been reached, under the same project, several granting acts need to be cumulated if the beneficiaries belong to the same group.⁴⁰

³⁷ Article 9 (1) (c) of the GBER as amended by Commission Regulation (EU) No 2023/1315 of 23 June 2023, as well as in the other relevant revised guidelines, reference is made to individual aid awards exceeding 100 000 EUR. To ensure transparency and consistency in reporting practices across Member States and to align with past practice, Member States are encouraged to encode all individual aid awards for which the amount granted equals or exceeds 100 000 EUR.

³⁸ As long as the aid is granted for the same project and the same beneficiary, cumulation should be verified even if i.a. the aid is granted through different instruments and/or sectors and/or objectives. In any event, cases of successive applications (and therefore granting of aid) for the same project must remain exceptional as (i) it is not possible to cumulate aid above the most favourable intensity and (ii) there is an incentive effect requirement.

³⁹ Given the current institutional set up or legal framework of some Member States, checking for project definition and therefore cumulation per project/aided activity at the moment of publication for transparency purposes or reporting all information including below the threshold may however be difficult. Therefore, while transparency in principle requires cumulation and publication per project or aided activity, even if this includes different eligible costs or objectives, formal compliance checks will be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project in order to comply at least with the minimum requirements of Article 8 of the GBER.

⁴⁰ Footnote 3 to Annex II of GBER: "An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking". Therefore, all the GBER conditions have to be met at the level of the single economic unit ("undertaking"), which Member States have to ensure.

Example: A one-year fiscal advantage is provided to all SMEs operating in the manufacturing sector. Company X and company Y, both active in the manufacturing sector and owned by company Z, are two SMEs. Both X and Y apply to the competent authorities and benefit respectively from 200 000 EUR and 80 000 EUR of aid through that scheme in 2017. As companies X and Y belong to the same group, within one year from the date on which the fiscal declarations are due, either one entry of 280 000 EUR under company Z or two entries of respectively 200 000 EUR for company X and 80 000 EUR for company Y must be recorded in the TAM.

Example 2 – Granting Authorities

For verifying if the threshold for publication has been reached, under the same project or aided activity and for the same beneficiary, several granting acts need to be cumulated even if aid has been granted by different Granting Authorities. Indeed, the total amount of public support for the same aided project shall be taken into account, regardless of whether that support is financed from local, regional, national or EU sources.⁴¹

Example: Following an event recognised as a natural disaster (Article 50 of the GBER), aid amounting to 80 000 EUR has been granted to company X on 02/01/2025 by a municipality to cover part of the damage suffered by the latter. Two weeks later, on 16/01/2025, a regional Granting Authority grants another 50 000 EUR to company X to cover another part of the damage due to the same natural disaster. Within six months after the threshold is reached (i.e. on 16/07/2025 at the latest), two entries must be recorded in the TAM by/on behalf of the two Granting Authorities, of respectively 80 000 EUR and 50 000 EUR.

Explanation: Art. 50 GBER covers aid schemes to "make good *the damage* caused by...[natural disasters]". Eligible costs shall be "the costs arising from *the damage* incurred..." These eligible costs may consist of (i) material damage to assets and/or (ii) loss of income. Although the two different damages are subject to different calculation methods, following Article 50 (4) of the GBER, the damage shall still be calculated at the level of the individual beneficiary. The damage as a whole must therefore be understood as the aided activity or project covering the same eligible costs.

While it may be rational to entrust two different granting authorities with determining these costs and granting aid on this basis, it is still "the damage" which defines the aided activity or project (making good the damage caused by a particular natural disaster) at the level of the individual beneficiary. In determining the maximum amount of aid allowed under this Article, and in order to avoid overcompensation, all eligible costs must therefore be summed up at the level of the individual beneficiary, and all "other payments received to compensate for the damage, including payments under insurance policies" deducted thereafter (cf. Art. 50 (5) GBER). The two grants must therefore be put together and, since the total exceeds the transparency threshold, be recorded in TAM.

⁴¹ However, "Union funding" in the meaning of Article 8 (2) of the GBER should not be taken into account for determining whether notification thresholds are exceeded.

Example 3 – Regions

For verifying if the threshold for publication has been reached, under the same project or aided activity and for the same beneficiary, several granting acts need to be cumulated even if aid has been granted for investments in different regions. Indeed, aid granted for the same project and to the same beneficiary should be cumulated even if it has crossregional or cross-border implications.

Example: Company X has two industrial locations in two different disadvantaged regions A and B. An investment project to create jobs, covering both geographical locations, is eligible to receive support. On 12/04/2025, 80 000 EUR is granted for the investment in region A; another 60 000 EUR is granted for the investment in region B on 12/05/2025. Within six months after the threshold is reached (i.e. on 12/11/2025 at the latest), either one entry of 140 000 EUR must be recorded in the TAM under the most relevant region i.e. the highest NUTS level or two entries must be recorded in the TAM, of respectively 80 000 EUR and 60 000 EUR under both regions.

Example 4 – Sectors

For verifying if the threshold for publication has been reached, under the same project or aided activity and for the same beneficiary, several granting acts need to be cumulated even if aid has been granted for several sectors of activity in which the beneficiary is active.

Example: Company X, an SME, is active in the manufacture of chemical products (NACE C20) and pharmaceuticals (NACE C21). Company X has applied for aid under a research, development and innovation scheme for process innovation (Article 29 of the GBER) to improve its production processes to reduce environmental and social risk for both its chemical and pharmaceutical production. On 01/03/2025, 20 000 EUR is granted to improve its production processes for chemical products, while another 80 000 EUR is granted on 12/03/2025 to improve the process for pharmaceuticals products. Within six months after the threshold is reached (i.e. on 12/09/2025 at the latest), either one entry of the threshold indicated in the legal basis must be recorded in the TAM under the most relevant sector i.e. NACE C20 or two entries must be recorded in the TAM of respectively 20 000 EUR and 80 000 EUR under both sectors.

Explanation: The above example represents a single aided project (as defined by the application for aid) comprised of two components or stages (process innovation for the chemical production; process innovation for the pharmaceutical production) at different points in time. It may therefore also be understood as aid granted in 'instalments', only that, in this example, the two different stages of the project were subjected (for whatever reason not further specified) to two different granting acts.

Example 5 – Objectives

For verifying if the threshold for publication has been reached, under the same project and for the same beneficiary, amounts need to be cumulated even if aid has been granted for different objectives.

Example: Under the same 'omnibus' GBER scheme intending to increase demand by employers for the categories of disadvantaged and disabled workers, company A, an SME,

has received 50 000 EUR on 4/03/2025 to adapt the company's premises (Article 34 of the GBER) and 70 000 EUR on 07/04/2025 to cover part of the wage costs over the period during which the workers with disabilities are employed (Article 33 of the GBER). Within six months after the threshold is reached (i.e. on 07/10/2025 at the latest), two entries of respectively 50 000 EUR under the objective "Aid for compensating the additional costs of employing workers with disabilities (Art. 34)" and 70 000 EUR under the objective "Aid for the employment of workers with disabilities in the form of wage subsidies (Article 33)" must be, in principle, recorded in the TAM.

Explanation: Company A has set up a project to hire workers with disabilities. To that end, reasonable adjustments to the company premises are necessary. Therefore, the project encompasses several tasks, namely (i) to adapt the company premises and (ii) to recruit and employ workers with disabilities. The aid available for these tasks is covered by different objectives of the GBER. In this example, the tasks cannot be considered as separate investment decisions but constitute several inter-linked transactions covering different eligible costs.

Both objectives (adapting company premises and reducing wage costs of employed disabled workers) are linked by the same project and the beneficiary clearly indicated that it would not hire disabled workers without the aid (incentive effect). Therefore, even if the same project or aided activity concerns different objectives and includes different eligible costs, full transparency and full reporting must apply. Also, please note that, despite the fact that its amount is 50 000 EUR in this example, the aid component to adapt the company premises cannot be considered as *de minimis* (since the competent authority will determine the aid on the basis of the eligible costs set out in Article 34 of the GBER).

However, while transparency in principle requires cumulation and publication per project or aided activity, even if this includes different eligible costs or objectives, formal compliance checks will be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project in order to comply at least with the minimum requirements of Article 8 of the GBER. This means that, for the example provided, for administrative simplification purposes, the absence of reporting in the TAM will not be considered in breach of the minimum requirements, as the amounts granted under each Article separately are below the the threshold indicated in the legal basis threshold.

Example 6 – Instruments

For verifying if the threshold for publication has been reached, under the same project and for the same beneficiary, amounts need to be cumulated even if aid has been granted through different aid instruments.

Example: Company A has a project to produce 5 short films that is eligible for State aid through a State aid measure intending to promote culture through the production of audio-visual content. Company A has been granted 150 000 EUR in the form of direct grants on 02/01/2025 and 90 000 EUR in the form of guarantees on 07/02/2025. Within six months after the threshold is reached (i.e. on 02/07/2025 at the latest), one entry of 150 000 EUR (grant) must be recorded in the TAM. By the 07/08/2025, a second entry of 90 000 EUR (guarantee) must also be recorded in the TAM.

Annex 2

Aid paid in instalments

Payments in instalments for the same aid award need to be cumulated and should be recorded:

- (1) In one entry, by applying the maximum amount of aid allowed for the project or aided activity.
- (2) In one entry, by calculating ex ante the total amount of aid through discounting on a yearly basis future instalments to their value at the date of granting.
- (3) In several entries, by calculating the amount of aid ex post when it cannot be estimated ex ante and there is no maximum amount of aid possible.

Example 1 – Aid paid in instalments – Ex-ante maximum aid allowed

Company A builds a wind park in a specific eligible area and is entitled to receive aid through an ad-hoc measure that has been notified and approved under the Guidelines on State aid for climate, environmental protection and energy.

The aid will cover operating aid over the next 20 years. The amount of aid is calculated annually, through an annual declaration, as a feed-in tariff taking into account the level of electricity production and the market electricity prices. The decision also specifies a maximum cumulated aid allowed of 4 000 000 EUR.

Within a six-month period starting from the date the first annual declaration is due,⁴² an entry of 4 000 000 EUR must be recorded in the TAM.

Example 2 – Aid paid in instalments – Ex-ante estimate

Company A builds a wind park in a specific eligible area and is entitled to receive aid through an ad-hoc measure that has been notified and approved under the Guidelines on State aid for climate, environmental protection and energy.

The aid will cover operating aid over the next 20 years. The amount of aid is calculated annually, through an annual declaration, as a feed-in tariff taking into account the level of electricity production of the wind park and electricity prices. The decision does not specify any maximum amount of aid allowed.

If precise estimates can be made regarding the level of electricity production and the applicable market electricity price expected by year, the advantage must be calculated annually as the level of electricity production of the wind park multiplied by the difference between the guaranteed electricity price and the market electricity price.

⁴² Or in case no formal requirement for an annual declaration exists, on the 31st of December of the first year for which the aid has been granted.

For the purpose of this example, we consider that the calculated annual estimated aid is about 200 000 EUR per year. As the aid is to be paid in several instalments over the next 20 years, it shall be discounted to its value at the moment it is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted. For the purpose of this example we consider that the discount rate is 2%. Therefore, the discounted value of the aid in t+1 will be $(200000\text{€}/(1+0.02)^1)$, in t+2 $(200000\text{€}/(1+0.02)^2)$, in t+3 $(200000\text{€}/(1+0.02)^3)$ etc. In total, the estimated amount of aid over the next 20 years is then 3335692€.

Within a six-month period starting from the date on which the aid has been granted, an entry of 3335692€ must be recorded in the TAM.

Example 3 – Aid paid in instalments – Ex-post determination

In some circumstances, the amount of aid cannot be accurately estimated ex-ante. This may be the case e.g. when no precise support period is known, if there is no certainty regarding the eligibility of the beneficiary or if the complexity and the administrative burden to calculate an estimate is too high while there is no maximum aid allowed for the project.

As the amount of the advantage is only known ex-post, it must be cumulated over the years and reported within the deadline set by the Regulation starting from the moment the threshold is reached. Indeed, as a matter of fact, once the threshold has been exceeded, every subsequent annual declaration should be recorded through separate entries.

Company A builds a wind park in a specific eligible area and is entitled to receive aid through an ad-hoc measure that has been notified and approved under the Guidelines on State aid for climate, environmental protection and energy.

Aid will cover operating aid over the next 20 years. A sunset clause, that can be activated annually, has been introduced to withdraw the corresponding advantage if the public authorities estimate that the desired objective has been reached or is no longer relevant. The amount of aid is calculated annually, through an annual declaration, as a feed-in tariff taking into account the level of production of the wind park, the global share of wind electricity power in the Member State and the market electricity prices. The decision does not specify any maximum amount of aid allowed.

The amount of aid cannot be easily and precisely estimated as (i) there is uncertainty regarding the support period and (ii) the annual feed-in tariff is calculated in terms of both the level of production of the wind park and the global share of wind electricity power in the Member State, which cannot be precisely projected.

Company A is granted 20 000 EUR in year t, 60 000 EUR in year t+1, 80 000 EUR in year t+2 and 70 000 EUR in year t+3. In year t+4, the government decides to withdraw the corresponding measure already for the same year.

Within a six-month period⁴³ starting from the date the third annual declaration is due,⁴⁴ an entry of 160 000 EUR (i.e. 20 000+60 000+80 000) must be recorded in the TAM. Thereafter, within a six-month period starting from the date the fourth annual declaration is due, another entry of 70 000 EUR, for the same project and the same beneficiary, must be recorded in the TAM.

⁴³ Or within a one-year period in case of fiscal aid.

⁴⁴ Or, in case no formal requirement for an annual declaration exists, on the 31st of December of this year.

Annex 3

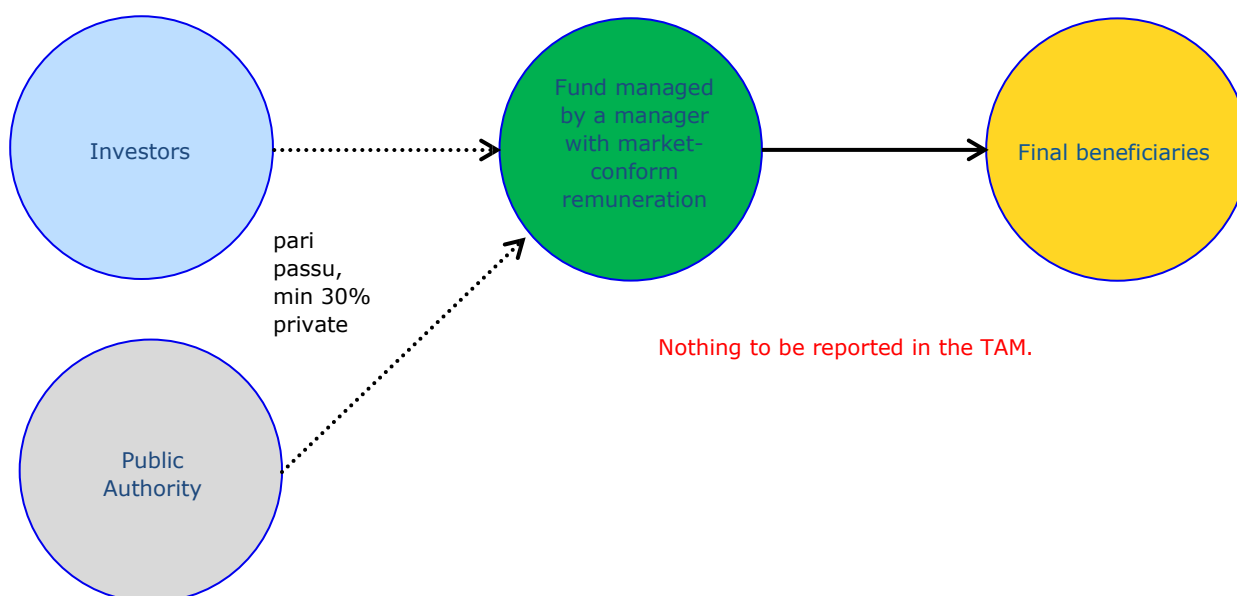
Aid Provisions for aid granted under the Risk Finance Guidelines, Articles 16, 21, 22 and 39 of the GBER and for cases decided directly under the TFEU with "risk finance", "urban development" or "energy efficiency in buildings" objectives

In these cases, aid may be present at different levels depending on the measure i.e. aid to the entrusted entity, if applicable, the investor(s), the financial intermediary(ies) and the fund manager (where a fund structure is involved) and aid at the level of the final beneficiary (investee).

The following examples cover theoretical possibilities to illustrate the corresponding transparency obligations in this context.

Example 1 – Public and private *pari passu* investment in a fund: no State aid

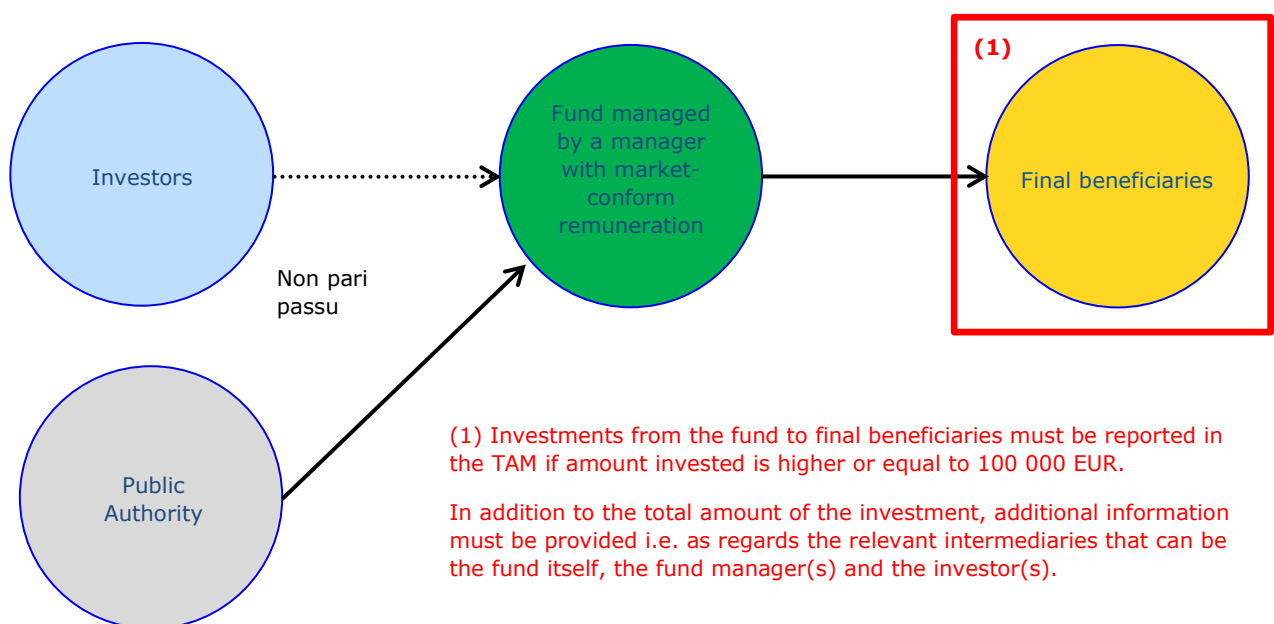
In this situation, public and private resources are invested in a fund managed by an independent fund manager. Public resources are invested *pari passu* with private investors and the share of private resources is min 30%. This means, the public authorities invest on market terms and, therefore, there is no State aid neither at the level of the fund, nor at the level of the final beneficiaries (investees). The fund manager receives market-conform remuneration and there is no State aid to the manager, which is considered to be the case when it is selected in a competitive process. In such case, since the public investment in the fund and the remuneration for the fund manager is market conform and does not constitute State aid, nothing to be recorded in the TAM.



Example 2 – Public and private not *pari passu* investment in a fund: State aid to the investors and the final beneficiaries (Non fiscal aid)

In this situation, public and private resources are invested in a fund managed by an independent fund manager. Public resources are invested not on *pari passu* terms with private investors, which means that they are not invested on market terms and, therefore, constitute State aid to the investors in the fund, which is also passed on to the final beneficiaries. A fund is just a vehicle to pool resources and is not the beneficiary of aid. The fund manager receives market-conform remuneration and there is no State aid to the manager, which is considered to be the case when it is selected in a competitive process.

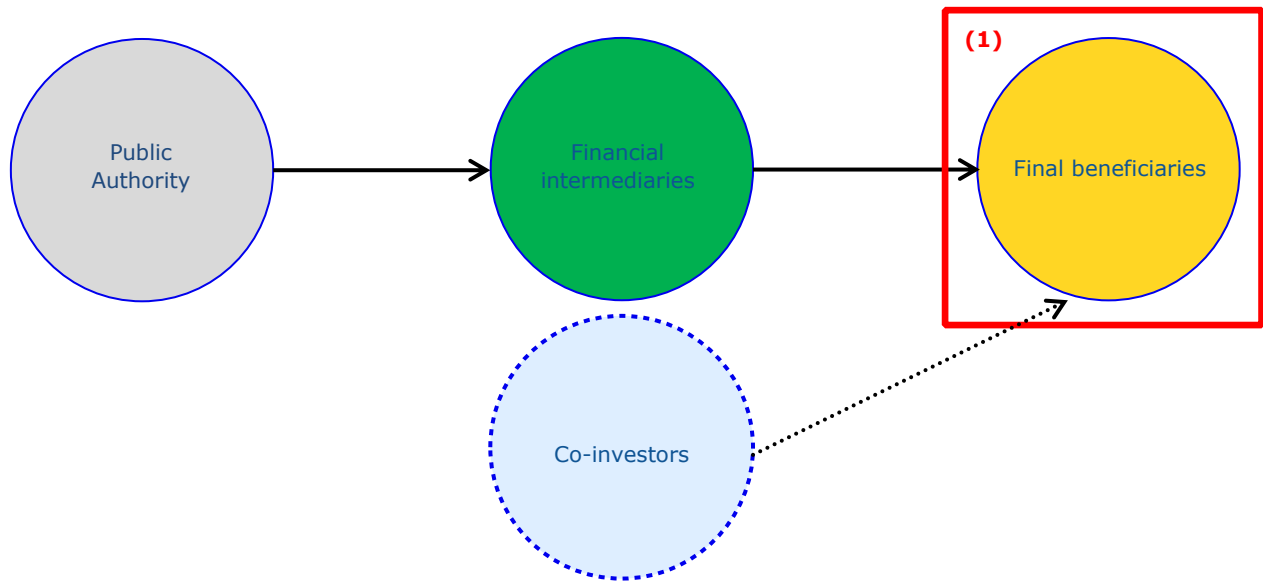
Therefore, any investment exceeding or equaling the threshold indicated in the legal basis for a final beneficiary needs to be recorded in the TAM.



Example 3 – Public authority provides a risk sharing loan to a financial intermediary: State aid to the financial intermediary and final beneficiaries (Non fiscal aid)

In this situation, public authority provides a risk sharing loan to a financial intermediary, which also co-invests own resources. Public resources are provided not in line with market terms and, therefore, constitute State aid to the financial intermediary, which is also passed on to the final beneficiaries by the financial intermediary.

Therefore, any investment exceeding or equaling the threshold indicated in the legal basis for a final beneficiary needs to be recorded in the TAM.

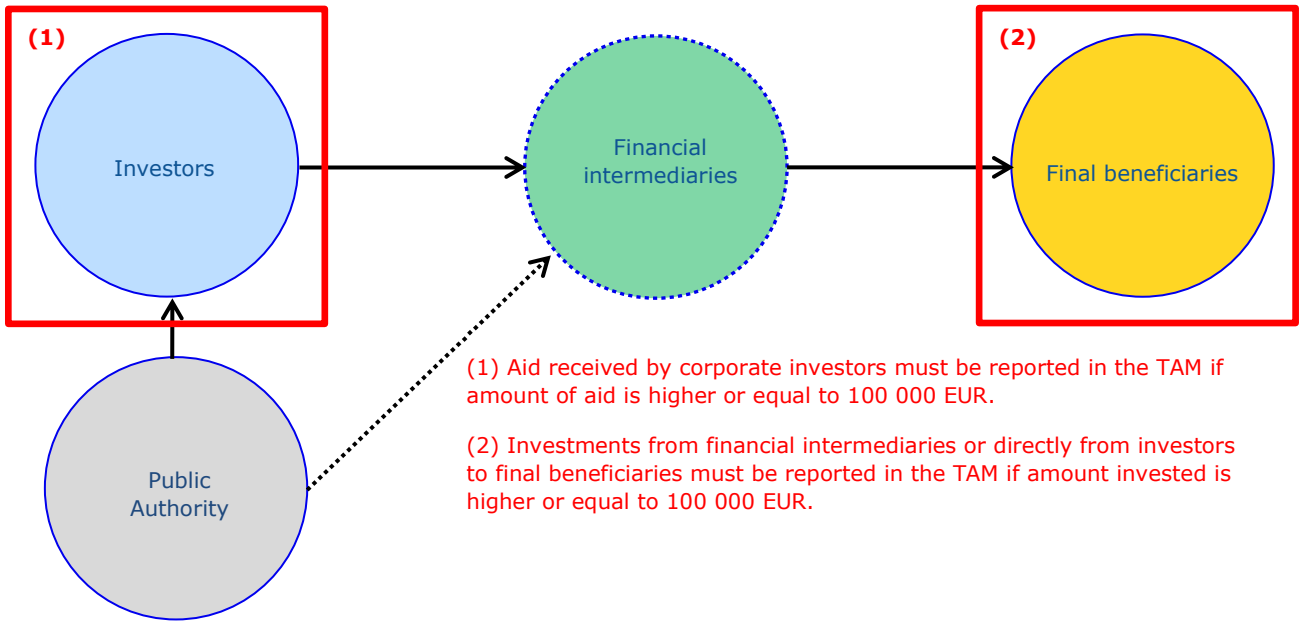


(1) Investments from financial intermediaries to final beneficiaries must be reported in the TAM if amount invested is higher or equal to 100 000 EUR.

In addition to the total amount of the investment, additional information must be provided i.e. the relevant intermediaries and if applicable the co-investor(s).

Example 4 – Tax exemptions to corporate investors: State aid to investors and final beneficiaries (Fiscal aid)

In this example, tax exemptions are granted to the corporate investors for investments e.g. to encourage financing SMEs. In this case, there is directly a selective advantage to the corporate investor, and a selective advantage indirectly transferred (from the corporate investors) via the investments made by the financial intermediary to the final beneficiaries. Both must be recorded, if they exceed or equal the threshold indicated in the legal basis.



Annex 4

Gross Grant Equivalent (GGE)

With respect to loans and guarantees,⁴⁵ the Gross Grant Equivalent (GGE) is to be used.

There are three different scenarios which can be envisaged:

- a) A loan is granted with a reduced interest rate;
- b) A guarantee is granted with a reduced guarantee fee, and the aid element/amount is calculated on the basis of the safe harbour premiums as defined in the Guarantee Notice;
- c) A guarantee is granted with a reduced guarantee fee, and the aid element/amount is calculated on the basis of a methodology that has been approved in a specific Commission Decision.

The Communication from the Commission on the revision of the method for setting the reference and discount rates⁴⁶ (the Reference Rates Communication) sets out the methodology to calculate reference rates which must be applied as a proxy for the market interest rate for senior loans and to calculate discount rates which can be used to measure the GGE of aid. The GGE is an aggregated amount reflecting the difference in the total amount of interests between market interest rates or their proxy as defined in the Reference Rates Communication and the total amount of interests actually paid. The reference and discount rates can also be used to check compliance with the *de minimis* rule and the GBER.

$$GGE = \sum (MAI_t - RAI_t) (1+d)^{-t} \text{ Where:}$$

- MAI: Interests to be paid taking into account the interest rate as defined in the Reference Rate Communication (market proxy), or the market rate
- RAI: actual interests to be paid based on the reduced interest rate charged for the loan
- d: rate of discount as provided by the Reference rates Communication
- \sum : from the date of granting the loan until the maturity of the loan

⁴⁵ See for example, Article 5 (2) (b) of the GBER on loans, Article 5 (2) (c) on guarantees and Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees.

OJ C 155, 20.06.2008, p. 10 available at http://ec.europa.eu/competition/state_aid/legislation/instruments.html, see also corrigendum to the notice OJ C 244, 25.09.2008, p.32 on the same web page.

⁴⁶ OJ C 14, 19.01.2008, p. 6 available at http://ec.europa.eu/competition/state_aid/legislation/reference.html

A guarantee has the same effect as a subsidy of an interest rate, in that it reduces the interest the beneficiary will pay over the maturity of the loan. In the case of a guarantee, the mathematical calculation consists therefore in discounting to the date the guarantee is granted the yearly differences between the theoretical/market priced guarantee fee that would have had to be paid and the reduced guarantee fee actually paid over the maturity of the loan.

For individual guarantees on individual SME loans, the Guarantee Notice provides a simple table to decide whether or not a loan guarantee involves aid and on how the GGE must be calculated (see 4.5 of the Guarantee Notice). If the guarantee premium charged does not correspond to the value set as a minimum for its rating class in the table, the difference between this minimum level and the premium actually charged will be regarded as aid. For such individual SME loan guarantees, the GGE is calculated as follows:

The outstanding sum guaranteed multiplied by the difference between (a) the safeharbour premium percentage of that risk class and (b) the premium percentage paid, i.e. guaranteed sum \times (safe-harbour premium – premium paid).

If the guarantee lasts more than a year, the yearly shortfalls are discounted using the Reference Rate Communication.

According to Article 5 (2) (c) (ii) of the GBER, aid comprised in guarantees can also be considered transparent if, before the implementation of the measure, the methodology to calculate the GGE of the guarantee has been approved by the Commission. In these cases, where the Member State has notified a calculation methodology to the Commission, the specific formula to calculate the GGE will be part of the Commission decision. It is this formula that must be used. Two recent practical examples thereof can be found in the non-confidential versions of the Commission Decision on the Polish methodology to calculate the GGE for State aid in the form of sureties and guarantees (SA.37421) and the Commission Decision on the National method to calculate the aid element in guarantees for SMEs (SA N182/10).⁴⁷

Example 1

Let us assume a 10 year loan of the threshold indicated in the legal basis. The loan is paid in linear instalments starting in year $t=1$. Let us assume a theoretical market oriented rate of 1.55% and an effective loan rate of 1.00%. In this example the aid element is then $1.55\% - 1.00\% = 0.55\%$. Let us assume that the discount rate (as defined in the Reference Rate Communication) for the Member State at stake is 1.5%.

⁴⁷ SA.37421 Polish methodology to calculate the Gross Grant Equivalent for State aid in the form of sureties and guarantees (the Polish decision) available at https://ec.europa.eu/competition/state_aid/cases/254549/254549_1673230_113_2.pdf and State aid case N 182/10 – Italy. National method to calculate the aid element in guarantees for SMEs (The Italian decision) available at http://ec.europa.eu/competition/state_aid/cases/236284/236284_1125983_27_1.pdf

Outstanding capital	i_m - actual i	Discount rate (1+d)	Discount factor (1+d) ^t	t	Aid element
500,000	0.55	1.015	1.015	1	2,709
450,000	0.55	1.015	1.030	2	2,402
400,000	0.55	1.015	1.046	3	2,104
350,000	0.55	1.015	1.061	4	1,814
300,000	0.55	1.015	1.077	5	1,532
250,000	0.55	1.015	1.093	6	1,257
200,000	0.55	1.015	1.110	7	991
150,000	0.55	1.015	1.126	8	732
100,000	0.55	1.015	1.143	9	481
50,000	0.55	1.015	1.161	10	237
TOTAL					14,260

The GGE for this example amounts therefore to 14 260 EUR and must therefore not be reported in the TAM as the aid element is below the applicable threshold of the threshold indicated in the legal basis.

Annex 5

Aspects related to aid granted under ABER (Commission Regulation (EU) No 702/2014 and Commission Regulation (EU) No 2022/2472) and European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas

1. Thresholds

The following categories of thresholds apply for 2014 ABER:

- (1) the threshold of 60 000 EUR applies for beneficiaries who are undertakings active in the primary production of agricultural products;
- (2) the threshold of 500 000 EUR applies for beneficiaries who are:
 - (i) undertakings active in processing or marketing of agricultural products into other agricultural products;
 - (ii) undertakings active in processing of agricultural products into nonagricultural products or having non-agricultural activities;
 - (iii) all categories of forestry beneficiaries having forestry activity and
 - (iv) all other beneficiaries not mentioned above having activity outside the scope of Article 42 TFEU.

The following categories of thresholds apply for 2023 ABER:

- (1) the threshold of 10 000 EUR applies for beneficiaries who are undertakings active in the primary production of agricultural products;
- (2) the threshold of 100 000 EUR applies for beneficiaries who are:
 - (i) undertakings active in processing or marketing of agricultural products into other agricultural products;
 - (ii) undertakings active in processing of agricultural products into nonagricultural products or having non-agricultural activities;
 - (iii) all categories of forestry beneficiaries having forestry activity and
 - (iv) all other beneficiaries not mentioned above having activity outside the scope of Article 42 TFEU.

2. Aid instruments

2.1 Subsidised services

In case of subsidised services the threshold is calculated per final beneficiary and not service provider. In such cases the group of the final beneficiaries can reach the whole sector or sub-sector concerned.

2.2. Multiple aid instruments

If the aid is granted under one scheme to the same beneficiary by one granting act comprising of several aid instruments then the total amount of all aid instruments shall count for the reaching of the threshold. The aid amount is to be published broken down by the different aid instruments. In case of animal disease it is important also to consider if the aid is linked to one and the same animal disease and to same instructions given by the competent (i.e. veterinary) authority. For example, if the competent (i.e. veterinary) authority has prescribed for one and the same disease to the same animal breeder several measures - vaccination (subsidised service) and disinfection of the premises (direct grant), then all aid instruments should logically be considered as one aid award.

3. Beneficiaries

3.1. Multiple beneficiaries

In case of multiple beneficiaries, for example under the co-operation measure as provided for in the Agricultural State Aid Guidelines, the threshold should be calculated taking into account the number of beneficiaries, unless a participant in the co-operation project is not a beneficiary but acts only as service provider i.e. consultant.

3.2. Multiple aid awards to one beneficiary

It is possible to have several aid awards to the same beneficiary under the same aid scheme. For example, in case of aid for animal diseases and aid for fallen stock the following can be relevant:

- i) animal diseases – if there are several distinct outbreaks followed by instructions of the competent (i.e. veterinary) authority to take measures for each outbreak separately then these can lead to several aid awards. The threshold is calculated for any of them separately. However, if following one disease outbreak several measures have been prescribed by the competent (i.e. veterinary) authority and aid is granted for those measures (i.e. for vaccination, killing animals and disinfection) then the whole complex should be seen as one aid award (see also point 2.2 above).
- ii) fallen stock – the triggering event is the death of the animal(s); every time an animal is dead (or several animals in case of disease) and this animal (these animals) is (are) collected then this is usually a new aid award every time. The threshold is calculated for any of them separately.

4. Aid objectives/categories of aid

4.1 Multiple aid objectives/categories of aid/sub-measures under the same SA number

In principle the aid award under one aid scheme (SA number) to one beneficiary is considered to be the basis for the determination of the threshold (see the Encoding Guidance under point 2. Scope of transparency obligation). That means that as each article of ABER presents one aid category this forms the basis. Similar is valid for the Agricultural State Aid Guidelines.

However, in practice there can be also alternative case scenarios:

- Example 1 –several aid categories under the same SA number – the aid awards have to be seen separately for each aid category, even in case they are formally provided under one SA number. That will be the case of aid for knowledge transfer and advisory services if provided under the same SA number. Also very often MS seek for SA clearance for several rural development measures with one notification/block exemption thus having for several aid categories one SA number (i.e. several aid categories for forestry measures – afforestation, agroforestry system, forestry investments or co-operation in the agricultural and forestry sectors and rural areas).
- Example 2 – different sub-measures under the same aid category under the same SA number: This can be the case for aids to the livestock sector comprising both – herd books and genetic tests. Although in practice this can fall under the same SA number, the sub-measures would be executed separately, thus leading to separate aid grants. Also in case of aid for promotion measures under one SA number there would be usually several different sub-measures (i.e. participation in fairs, publication/dissemination of information, advertising campaigns) leading to separate aid grants.

Annex 6

Aspects specific to aid granted under FIBER (Commission Regulation (EU) No 1388/2014) and the Guidelines for the Examination of State aid to the fishery and aquaculture sector

While the transparency obligations are overall identical for aid granted to different economic sectors, FIBER and the Guidelines for the Examination of State aid to the fishery and aquaculture sector foresee three particularities for aid granted to the fishery and aquaculture sector: the date of entering into force of the transparency obligations, the thresholds as of which information must be published, and the ranges within which information can be provided in the case of aid granted in the form of tax advantages. The particularities result from the date of adoption of FIBER and the Guidelines as well as from the particularities of the fishery and aquaculture sector, in particular, the sizes of operations supported or amounts of aid granted.

1. Date of entering into force of the transparency obligations

In the case of aid that is block-exempted under FIBER transparency obligations apply as of 1st January 2017.⁴⁸ In the case of aid assessed on the basis of the Guidelines for the examination of State aid to the fishery and aquaculture sector Member States are required to publish the required information as of 1st July 2017.⁴⁹

Member States may publish information on aid awards to the fishery and aquaculture sector in the TAM before those dates, if they wish to do so.

2. Thresholds

In the case of State aid granted to the fishery and aquaculture sector transparency obligations apply when individual aid awards exceed EUR 30 000. This threshold is the same for both block-exempted aid under 2014 FIBER and aid assessed under the Guidelines for the Examination of State aid to the fishery and aquaculture sectors.⁵⁰

With FIBER as amended by Commission Regulation (EU) No 2022/2473 and the revised 2023 Guidelines for the Examination of State aid to the fishery and aquaculture sectors, the threshold becomes EUR 10 000.⁵¹

⁴⁸ Article 9 (6) and Article 47 of Commission Regulation (EU) No 1388/2014.

⁴⁹ Point (71) of the Guidelines for the Examination of State aid to the fishery and aquaculture sector (2015/C 217/01).

⁵⁰ Article 9(1) (c) of Commission Regulation (EU) No 1388/2014 and point (69) (c) of the Guidelines for the Examination of State aid to the fishery and aquaculture sector (2015/C 217/01).

⁵¹ Article 9(1) (c) of Commission Regulation (EU) No 2022/2473 and point (105) (c) of the Guidelines for the Examination of State aid to the fishery and aquaculture sector (2023/C 107/01).

3. Ranges for aid in the form of tax advantages

In the case of aid schemes in the form of tax advantages that are block-exempted under 2014 FIBER the information on individual aid amounts can be provided in the following ranges (in EUR million):⁵²

0,03-0,2
0,2-0,4
0,4-0,6
0,6-0,8
0,8-1.

In the case of aid schemes in the form of tax advantages that are assessed under the Guidelines for the Examination of State aid to the fishery and aquaculture sector the information on individual aid amounts can be provided in the following ranges (in EUR million):⁵³

0,03-0,5
above 0,5-1
above 1-2
above 2.

In the case of aid schemes in the form of tax advantages that are block-exempted under FIBER as amended by Commission Regulation (EU) No 2022/2473 the information on individual aid amounts can be provided in the following ranges (in EUR million):⁵⁴

0,01–0,2
0,2–0,4
0,4–0,6
0,6–0,8
0,8–1.

In the case of aid schemes in the form of tax advantages that are assessed under the revised 2023 Guidelines for the Examination of State aid to the fishery and aquaculture sector the information on individual aid amounts can be provided in the following ranges (in EUR million):⁵⁵

0,01-0,03
above 0,03-0,5

⁵² Article 9 (2) of Commission Regulation (EU) No 1388/2014.

⁵³ Point (70) of the Guidelines for the Examination of State aid to the fishery and aquaculture sector.

⁵⁴ Article 9 (2) of Commission Regulation (EU) 2022/2473.

⁵⁵ Point (106) of the 2023 Guidelines for the Examination of State aid to the fishery and aquaculture sector.

above 0,5-1
above 1-2
above 2.

Annex 7

Interpretation of the notion of individual aid award

Interpretation

The transparency provisions were originally introduced into State aid law by the State Aid Modernization. They require that Member States publish detailed information on **individual aid awards above €500 000** as from 1st of July 2016, pursuant to Article 9 of Commission Regulation (EC) 651/2014 (the GBER) and other similar texts.

On 23 June 2023, the Commission formally adopted an amendment to the GBER (Commission Regulation (EU) 2023/1315). The GBER amendment entered into force on 1/7/2023 (Art. 3 GBER amendment). From this moment, for **each individual aid award exceeding €100 000** falls under the transparency obligations and the awards have to be published.

The Transparency requirements, like all other relevant legal texts and in particular Chapter I of the GBER, refer to an 'individual aid award' as synonymous to an "award of individual aid", in line with Article 1 (d) and (e) of the Procedural Regulation. Articles 2 (14) and (15) of the GBER define 'individual aid' by reference to an (aided activity or) project, as do Articles 4 (1) and (2) of the GBER (notification thresholds and prohibition of artificial splitting), Article 6 (2) of the GBER (incentive effect) and Article 8 (1) of the GBER (cumulation). It follows that the concept of 'individual aid award' used in Article 9 (1) (c) of the GBER (transparency) is also intrinsically linked to an **"aided activity or project"**.

Since the interpretation of the concept of an individual aid award in the context of the transparency provisions **must be coherent with the conditions that need to be verified by Member States at the moment of granting for ensuring the legality of the aid** and the eligibility of undertakings, **the verification of the transparency threshold for the relevant aid award has to take place for the same beneficiary⁵⁶ and aided activity/project irrespective of the number of granting acts, Granting Authorities or even aid schemes involved.** And, in line with Annex III of the GBER, the information collected through the transparency requirement must allow interested stakeholders (the Commission, competitors and the wider public) to verify the conformity of the aid with the rules.

However, given the current institutional set up or legal framework of some Member States, checking for project definition and therefore cumulation per project/aided activity at the moment of publication for transparency purposes or reporting all information including below the threshold may however be difficult. Therefore, while transparency in principle requires cumulation and publication per project or aided activity, even if this includes different eligible costs or objectives, formal compliance checks will be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the

⁵⁶ A beneficiary must be systematically understood in this context as a single undertaking or an economic unit.

same objective under the same project in order to comply at least with the minimum requirements of Article 8 of the GBER.

Reasoning and legal analysis

The purpose of this analysis is to **clarify and provide guidance as regards the notion of individual aid award** in the context of the State aid rules, with particular regard to the transparency obligations.⁵⁷

As can be seen from the following legal texts,⁵⁸ the **transparency requirements concern the publication of information per individual aid award**:

- Commission Regulation (EU) No°651/2014 of 17 June 2014 (General Block Exemption Regulation):
 - o Article 9(1)(c): "*(c) the information referred to in Annex III on each individual aid award exceeding EUR 500 000*".
 - o Annex III: "*The following information on individual awards as laid down in Article 9(1)(c) shall be published: [...]*"
- Commission Regulation (EU) No°651/2014 after being amended by the Commission Regulation (EU) No 2023/1315 of 23 June 2023 (Green Deal GBER amendment)
 - o Article 9(1)(c): "*(c) the information referred to in Annex III on each individual aid award exceeding EUR 100 000*".
 - o Annex III: "*The following information on individual awards as laid down in Article 9(1)(c) shall be published: [...]*"
- The 'Transparency Communication':
 - o Section 1: "*Transparency in relation to aid awards is a key component of the modernisation*"
 - o Section 1: "*The transparency requirement applies in general to all State aid, except for smaller aid awards of less than EUR 500 000*".

As clearly results from the texts above, the key concept to which the transparency provisions relate is the one of "individual aid award". This **substantially differs from the reporting obligations that instead relate to "aid measures"**.

To ensure full compliance with the transparency obligations, it is therefore essential to have a clear understanding of the notion of "individual aid award".

The **notion of "individual aid award"** appears in particular in the following relevant legal texts:

⁵⁷ The transparency obligations are listed in Section 2 "The transparency obligations".

⁵⁸ For reasons of simplicity, the legal texts recalled here represent all legal texts containing transparency provisions, as listed Section 2 "The transparency obligations".

- Procedural Regulation (EU) 2015/1589.⁵⁹

Article 1(d): "*'aid scheme' means **any act on the basis of which**, without further implementing measures being required, **individual aid awards** may be made to undertakings defined within the act in a general and abstract manner **and any act on the basis of which aid which is not linked to a specific project** may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount;*"

Article 1(e): "*individual aid' means aid that is not awarded on the basis of an aid scheme **and notifiable awards of aid** on the basis of an aid scheme;*"

- Commission Regulation (EU) No°651/2014 of 17 June 2014 (General Block Exemption Regulation) then amended by the Commission Regulation (EU) No 2023/1315 of 23 June 2023 (Green Deal GBER amendment):

Article 2(14): "*'individual aid' means: (i) ad hoc aid; and (ii) **awards of aid to individual beneficiaries on the basis of an aid scheme;***"

Article 2(15): "*'aid scheme' means **any act on the basis of which**, without further implementing measures being required, **individual aid awards** may be made to undertakings defined within the act in a general and abstract manner **and any act on the basis of which aid which is not linked to a specific project** may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;*"

It results from the above texts that, read in its proper context, the term 'individual aid award' is synonymous to that of 'award of individual aid'.⁶⁰ Moreover, as can be seen above, Article 1(d) of the Procedural Regulation and, based thereon, Article 2(15) of the GBER concern both 'individual aid awards' (granted ad hoc or on the basis of a scheme) and 'aid not linked to a specific **project**' (such as, for example, company specific unlimited guarantees or tax exemptions). Therefore, **it clearly appears that an individual aid award (=award of individual aid) normally concerns a specific project.**

According to Article 3 of the GBER, only aid that fulfils "**all the conditions**" laid down in Chapters I and III of the GBER is block-exempted. Additionally, according to Annex III of the GBER, given that State aid within the meaning of Article 107(1) of the Treaty is, in principle, prohibited, it is important for all parties to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules. That obligation should be a condition for the compatibility of the individual aid with the internal market. The information

⁵⁹ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the TFEU (codification), OJEU L 248/9 of 24.9.2015.

⁶⁰ This reading is confirmed by the German and the French versions of the GBER.: The German version of the GBER uses the same term, "*Einzelbeihilfe*", both in the definition of 'individual aid' in Article 2 (14) and in the transparency obligation of Article 9 (1) (c); the French version also uses the same term, "*aide individuelle*", in both Articles; only the English version defines 'individual aid' in Article 2 (14), while referring to 'individual aid awards' in Article 9 (1) (c), the transparency obligation.

collected through the transparency requirement must therefore also allow interested stakeholders (the Commission, competitors and the wider public) to **verify the conformity of the aid with the rules, including** in particular the general conditions (**incentive effect, maximum aid intensities/notification thresholds and cumulation**).

The notification thresholds are laid down in Article 4 (1) of the GBER, and systematically defined by reference to the aided "**project**", **activity ("study; cluster; infrastructure") or undertaking**. In this respect, **Article 4 (2) of the GBER** provides that "*The thresholds set out or referred to in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or projects*".

To ensure the respect of these notification thresholds and the maximum aid intensities laid down in Chapter III of the GBER, **cumulation** needs to be verified at the moment of granting in order to ensure that all the conditions are met as regards the maximum amount of aid that can be granted to the beneficiary. It is a fundamental condition for the legality of the aid and is again intrinsically linked to the concept of **aided activity or project**. Indeed, according to Article 8(1) of the GBER, "*[i]n determining whether the notification thresholds in Article 4 and the maximum aid intensities in Chapter III are respected, **the total amount of State aid for the aided activity or project or undertaking shall be taken into account.***"

The cumulation rules thus clearly require that, in **determining whether the individual notification thresholds and the maximum aid intensities are respected**,⁶¹ the **total amount of public support measures for the aided activity or project** are taken into account, **regardless of whether that support is financed from local, regional, national or even Union sources**.⁶² Therefore, for example, the amounts of maximum aid intensity applicable to regional aid under the GBER apply to regional aid and all other State aid measures involving the same eligible costs.

In logical continuation of the above, the verification of the **incentive effect** of an aid is linked to the "**aided project or activity**" (cf. Article 6 of the GBER). The beneficiary therefore needs to submit a written application for the aid "before work on the **project or activity** starts", and the minimum information required from the beneficiary for this purpose (apart from the beneficiary's name and size) exclusively concerns "**the project**" (project description, location, costs, type of aid and amount of public funding needed for the project; cf. Article 6 (2) of the GBER).⁶³

⁶¹ To avoid overcompensation, for example.

⁶² Except for Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State; cf. Article 8 (2) of the GBER.

⁶³ The only exception being tax advantages if the measure establishes a right to aid in accordance with objective criteria and without discretion by the Member State (Article 6 (4) of the GBER), since in this case, the aided project or activity is defined by the aid measure itself.

The information provided under the transparency obligation **must be consistent with the conditions** that need to be verified by Member States **at the moment of granting** for ensuring the **legality of the aid**.

By virtue of Article 9 (1) (c) of the GBER, transparency is required per individual aid award. Based on the above analysis of the legal texts, for the purpose of publishing information as required by the transparency provisions, and in order to be consistent with all other conditions that need to be verified by Member States at the moment of granting for ensuring the legality of the aid, an individual aid award corresponds to the **aid granted to the same beneficiary for the same aided activity or project**, even if this is implemented through different instruments or for different objectives, via different granting acts or by different Granting Authorities. In fact, both Article 4 (2) of the GBER (prohibition of artificial splitting) and Article 8 of the GBER (cumulation) confirm that cumulation must also be verified and transparency ensured for aid awarded for the same project or aided activity, **even if this is granted under two or more separate aid schemes**.

It results from the above that, as soon as the cumulated aid awarded (through one or several granting acts, by one or several Granting Authorities, by one or several aid schemes) to the same beneficiary for the same aided activity or project equals or exceeds⁶⁴ the threshold indicated in the legal basis, the different amounts granted through the granting act(s) must all be recorded and published, as they constitute one individual aid award.

Consequences for the recording of aid in national/regional registers and in the TAM

While the concepts of individual aid, 'award', cumulation, incentive effect and maximum aid intensities/notification thresholds have formed an integral part of State aids doctrine and practice for decades,⁶⁵ the transparency requirements are among the new features introduced by the State aid Modernization. In order to ease their acceptance and facilitate the introduction of transparency registers in all Member States, the **initial guidance** issued by DG Competition in November 2015 considered that, "*for the purpose of the application of the transparency rules, individual aid award is understood to represent the aid amount awarded to one beneficiary through one grant letter/contract under one scheme.*" This therefore considered that there was no need to check for cumulation by aided activity or project, even though, in clear parallelism to the non-splitting rule of Article 4 (2) of the GBER, the working paper on recording information in the Transparency Award Module for State aid explicitly mentioned the Member State's responsibility not to artificially split

⁶⁴ Article 9 (1) (c) of the GBER as amended by Commission Regulation (EU) No 2023/1315 of 23 June 2023, as well as in the other relevant revised guidelines, reference is made to individual aid awards exceeding 100 000 EUR. To ensure transparency and consistency in reporting practices across Member States and to align with past practice, Member States are encouraged to encode all individual aid awards for which the amount granted equals or exceeds 100 000 EUR.

⁶⁵ The Commission's previous practice as regards the concepts of 'individual aid' and 'aid scheme' was **codified** in the original Procedural Regulation of 1999 (Council Regulation (EC) No 659/1999, OJ L 83 of 27.3.1999, p. 1). The legal definition has thus existed at least since then.

granting acts/reported awards in such a way that this would lead to circumvention of the transparency requirement.

Experience meanwhile acquired with the application and implementation of the GBER, including as regards initial compliance with the transparency obligation has revealed a risk of serious under-recording, (possibly artificial) splitting of aid schemes, aided activities/projects or granting acts and risk of confusion among Granting Authorities as regards their obligation to check cumulation by aided activity or project. In light of this, **the initial over simplified and legally inaccurate guidance can no longer be maintained. This is therefore replaced by the interpretation provided in the present paper.**

In order to fulfil the requirements listed in Annex III of the GBER, and while amounting to an individual aid award under the GBER, the requested information may have to be published in separate entries. It is therefore crucial that Member States, when publishing information in compliance with the transparency requirements, remember that there is **no correlation between the notion of “individual aid award” and a granting act**, since, depending on the set-up of a certain aided activity or project and the administrative and legal tradition of the Member State concerned,⁶⁶ an **individual aid award may be composed of one or several granting acts**, relating to the same beneficiary and the same aided activity or project.

This also means that aid to the same beneficiary given by different Granting Authorities (and/or under different schemes) for the same aided activity or project needs to be cumulated and published as soon as the threshold is reached, regardless of whether this takes the form of one or several granting acts (grant letter/contract). **Therefore, an individual aid award can be composed of several entries in the TAM or in the national/regional websites created to comply with the transparency requirements.**

In the Commission services' view, **situations that would require checking for cumulation and successive recording** (i.e. an individual aid award composed of several granting acts) **should be relatively rare**. They will in most cases also be known to the Granting Authorities concerned (since the beneficiary would logically not undertake the project if its financing was not ensured).

In order to avoid any compliance issues, the Transparency Award Module developed by the Commission can accommodate reported information below the required threshold. As a matter of fact, over-reporting (including amounts granted under *de minimis*) is kept to the discretion of the Member States. In particular, given the existence of both *de minimis* and State aid registries in some Member States, the Commission has developed a so-called machine-to-machine interface to transfer the information directly to the TAM, in order to minimize administrative burden and promote the use of information and communication technologies applying the only once principle.

⁶⁶ This may allow for a single granting act involving (and thus signed by) several Granting Authorities for one aided activity/project/beneficiary (one grant letter/contract covering the entire project/aided activity), or require the issuance of a separate granting act by each Granting Authority (several granting acts needed for the same activity/project/beneficiary).

However, given the current institutional set up or legal framework of some Member States, checking for project definition and therefore cumulation per project/aided activity at the moment of publication for transparency purposes or reporting all information including below the threshold may however be difficult. Therefore, while transparency in principle requires cumulation and publication per project or aided activity, even if this includes different eligible costs or objectives, **formal compliance checks will be restricted to the need to cumulate granting acts for the same beneficiary and the same eligible costs for the same objective under the same project in order to comply at least with the minimum requirements of Article 8 of the GBER.**⁶⁷

⁶⁷ To this effect, see guidance provided in the eState aid wiki and in the GBER FAQs.

Annex 8

Recording transparency information for European Territorial Cooperation (ETC) projects

For aid granted to European Territorial Cooperation projects, the Transparency Award Module has been adjusted to comply with ETC most common specificities. Under ETC projects, the administrative organisation is specific and defined for each operational programme. Granting Authorities can be situated in Member States different from the location of beneficiaries. However, in most situations, either (i) the authorities in each individual Member State will be responsible for their respective notification and publishing or (ii) only one Member State in which the Managing Authority is situated will be responsible for both the notification and the publication.

This means that under option (i) each Member State shall provide the transparency information relating to the aid granted within its territory. Alternatively, under option (ii), only one Member State shall provide the transparency information for all aid granted under the ETC measure, including information on the aid granted in other Member States, on their behalf.

The current TAM configuration already allows fully to accommodate option (i). As concerns option (ii), for the time being, it is only possible to report in the TAM the total granted amount without qualification by Member State.

As from release (1.7), the TAM will allow the Member State responsible for notification and publication under option (ii) to report several entries, one for each Member State participating in the ETC programme, with specific granted amounts and appropriate references as regards the beneficiaries ID and the other benefiting Member States.